



August 9, 2024

Joseph Linton, Vice Chairman  
Rincon Band of Luiseño Indians  
One Government Center Lane  
Valley Center, CA 92082

Re: Rincon Band of Luiseño Indians Gaming Ordinance

Dear Vice Chairman Linton:

I am writing with respect to the July 5, 2024 request of the Rincon Band of Luiseño Indians to the National Indian Gaming Commission to review and approve the Tribe's gaming ordinance. The gaming ordinance was adopted by Resolution No. 2024-48 of the Tribal Council.

Thank you for providing the gaming ordinance for our review. The ordinance is approved as it is consistent with the requirements of the Indian Gaming Regulatory Act and NIGC regulations. If you have any questions concerning this letter, please contact Senior Attorney Austin Badger at (202) 632-7003.

Sincerely,

A handwritten signature in blue ink that reads "Sharon M. Avery".

Sharon M. Avery  
Chairwoman (A)

# Rincon Band of Luiseño Indians



One Government Center Lane | Valley Center | CA 92082  
(760) 749-1051 | Fax: (760) 749-8901 | rincon-nsn.gov

## TRIBAL COUNCIL RESOLUTION NO. 2024-48

### RESOLUTION TO APPROVE THE AMENDED AND RESTATED RINCON GAMING ORDINANCE

**WHEREAS**, the Rincon Band of Luiseño Indians (the “Rincon Band”) is a federally recognized Indian tribe organized pursuant to the Articles of Association adopted February 14, 1960 and approved by the Commissioner of Indian Affairs on March 15, 1960; and

**WHEREAS**, the Business Committee (“Tribal Council”) of the Rincon Band is the duly elected governing body of the Rincon Band, empowered pursuant to the Articles of Association to represent the Rincon Band and act in all matters that concern the general welfare of the Rincon Band, including the power to enact ordinances and manage lands and resources of the Rincon Reservation; and

**WHEREAS**, the Tribal Council previously adopted the Rincon San Luiseño Band of Mission Indians Tribal Gaming Ordinance (“Rincon Gaming Ordinance”) pursuant to Resolution 2000-107 to govern gaming activities taking place on the lands of the Band, which became effective upon approval by the National Indian Gaming Commission (“NIGC”) on February 14, 2001; and

**WHEREAS**, the Tribal Council previously approved amendments to the Rincon Gaming Ordinance, which amendments became effective upon approval by the NIGC on April 28, 2011, September 28, 2011 and January 9, 2015 (collectively, the “Amended Rincon Gaming Ordinance”), respectively; and

**WHEREAS**, the Rincon Band and the State have agreed to have the NIGC assume the role of the State of California for oversight of the Rincon Band’s regulation of gaming activities on the Rincon Reservation pursuant to the Secretarial Procedures, approved by the Department of the Interior on February 8, 2013 (“Secretarial Procedures”) to govern the Band’s Class III gaming activities in lieu of a Tribal-State Compact; and

**WHEREAS**, to implement the new oversight role of the NIGC under the Secretarial Procedures, the Amended Rincon Gaming Ordinance also needs to clarify that the NIGC assumes the State of California’s regulatory oversight role over Class III gaming on the Rincon Reservation, and any other technical clarifications deemed necessary to effectuate NIGC oversight (the “Amended and Restated Rincon Gaming Ordinance”); and

**WHEREAS**, the Tribal Council has reviewed the proposed amendments and approves submission of the Amended and Restated Rincon Gaming Ordinance, attached as Exhibit A, to the NIGC for

Bo Mazzetti  
Chairman

Joseph Linton  
Vice Chairman

Laurie Gonzalez  
Council Member

John Constantino  
Council Member

Frank Mazzetti III  
Council Member

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review and comment, and desires that proposed amendments shall become effective upon approval by the Chairman of the NIGC.

**IT IS HEREBY RESOLVED**, that the Tribal Council hereby adopts the Amended and Restated Rincon Gaming Ordinance.

[Certification on the following page]

CERTIFICATION

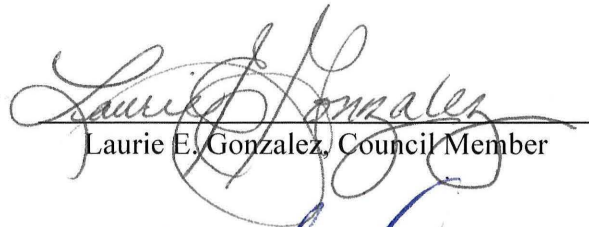
We the undersigned, as the governing body of the Rincon Band of Luiseño Indians, do hereby approve the Amended and Restated Rincon Gaming Ordinance, and do hereby certify that the Rincon Business Committee is composed of five (5) members of whom three (3) constituting a quorum were present at a meeting duly held on June 27, 2024, by a vote of 5 in favor, 0 against, 0 absent, and 0 abstaining.



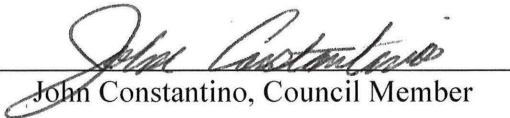
Bo Mazzetti, Chairman



Joseph Linton, Vice Chair



Laurie E. Gonzalez, Council Member



John Constantino, Council Member



Frank Mazzetti III, Council Member

**RINCON BAND OF LUISEÑO MISSION INDIANS  
RINCON INDIAN RESERVATION, CALIFORNIA**



**AMENDED AND RESTATED RINCON GAMING ORDINANCE  
RINCON TRIBAL CODE § 6.200**

Adopted July 11, 1995  
Amended and Restated [     ]

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**1. PURPOSE**

The Rincon Band of Luiseño Indians (the "Tribe", as defined below), acting through its Business Committee in the exercise of its inherent sovereign power to enact ordinances and otherwise safeguard and provide for the health, safety and welfare of the Tribe and the members of the Tribe, hereby enacts this Amended and Restated Rincon Gaming Ordinance (this "Ordinance") to set the terms and conditions under which Class II and Class III gaming may be conducted on the Rincon Indian Reservation.

**2. APPLICABILITY**

**2.01.** Unless specifically indicated otherwise, all provisions of this Ordinance shall apply to both Class II Gaming and Class III Gaming, including but not limited to, all licensing and background investigation procedures; provided, however, that this Ordinance shall not vest the Rincon Tribal Gaming Commission, referred to herein as the Tribal Gaming Regulatory Authority (TGRA), as defined below, with jurisdiction over matters not directly related to gaming. The TGRA shall not be involved in the operational or managerial decisions of the gaming operation, and further, shall not be involved in business activities that are not necessary for the operation of gaming activities.

**3. DEFINITIONS**

Unless a different meaning is clearly indicated, the terms used in this Ordinance shall have the same meanings as defined in the Indian Gaming Regulatory Act, Public Law 100-497, 25 U.S.C. § 2710, et seq. ("IGRA").

**3.01. Annual TGRA Budget.** "Annual TGRA Budget" means the budget for the TGRA, which is annually approved by the Business Committee.

**3.02. Application.** "Application" means an application for licensure submitted pursuant to this Ordinance.

**3.03. Business Committee.** "Business Committee" means the Rincon Business Committee, the governing body of the Tribe.

**3.04. Calendar Year.** "Calendar Year" means the period beginning January 1 at 12:00:00 a.m., and ending the immediately following December 31 at 11:59:59 p.m.

**3.05. Chairperson.** "Chairperson" means the Chairperson of the TGRA.

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**3.06. Class I Gaming.** “Class I Gaming” means social games of chance solely for prizes of minimal value or traditional forms of Indian gaming when played by individuals in connection with Tribal ceremonies or celebrations.

**3.07. Class II Gaming.** “Class II Gaming” means:

- (a) bingo or lotto (whether or not electronic, computer or other technologic aids are used), when players:
  - (i) Play for prizes with cards bearing numbers or other designations;
  - (ii) Cover numbers or designations when objects, similarly numbered or designated, are drawn or electronically determined; and
  - (iii) Win the game by being the first person to cover a designated pattern on such cards;
- (b) If played in the same location as bingo or lotto, pull-tabs, punch boards, tip jars, instant bingo and other games similar to bingo;
- (c) Nonbanking card games that:
  - (i) The laws of the State of California explicitly authorize or do not explicitly prohibit, and which are played legally anywhere in the State of California; and
  - (ii) Players play in conformity with State laws and regulations concerning hours, periods of operation, and limitations on wager and pot sizes.

**3.08. Class III Gaming.** “Class III Gaming” means all forms of gambling that are not Class I Gaming or Class II Gaming, including but not limited to:

- (a) Any House Banking Game, including but not limited to:
  - (i) card games such as baccarat, chemin de fer, blackjack (21), and pai gow (if played as house banking games), and
  - (ii) casino games such as roulette, craps and keno;
- (b) Any slot machines as defined in 15 U.S.C. § 1171(a)(1) and electronic or electromechanical facsimiles of any game of chance;



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(c) Any sports betting and parimutuel wagering, including but not limited to, wagering on horse racing, dog racing or jai alai; or

(d) Lotteries.

**3.09.** [Reserved]

**3.10. Commissioner or Commission Member.** “Commissioner” or “Commission Member” means a member of the TGRA.

**3.11. Day.** "Day" means all days within any calendar month, including weekends and holidays.

**3.12. Directly Related to Gaming.** “Directly Related to Gaming” means the gambling activities themselves (e.g., the roll of the dice, the spin of the wheel, the random number generator’s selected outcome of the machine, etc.), the operation thereof, and tracking the revenue therefrom. “Directly related to Gaming” does not include any other activities that occur within or in connection with the casino (e.g., the operation of a hotel; the sale of food, drinks, goods and services).

**3.13. Electronic, computer or other technologic aid.** “Electronic, computer or other technologic aid” means any machine or device that: (i) assists a player or the playing of a game; (ii) is not an electronic or electromechanical facsimile; and (iii) is operated in accordance with applicable Federal communications law.

(a) Electronic, computer or other technologic aids include, but are not limited to, machines or devices that:

- (i) broaden the participation levels in a common game;
- (ii) facilitate communication between and among gaming sites; or
- (iii) allow a player to play a game with or against other players, rather than with or against a machine.

(b) Examples of electronic, computer or other technological aids include pull tab dispensers and/or readers, telephones, cables, televisions, screens, satellites, bingo blowers, electronic player stations, or electronic cards for participants in bingo games.

**3.14. Electronic or electromechanical facsimile.** “Electronic or electromechanical facsimile” means a game played in an electronic or electromechanical format that replicates

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a game of chance by incorporating all of the characteristics of the game, except when, for bingo, lotto and other games similar to bingo, the electronic or electromechanical format broadens participation by allowing multiple players to play with or against each other rather than with or against a machine.

**3.15. Enforcement Action.** “Enforcement Action” (as distinguished from “TGRA Enforcement Action” defined below) means any action taken by the Chairperson of the National Indian Gaming Commission (the “NIGC”) under 25 U.S.C. § 2713 against any person engaged in gaming, for a violation of any provision of IGRA, the regulations of the NIGC, or tribal regulations, ordinances or resolutions approved under 25 U.S.C. §§ 2710 or 2712 of IGRA, including but not limited to, a notice of violation, a civil fine assessment, or an order for temporary closure. Enforcement Action does not include any action taken by NIGC staff, including but not limited to, the issuance of a letter of concern under § 573.2 of 25 C.F.R. Part 573.

**3.16. Facility License.** “Facility License” means a separate license issued by the TGRA to each place, facility or location on Indian lands where the Tribe elects to allow Class II Gaming or Class III Gaming.

**3.17. Full TGRA.** “Full TGRA” shall mean all current Commissioners unless recused or conflicted.

**3.18. Gaming or Gaming Activity.** “Gaming” or “Gaming Activity” means the dealing in, operation of, or maintenance of any game played with cards, dice, or the equipment of any mechanical, electromechanical or electronic device or machine, for money, property, checks, credit or any representation of value, including without limiting the generality of the foregoing, faro; monte; roulette; keno; bingo fan-tan; bingo; twenty-one (blackjack); seven-and-a-half; Klondike; craps; poker; chuck-a-luck; Chinese chuck-a-luck (dai-shu); Wheel of Fortune; chemin de far; baccarat; pai-gow; beat the banker; panguingue; slot machines; video poker machines; pull-tabs; any banked or percentage game; or any other game or device approved by the Business Committee. The term does not include gaming played in private homes or residences in which no Person makes or charges money for operating the game, except as a player, or other functions otherwise sanctioned by the Business Committee.

**3.19. Gaming Device.** “Gaming Device” means a slot machine, including an electronic, electromechanical, electrical, or video device that, for consideration, permits individual play with or against that device or the participation in any electronic, electromechanical, electrical, or video system to which that device is connected; the playing of games thereon or therewith, including but not limited to, the playing of facsimiles of games of chance or skill; the possible delivery of, or entitlement by the player to, a prize or something of value as a result of the application of an element of chance; and a method for viewing the

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outcome, prize won, and other information regarding the playing of games thereon or therewith.

**3.20. Gaming Enterprise.** “Gaming Enterprise” means each entity through which the Tribe conducts, regulates, and secures gaming on Indian lands within the Tribe’s jurisdiction pursuant to IGRA.

**3.21. Gaming Facility or Facility.** “Gaming Facility” or “Facility” means any building in which Class II Gaming or Class III Gaming occurs, or in which the business records, receipts, or other funds of the Gaming Operation are maintained (but excluding offsite facilities primarily dedicated to storage of those records, and financial institutions), and all rooms, buildings and areas, including parking lots and walkways, a principal purpose of which is to serve the activities of the Gaming Operation, but does not include any such facility that merely provides an incidental benefit to the Gaming Operation.

**3.22. Gaming Operation.** “Gaming Operation” means each economic entity that is licensed by the Tribe, operates the games, receives the revenues, issues the prizes, and pays the expenses. A Gaming Operation may be operated by the Tribe directly, by a management contractor, or under certain conditions, by another person or other entity.

**3.23. Gaming Resources.** “Gaming Resources” means any goods or services provided or used in connection with a Gaming Activity, whether exclusively or otherwise, including but not limited to, equipment; furniture; gambling devices and ancillary equipment; implements of a Gaming Activity such as playing cards and dice; furniture designed primarily for a Gaming Activity; maintenance or security equipment and services; and gaming consulting services. "Gaming Resources" does not include professional accounting or legal services.

**3.24. Gaming Resource Supplier.** “Gaming Resource Supplier” means any person or entity who or which, directly or indirectly, manufactures, distributes, supplies, vends, leases or otherwise purveys Gaming Resources to the Gaming Operation or Gaming Facility, provided that the TGRA may exclude from requirements for a Gaming Resource Supplier, a purveyor of equipment or furniture that is not specifically designed for, and is distributed generally for use other than in connection with, a Gaming Activity, if the purveyor is not otherwise a Gaming Resource Supplier, the compensation received by the purveyor is not grossly disproportionate to the value of the goods or services provided, and the purveyor is not otherwise a person who exercises a significant influence over the Gaming Operation.

**3.25. House Banking Game.** “House Banking Game” means any game of chance that is played with the house as a participant in the game, where the house takes on all players, collects from all losers, and pays all winners, and the house can win.

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**3.26. IGRA.** “IGRA” means the Indian Gaming Regulatory Act of 1988, as more particularly defined above.

**3.27. Indian lands.** “Indian lands” means (a) land within the limits of an Indian reservation; or (b) land over which an Indian tribe exercises governmental power, that is either: (i) held in trust by the United States for the benefit of any Indian tribe or individual; or (ii) held by an Indian tribe or individual subject to restriction by the United States against alienation.

**3.28. Indian tribe.** “Indian tribe” means any Indian tribe, band, nation or other organized group or community of Indians that the Secretary of the Interior recognizes as (a) eligible for special programs and services provided by the United States to Indians because of their status as Indians, and (b) having powers of self-government.

**3.29. Key Employee.** “Key Employee” means:

- (a) A person who performs one or more of the following functions for the Gaming Operation:
  - (1) Bingo caller;
  - (2) Counting room supervisor;
  - (3) Chief of security;
  - (4) Floor manager;
  - (5) Pit boss;
  - (6) Dealer;
  - (7) Croupier;
  - (8) Approver of credit;
  - (9) Custodian of gaming systems as defined in 25 CFR 547.2 and similar Class III systems, gaming cash or gaming cash equivalents, gaming supplies or gaming system records; and
  - (10) Custodian of surveillance systems or surveillance system records.

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(b) Any Gaming Operation employee authorized by the Gaming Operation for unescorted access to secured gaming areas designated as secured gaming areas by the TGRA;

(c) If not otherwise licensed as a Key Employee or Primary Management Official, the four persons most highly compensated by the Gaming Operation; and

(d) Any other employee of the Gaming Enterprise as documented by the Tribe as a Key Employee.

**3.30. Licensee.** “Licensee” means any Person who has been issued a valid and current Gaming license pursuant to the provisions of this Ordinance.

**3.31. Management Contract.** “Management Contract” means any contract, subcontract or collateral agreement between an Indian tribe and a contractor, or between a contractor and a subcontractor, if such contract or agreement provides for the management of all or a part of a Gaming Operation. For purposes of this definition, the term “collateral agreement” means any contract, whether or not in writing, that is related, either directly or indirectly, to a Management Contract, or to any rights, duties or obligations created between a tribe (or any of its members, entities or organizations) and a management contractor or subcontractor (or any person or entity related to a management contractor or subcontractor).

**3.32. Net Revenues.** “Net Revenues” means gross gaming revenues of the Gaming Operation less (a) amounts paid out as, or paid for, prizes; (b) total gaming-related operating expenses, including all those expenses of the Gaming Operation commonly known as operating expenses, and non-operating expenses consistent with professional accounting pronouncements, excluding management fees.

**3.33. Patron.** “Patron” means any person or group of persons who participates as a player or players in a Gaming Activity as defined in this Ordinance; provided, however, that an employee of the Gaming Operation shall not be included within the definition of a Patron.

**3.34. Person.** “Person” means any association, partnership, corporation, firm, trust or other form of business association or entity, as well as a natural person.

**3.35. Person having a direct or indirect financial interest in a Management Contract.** “Person having a direct or indirect financial interest in a Management Contract” means:

(a) When a Person is a party to a Management Contract, any Person having a direct financial interest in such Management Contract;

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- (b) When a trust is a party to a Management Contract, any beneficiary or trustee;
- (c) When a partnership is a party to a Management Contract, any partner;
- (d) When a corporation is a party to a Management Contract, any Person who is a director or who holds at least 5% of the issued and outstanding stock alone or in combination with another stockholder who is a spouse, parent, child or sibling when the corporation is publicly traded, or the top ten (10) shareholders for a privately held corporation;
- (e) When an entity other than a natural person has an interest in a trust, partnership or corporation that has an interest in a Management Contract, all parties of that entity are deemed to be Persons having a direct financial interest in a Management Contract; or
- (f) Any Person or entity who will receive a portion of the direct or indirect interest of any Person or entity listed above through attribution, grant, pledge, or gift.

**3.36. Person having management responsibility for a Management Contract.** “Person having management responsibility for a Management Contract” means the Person designated by the Management Contract as having management responsibility for the Gaming Operation or any portion thereof.

**3.37. Primary Management Official.** “Primary Management Official” means:

- (a) Any Person having management responsibility for a Management Contract;
- (b) Any Person who has authority:
  - (1) To hire and fire employees of the Gaming Operation; or
  - (2) To establish policy for the Gaming Operation;
- (c) The chief financial officer or a position with duties similar to a chief financial officer;
- (d) the general manager or a position with duties similar to a general manger; and
- (e) Any other employed management official of the Gaming Enterprise as documented by the Tribe as a Primary Management Official.

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**3.38. Principal.** “Principal” means with respect to any Person:

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

**3.39. Regulations.** “Regulations” mean the regulations of the TGRA promulgated under or in furtherance of this Ordinance.

**3.40. Reservation.** “Reservation” means any of the Tribe’s lands meeting the definition of “Indian lands” under IGRA.

**3.41. Secretarial Procedures.** “Secretarial Procedures” means a written document prescribed by the Secretary pursuant to 25 U.S.C. § 2710(d)(7)(B)(vii), governing the conduct of Class III Gaming on the Reservation.

**3.42. Secretary.** “Secretary” means the Secretary of the Interior.

**3.43. TGRA Enforcement Action.** “TGRA Enforcement Action” (as distinguished from “Enforcement Action” of the NIGC defined above) means any action taken by the TGRA against any Person for a violation of any provision of IGRA, the regulations of the NIGC, or tribal regulations, ordinances or resolutions approved under 25 U.S.C. §§ 2710 or 2712 of IGRA, including but not limited to, a notice of violation, a civil fine assessment, or an order for temporary closure.

**3.44. TGRA Staff.** “TGRA Staff” means all employees of the TGRA, including the Executive Director, but does not include the Commissioner or other Commission Members.

**3.45. Tribal Gaming Regulatory Authority (TGRA).** “Tribal Gaming Regulatory Authority (TGRA)” or “TGRA” means the entities through which the Tribe conducts,

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regulates, and secures gaming on Indian lands within the Tribe's jurisdiction pursuant to IGRA. The Rincon Tribal Gaming Commission shall serve as the Tribal Gaming Regulatory Authority (TGRA) as defined by 25 C.F.R. §502.26.

**3.46. Tribal-State Compact or Compact.** "Tribal-State Compact" or "Compact" means an agreement between a tribe and a state about Class III Gaming under 25 U.S.C. § 2710(d).

**3.47. Tribe.** "Tribe" means the Rincon Band of Luiseño Indians, a federally recognized Indian tribe.

**3.48. Words and Terms.** In construing the provisions of this Ordinance, except when otherwise plainly declared or clearly apparent from the context:

- (a) Words in the present tense shall include the future tense;
- (b) Words in the masculine, feminine or neuter genders shall include all genders;
- (c) Words in the singular shall include the plural, and words in the plural shall include the singular; and
- (d) Words shall be interpreted consistently with definitions promulgated by the NIGC.

**4. GAMING AUTHORIZED**

**4.01.** Class II Gaming as defined in IGRA, and to the extent such regulations are lawful, by the regulations promulgated by the NIGC (as may be amended from time to time) is hereby authorized provided such gaming is consistent with this Ordinance.

**4.02.** Class III Gaming as defined in IGRA, and to the extent such regulations are lawful, by the regulations promulgated by the NIGC at 25 C.F.R. § 502.4 (as may be amended from time to time) is hereby authorized, provided such gaming is consistent with this Ordinance and the Secretarial Procedures in effect, or otherwise has been authorized by the Secretary or federal law.

**4.03.** All Class II Gaming and Class III Gaming, together with all Gaming Activity, must first be authorized by this Section and approved by the Business Committee before such Class II Gaming and Class III Gaming, together with all Gaming Activity, lawfully can occur on the Reservation.

**4.04.** Unauthorized or Unapproved Gaming. No Person shall conduct any Gaming Activity within the Reservation without the proper authority and the prior written approval



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of the Business Committee. Any Person who commits any act of unauthorized or unapproved Gaming Activity within the Reservation shall be guilty of a civil infraction and may be prosecuted in the Tribal Court of the Tribe. Prosecution for such a civil infraction in Tribal Court is not meant to be exclusive. Class II Gaming and Class III Gaming, together with any Gaming Activity, by any Person on the Reservation, except as authorized pursuant to this Ordinance, is strictly prohibited, and such Person may be subject to a civil fine not to exceed \$5,000 per violation.

**5. OWNERSHIP OF GAMING OPERATION**

The Tribe shall have the sole proprietary interest in and responsibility for the conduct of any Gaming Operation authorized by this Ordinance; provided, however, that the Tribe may, in accordance with IGRA, enter into a management contract for management of the Gaming Operation. Further, the Tribe may contract with and license a Person to engage in any Gaming Activity pursuant to the provisions of IGRA and the regulations promulgated thereunder, or as otherwise permitted by law.

**6. USE OF NET REVENUES**

Net Revenues from Class II Gaming and Class III Gaming on the Reservation shall be used only for the following purposes: a) to fund Tribal government operation and programs; b) to provide for the general welfare of the Tribe and its members; c) to promote Tribal economic development; d) to donate to charitable organizations; or e) to help fund the operations of local government agencies. Any per capita payments funded by Net Revenues from Class II Gaming and/or Class III Gaming shall only be made in compliance with the Tribe's per-capita distribution plan as approved by the Department of the Interior and in effect.

**7. GAMING COMMISSION**

**7.01. Establishment of the Rincon Tribal Gaming Commission.** The Rincon Tribal Gaming Commission is established by this Ordinance, and shall serve as the Tribal Gaming Regulatory Authority (TGRA) for the Tribe. The TGRA shall consist of five (5) Gaming Commissioners appointed by a majority vote of the Business Committee. At least three (3) of the Gaming Commissioners shall be enrolled members of the Tribe. All five (5) Gaming Commissioners shall be at-will employees and shall serve at the discretion of the Business Committee. The Business Committee shall fill any vacancy on the TGRA within thirty (30) days after the occurrence of the vacancy.

- (a) Appointments of a Gaming Commissioner shall be for a period of four (4) years, except that the Business Committee may appoint a Gaming Commissioner for a shorter or longer term if such term will result in

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staggered appointments and provide continuity within the TGRA. The Gaming Commissioners may be reappointed for one or more successive terms. Each new Gaming Commissioner shall be subject to a twelve (12) month probationary period, provided that such probationary period shall not affect the Gaming Commissioner's right to benefits under the Tribal employee personnel policies then in effect.

- (b) Each Gaming Commissioner serving on the TGRA as of the effective date of this Ordinance shall complete the Gaming Commissioner's current term and shall be eligible for reappointment.
- (c) Each Gaming Commissioner must satisfy the suitability standards established for Key Employees in this Ordinance. Gaming Commissioners may not participate in matters relating to their personal background investigations, and such background investigations shall be performed under the direction of the Business Committee or its designee.

**7.02. Restrictions on Gaming Commissioners.** Gaming Commissioners may hold other Tribal positions and engage in business; provided, however, that Gaming Commissioners shall not engage in any business that is subject to the provisions of this Ordinance. Gaming Commissioners shall not gamble in the Gaming Facility or have any personal financial interest in any Gaming Activity by any Person. No member of the Business Committee shall serve as a member of the TGRA during that member's term on the Business Committee. A Gaming Commissioner shall immediately resign from the TGRA (i) upon the Gaming Commissioner's conviction in any federal, state, Tribal or other court of competent jurisdiction for any felony or any misdemeanor, or for any civil infraction related to illegal gambling or bribery, or (ii) upon a determination by the Business Committee that a charge against the Gaming Commissioner is related to the Gaming Commissioner's honesty or ability to fulfill the Gaming Commissioner's duties. If a Gaming Commissioner is found by a court of competent jurisdiction to have violated any part of this Ordinance, the Gaming Commissioner shall immediately resign from the TGRA.

**7.03. Code of Ethics.** The TGRA may adopt and revise from time to time a Code of Ethics regulating the conduct of each Gaming Commissioner and the TGRA Staff. Such Code of Ethics may only be adopted pursuant to TGRA Regulation.

**7.04. Compensation of Gaming Commissioners.** Gaming Commissioners shall be compensated at a rate to be established annually by the Business Committee. Gaming Commissioners shall be reimbursed for actual expenses incurred on TGRA business, including necessary travel expenses.

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**7.05. Selection of Chairperson.** The Chairperson of the TGRA shall be appointed by the Business Committee.

**7.06. Meetings Open to the Public.** General meetings of the TGRA may be open to the public. Closed sessions may be held for good cause, including but not limited to, protection of the privacy of Persons; consideration of personnel matters; consideration of licensing determinations; review of background investigations; hearing of complaints against individuals; and consideration of whether to include Persons on the list of excluded individuals. All meetings shall be governed by Roberts Rules of Order or such other procedures as the TGRA may adopt. Nothing herein shall preclude a vote from being taken by the TGRA by telephone poll in an emergency when circumstances do not allow a meeting of the full TGRA in one location in a timely manner.

**7.07. Quorum Required.** A quorum shall be required for any vote or decision by the TGRA, and a quorum shall consist of three (3) members of the TGRA. Once a quorum is established, all votes and decisions of the TGRA shall be made by a majority vote of those present, unless indicated otherwise in this Ordinance.

**7.08. Quarterly Reports.** The TGRA shall make quarterly reports to the Business Committee within thirty (30) days after the close of the quarter for which the information is being required. The reports shall include a full and complete statement of all financial transactions of the TGRA, and a summary of all licensing and TGRA enforcement actions. Such reports may be in the form of minutes of the TGRA's meetings, supplemented by any additional documents as may be appropriate. Unless prevented by emergencies or other obligations, the TGRA and the Business Committee shall meet on a quarterly basis for presentation of the quarterly reports.

**7.09. Powers.**

- (a) It is the responsibility of the TGRA to conduct on-site gaming regulation and control in order to enforce the terms of the Secretarial Procedures, IGRA, and this Ordinance with respect to Gaming Operation and Gaming Facility compliance, and to protect the integrity of the Gaming Activity, the reputation of the Tribe and the Gaming Operation, to ensure honesty and fairness, and the confidence of patrons that Tribal government gaming meets the highest standards of regulation and internal controls. To meet those responsibilities, the TGRA shall adopt and enforce regulations, procedures and practices as set forth herein.
- (b) The TGRA shall exercise all powers necessary to effectuate the purposes of this Ordinance, and may exercise any proper power and authority necessary or convenient to perform its responsibilities under this Ordinance. The

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TGRA shall meet not less than once each month to make recommendations and set policy, to approve or reject reports of the Gaming Operation management, if any, and to transact other business that may be properly brought before it. The ultimate power to interpret the Secretarial Procedures or any Compact is specifically reserved to the Business Committee.

- (c) Nothing herein shall be interpreted to vest the TGRA with the power to exercise jurisdiction over matters not Directly Related to Gaming.

**7.10. Issuance of Regulations.** The TGRA shall from time to time promulgate and issue Regulations governing any aspect of its or the TGRA Staff's responsibilities under this Ordinance, which, so long as the Regulations are in furtherance of and not in conflict with any provision of this Ordinance, shall have the force of law. In adopting, amending and repealing Regulations, the TGRA shall give prior notice of the proposed action to the Business Committee, all Licensees and other Persons whom the TGRA has reason to believe have a legitimate interest in such proposed action. Said notice shall inform such Persons as to the general nature of the proposed action and advise them as to the manner in which comments on said proposed action shall be received by the TGRA. Notice may be given by posting for at least one week at a place designated by the TGRA within the Gaming Facility office complex. In emergencies, the TGRA may summarily adopt, amend or repeal any Regulation if at the time, the TGRA determines such action is necessary for the immediate preservation of the public peace, health, safety, morals, good order or general welfare, and issues a statement of the facts constituting the emergency; provided, however, that the TGRA shall schedule such emergency action for a regular hearing within sixty (60) days, and provided further, that as soon as is reasonably possible, the TGRA shall inform the Business Committee of any such emergency action. In adopting, amending or repealing Regulations, the TGRA shall provide notice of the proposed action to the general manager(s) of the Tribe's Gaming Operations and to the Chairperson of the Business Committee at least twenty (20) days prior to the TGRA meeting at which the proposed action is to be considered. The notice shall describe the general nature of the proposed action and advise as to how comments on the proposed action will be received by the TGRA. Notwithstanding the foregoing, the Business Committee, in the exercise of its authority, may at any time ratify, revise or veto any Regulation, or any emergency or other action taken by the TGRA with respect to any Regulation.

**7.11. Request for TGRA Action.** Any Person who is determined by the TGRA to be a real party in interest may file a petition in a manner and form approved by the TGRA, requesting the adoption, amendment or repeal of a Regulation. Upon receipt of the petition, the TGRA shall within thirty (30) days deny the request in writing or schedule the matter for action pursuant to this Ordinance and any rules and Regulations of the TGRA.

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**7.12. Duties of the TGRA.** The TGRA shall perform all duties, exercise all powers, promulgate all Regulations, assume and discharge all responsibilities, and carry out and affect all purposes of this Ordinance relating to the establishment and regulation of all Gaming Activity within the Gaming Operation. In all decisions, the TGRA shall act to promote and ensure the integrity, security, honesty, fairness and administration of the Gaming Operation and all Gaming Activity. The TGRA's duties and powers shall include, but not be limited to, the following:

- (a) Ensuring that all gaming fees for all Gaming Activity and any other fees assessed by the NIGC are sent to the NIGC on a timely basis;
- (b) Corresponding with the NIGC regarding compliance with the rules and regulations of the NIGC. The TGRA shall coordinate with the Business Committee regarding correspondence with the NIGC on policy matters; provided, however, that nothing herein shall preclude the TGRA from corresponding with the NIGC on compliance matters without coordination with the Business Committee;
- (c) Ensuring that all Gaming Activity is conducted honestly and fairly and that the Gaming Facility is constructed in a manner that adequately protects the environment and the public health and safety;
- (d) Establishing an adequate system, including fingerprint clearances with the California Department of Justice and/or the NIGC, to ensure that background investigations are conducted on all Primary Management Officials and Key Employees of any Gaming Activity, and that oversight of such officials and their management is conducted on an ongoing basis. The TGRA will have final authority regarding the granting of Tribal licenses for Primary Management Officials, Key Employees and other Persons. The TGRA will review all Applications and background investigations to ensure that no Person shall be eligible for employment in or with any part of the Gaming Operation if that Person's prior activities, criminal record, reputation, habits or associations pose a threat to the public interest or to the effective regulation of the Gaming Operation or Gaming Activity, or create or enhance the dangers of unsuitable, unfair or illegal practices, methods or activities in the Gaming Operation or Gaming Activities. The TGRA shall notify the NIGC of the results of such background checks before the issuance of such licenses;
- (e) Reviewing all records, documents and anything else necessary and pertinent to enforcement of any provisions of this Ordinance;

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- (f) Issuing subpoenas and compelling the attendance of witnesses for hearings at any place within the Reservation, including administering oaths and requiring testimony under oath. The TGRA may pay such transportation and other expenses of witnesses as it may deem reasonable and proper;
- (g) In connection with the TGRA's power to hear appeals, determining whether sanctions should be imposed upon, or conditions should be placed on, the license of any Person subject to the jurisdiction of this Ordinance;
- (h) Imposing fines of up to \$5,000 for each violation of this Ordinance; and
- (i) With the exception of conducting hearings pursuant to subparagraphs (f) and (g) above, and promulgating rules and Regulations in the manner provided in Section 7.10, delegating any of the TGRA's duties and authorities to the Executive Director.

**7.13. Right of Inspection.** The TGRA shall have the authority to:

- (a) Inspect and examine all Gaming Facilities and premises where Gambling Devices or equipment are manufactured, sold or distributed;
- (b) Inspect all equipment and supplies in, upon or about a Gaming Facility, or inspect any equipment or supplies, wherever located, which may have or have been used in a Gaming Facility;
- (c) Summarily seize and remove from a Gaming Facility, wherever located, and impound such equipment and supplies for the purpose of examination, inspection, evidence or forfeiture;
- (d) Demand access to and inspect, examine and audit all papers, books and records of applicants and Licensees respecting any income produced by any Gaming Activity, and require verification of income and all other matters affecting the enforcement of the policies of, or any of the provisions of, this Ordinance; and
- (e) Seize and impound any Patron's winnings which the TGRA has reason to believe may have been won or obtained in violation of this Ordinance.

**7.14. Powers of Delegation; Budgeting Matters.** The TGRA may organize itself into such functional divisions as it may deem necessary, and may from time to time modify such plan of organization. The TGRA shall establish its own budget for operations and shall acquire such furnishings, equipment, supplies, stationery, books, motor vehicles and other things as it may deem necessary in carrying out its functions. The TGRA may also

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incur such other expenses, within the limits of funding available to it, as it may deem necessary for its operations. Within the limits of the TGRA's annual budget, as approved by the Business Committee, the TGRA shall employ and fix the salaries of or contract for services of such professional, technical and operational personnel and consultants as the execution of its duties and the operation of the TGRA may require. At the Business Committee's discretion, said budget may be reviewed and modified by the Business Committee. Upon the end of the budget year, any surplus existing in the budget shall be refunded as directed by the Business Committee in its discretion.

**7.15. Record-Keeping.** The TGRA shall keep and maintain a file of all Applications for licenses under this chapter, together with a record of all action taken with respect to such Applications in the matter detailed in Section 8.03.

**7.16. Processing Employee and Patron Complaints.** The TGRA may receive any complaint from an employee of the Gaming Operation or any member of the public who is or claims to be adversely affected by an act or omission related to any Gaming Activity which is asserted to violate the Compact or Secretarial Procedures, this Ordinance, or any Regulation, and may upon consideration of such complaint order such remedial action as it deems appropriate to bring the Gaming Activity into compliance with such provisions. The TGRA may for this purpose, in its sole discretion, direct the Executive Director to conduct a hearing and receive evidence with regard to such complaint if the TGRA deems an evidentiary proceeding useful in the resolution of such complaint.

**7.17. Violations of Ordinance – Civil Infraction.**

- (a) **Policy of Ensuring Compliance Whenever Possible Without Formal Imposition of Fines or Suspension or Revocation of License.** Whenever the TGRA is considering enforcement action in the form of imposing fines, or suspending, revoking or placing conditions on a license, the TGRA shall first inform the potential subject of the disciplinary action of the nature of the violation and the steps that need to be taken to ensure compliance with this Ordinance, the Secretarial Procedures, Tribal law and/or IGRA. The TGRA shall meet and confer with the potential subject of the disciplinary action and attempt in good faith to bring the subject into compliance. Only after all reasonable efforts to bring the subject into compliance have been taken and failed without taking enforcement action shall the TGRA proceed with the imposition of the fine and/or action on the subject's license.
- (b) Any violation of this Ordinance is a civil infraction, and any person found to have committed such an infraction is subject to the imposition of a fine of not more than \$5,000 for each violation.

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- (c) Any money, other representation of value, or real or personal property used in or derived from participation in any activity conducted in violation of this Ordinance shall be subject to seizure by Tribal Law Enforcement Officers, and forfeited to the Tribe's treasury upon a finding by the TGRA that such money, other representation of value, or real or personal property was used in or derived from participation in an activity conducted in violation of this Ordinance. Tribal Law Enforcement Officers shall coordinate and cooperate with the Executive Director in the issuance of citations and seizure of property used in the commission of a violation of this Ordinance. A Tribal Law Enforcement Officer shall accompany the Executive Director during the issuance of any such citation or seizure of property.
- (d) Winnings found to have been received in violation of this Ordinance shall be forfeited and become the property of the Tribe.
- (e) The general manager of the Gaming Operation, the Assistant Executive Director and the head of security for the Gaming Operation (as designated by the general manager) and their designees shall have the power to temporarily detain any Person suspected of violating this Ordinance and seize evidence if the general manager or the head of security for the Gaming Operation or their designees determine that such action is necessary to preserve any Person or evidence for Tribal Law Enforcement Officers or other law enforcement officials. Any such action, however, shall be undertaken in consultation with the Executive Director of the TGRA or his/her designee.
- (f) Nothing in this Ordinance shall be interpreted to require any Commissioner, or TGRA staff, including its Executive Director and Compliance Manager to detain any Person and seize any evidence within the Gaming Facility. Detention and seizure actions taken in the Gaming Operation shall be completed in coordination with Tribal Law Enforcement and pursuant to any applicable Regulation adopted pursuant to Section 7.10 of this Ordinance.
- (g) The detention of any Person shall be for a temporary period and for the sole purpose of identifying such Person, and for purposes of notifying and summoning appropriate law enforcement authorities and detaining such Person as long as is necessary to transfer the Person to the appropriate law enforcement officers. Detention of any Person shall not unduly interfere with the business of the Gaming Operation. A Person shall be transferred to appropriate law enforcement officers as soon as reasonably possible. Any area within which a Person is detained pursuant to this Ordinance shall be



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equipped with both video and audio recording capabilities. Any Person detained in such an area shall be kept under both video and audio observation during such temporary detention.

- (h) Any violations of this Ordinance may result in a Person being prohibited from being present within the Gaming Facility; license suspensions, revocations or limitations; and the Gaming Facility of portions thereof being closed through the issuance by the TGRA of a cease and desist order. All such action shall be taken at the discretion of the TGRA, subject to the right of any Person to appeal a civil fine or forfeiture of property to the Full TGRA. A Person who violates this Ordinance may also be required to pay costs, storage fees, and auction or sales fees.

**7.18. Limitations Period.** No fine shall be assessed, nor shall any action be taken for any violation of this Ordinance, unless a notice of such violation of this Ordinance is filed with the TGRA within two (2) years of the alleged violation.

**7.19. Limitation on Gifts and Compensation.** Commissioners, TGRA Staff, and their immediate families shall receive no personal compensation, gift, reimbursement or payment of any kind from any Person doing or wishing to do business with the Tribe relating to Gaming, or from any Person wishing to obtain an unfair advantage in any authorized wager on Gaming, except as may be authorized in a duly adopted Code of Ethics. Any Person suspected of violating this provision may be prosecuted to the fullest extent possible under Tribal Law for accepting a bribe, and any property received in violation of this provision shall be forfeited to the Tribe. Payments made pursuant to the Tribe's Revenue Allocation Plan do not violate this provision. The TGRA shall cooperate to the fullest extent possible with any federal, Tribal or state law enforcement agency to pursue prosecution under applicable federal, Tribal or state law.

## 8. EXECUTIVE DIRECTOR

### 8.01. Qualifications of Executive Director; Salary.

- (a) The position of Executive Director of the TGRA is hereby created. The Commissioners of the TGRA shall appoint the Executive Director, subject to confirmation by the Business Committee. Selection and employment of the Executive Director shall also be conducted in accordance with the Tribe's employment policies and procedures.
- (b) No member of the Business Committee, no person holding any elective office, and no officer or official of any political party is eligible for appointment as Executive Director.

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- (c) The Executive Director must have at least five (5) years of administrative experience in public or business administration, must possess broad management skills, and must have at minimum a degree in Business Administration, Law, Accounting, Criminal Justice or like degree from an accredited college or university.
- (d) The Executive Director shall devote his or her entire work time and attention to the duties imposed under this Ordinance and the business of the TGRA, and shall not pursue any other business or occupation, or hold any other office for profit, unless approved by the TGRA.
- (e) The Executive Director shall not have any pecuniary interest in any business or company holding a license under this Ordinance or doing business with any person licensed under this Ordinance.
- (f) The Executive Director is entitled to an annual salary as set by the annual TGRA budget.

**8.02. Authority of Executive Director.**

- (a) The TGRA Executive Director shall furnish to the TGRA such administrative and clerical services, and such furnishings, equipment, supplies, stationery, books and other things, as the TGRA may deem necessary or desirable in carrying out its functions;
- (b) The Executive Director shall employ division directors that possess at least two (2) years of training and experience in the fields of accounting, investigation, law enforcement, law or gaming;
- (c) The Executive Director shall have authority to hire such professional, clerical, technical and administrative personnel as may be necessary to carry out the provisions of this Ordinance;
- (d) The Executive Director shall have the authority to make decisions regarding licensure and compliance with this Ordinance, subject to appeal as provided herein; and
- (e) The Executive Director, in pursuit of the attainment of the objectives and the purposes of this Ordinance, may:
  - (i) Direct and supervise all administrative actions of the TGRA;

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- (ii) Sue on behalf of the TGRA, after consultation with and approval of the TGRA;
- (iii) Make, execute and effectuate any and all agreements or contracts, including contracts for the purchase of goods and services, as are necessary to carry out the provisions of this Ordinance; provided, however, that all such agreements or contracts shall be made, executed and effectuated in accordance with the procurement policies and procedures of the Tribe;
- (iv) Employ the services of such persons as are considered necessary for the purposes of consultation or investigation, and fix the salaries of or contract for the services of such legal, professional, technical and operational personnel and consultants within the annual budget approved by the TGRA; provided, however, that the selection and employment of all such persons shall be conducted in accordance with the employment policies and procedures of the Tribe;
- (v) Appoint such staff as the Executive Director determines appropriate, consistent with the TGRA's annual budget approved by the Business Committee;
- (vi) Conduct all investigations, including required background investigations, and suspend, revoke, issue or deny any licenses; and
- (vii) Perform such other duties as the Executive Director deems necessary to effectuate the purposes of this Ordinance, or from time to time as assigned by the TGRA.

(f) Nothing herein shall be interpreted to vest the Executive Director with power to exercise any TGRA jurisdiction over any matter not directly related to the regulation of Gaming Activity.

**8.03. Files and Records to be Maintained by the Executive Director and the TGRA; Confidentiality of Information.**

- (a) The Executive Director shall maintain a file of all Applications for licenses under this Ordinance, together with a record of all actions taken with respect to those Applications.
- (b) The TGRA and Executive Director may maintain such other files or records as they deem desirable.

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- (c) All information and data:
- (i) Included within any Application for license or supporting materials;
  - (ii) Required by the TGRA or the Executive Director to be furnished to them under this Ordinance, or which may otherwise be obtained relative to the finances, earnings or revenues of any applicant or Licensee;
  - (iii) Pertaining to an applicant's criminal record, antecedents or background which has been furnished to or obtained by the TGRA or the Executive Director from any source;
  - (iv) Provided to the members of the TGRA or the Executive Director or their employees by a governmental agency or an informant, or on the assurances that the information will be held in confidence and treated as confidential;
  - (v) Pertaining to the identity of any informant;
  - (vi) Obtained by the Executive Director or the TGRA from a supplier relating to the manufacturing of gaming devices or gaming goods; and
  - (vii) The signed Conflict of Interest policies of the Executive Director, all Commissioners and TGRA employees;

are confidential and may be revealed in whole or in part only in the course of the necessary administration of this Ordinance, upon the lawful order of a court of competent jurisdiction, or at the direction of the TGRA pursuant to its duties and obligations under this Ordinance. All records retained by the Executive Director or the TGRA shall be retained for a period of five (5) years, after which such records may be disposed of at the discretion of the TGRA. Notwithstanding this provision, the annual TGRA budget shall be made available to any adult, enrolled member of the Tribe upon written request. It is a violation of this Ordinance for a Person to falsify, destroy, erase or alter any records of any kind or other information relating to the Gaming Operation in a manner other than as provided in this Ordinance, a Regulation or other TGRA policies.

## 9. LICENSING

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**9.01. License Requirements.** Any Person seeking to conduct, operate or manage any Gaming Activity on the Reservation shall apply for and receive all the required licenses from the TGRA prior to engaging in any Gaming Activity. All Gaming Resource Suppliers which, directly or indirectly, provide, have provided, or are deemed likely to provide at least twenty-five thousand dollars (\$25,000) in Gaming Resources in any twelve (12)-month period, shall apply for and receive all the required licenses from the TGRA prior to providing Gaming Resources. All Gaming Employees shall apply for and receive all the required licenses from the TGRA prior to employment. Any Person seeking to conduct, operate, or manage any Gaming Activity without first obtaining the required licenses shall be deemed in violation of this Ordinance and shall be subject to fines and penalties as set forth herein. Nothing in this Section shall prohibit a Person from being temporarily employed in a Gaming Activity or as a Gaming Employee after being hired for a short period of time, not to exceed thirty (30) days, pending the grant of a temporary license in conformance with background investigation and licensing procedures adopted by the TGRA.

**9.02. Nature of Gaming License.** A Tribal Gaming license is a revocable privilege, and the issuance of a license shall not create any vested right. A Tribal Gaming license is personal to the Licensee or specific to the Gaming Facility, and may not be reassigned or transferred.

**9.03. Licensing, Regulations and Procedures.** The TGRA shall promulgate licensing Regulations governing the issuance, renewal, denial, suspension and revocation of licenses.

**9.04. Licenses.** The TGRA shall require licenses for all Persons, entities, and facilities for which a Tribal Gaming license is required under IGRA, the Secretarial Procedures or a Compact, including:

- (a) Class II and Class III Gaming Facilities;
- (b) Key Employees;
- (c) Primary Management Officials;
- (d) Gaming employees; and
- (e) Gaming Resource Suppliers.

**9.04.01 Gaming Employee Licensing.**

- (a) Every Gaming employee shall obtain, and thereafter maintain current, a valid Tribal gaming license, which shall be subject to biennial renewal, provided that Gaming employees may be

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employed on a temporary or conditional basis pending completion of the licensing process.

- (b) Except as provided in subdivisions (c) and (d), if the NIGC makes an objection that an applicant or Licensee is not suitable, such Person is not eligible for licensure.
- (c) Notwithstanding subdivision (a), if the NIGC objects to a Person's determination of suitability, or to a renewal of such a determination, the Person may continue to be employed if: (i) the Person holds a valid and current license issued by the TGRA that is renewed at least biennially; or (ii) the objection of the NIGC is based solely on activities, conduct or associations arising prior to the filing of the Person's initial application for a determination of suitability.
- (d) Notwithstanding subdivision (a), if the NIGC objects to a Person's determination of suitability, or a renewal of such a determination, such Person is not prohibited from obtaining a license from the TGRA, provided that the Person is otherwise found suitable, if the Person is an enrolled member of the Tribe, and if (i) the Person holds a valid and current license issued by the TGRA that is renewed at least biennially; (ii) the objection of the NIGC is based solely on activities, conduct, or associations that arose prior the filing of the Person's initial application for a determination of suitability; and (iii) the Person is not an employee or agent of any other Gaming Operation.

**9.05. Facility Licenses.** A separate license shall be required for each place, facility, or location on Indian lands where Class II Gaming or Class III Gaming is to be conducted under this Ordinance, subject to renewal at least every two (2) years. Prior to issuance of a Facility License, the TGRA must determine that substantial compliance with all of the requirements of this Ordinance has been met regarding the facility.

**9.06. Additional Licensing Authority.** The TGRA may require additional licenses for Persons, entities and facilities that the TGRA determines are necessary to ensure the integrity of any Gaming Activity, to eliminate a threat to the public interest, or to protect the assets of the Tribe, including Persons and entities that provide goods and services to the Gaming Operation. The circumstances under which such additional licenses shall be required shall be set forth by the TGRA in one or more Regulations.

**9.07. Prohibition Against Unlicensed Activities.** Engaging in any unlicensed activity for which a license is required pursuant to this Ordinance and its implementing Regulations

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without obtaining the required license constitutes a violation of this Ordinance, and any Person who engages in such activity without a license shall be subject to TGRA enforcement actions and penalties as set forth in this Ordinance.

**9.08. Authorization of Class II Gaming Activity; Net Revenue Allocation; Audits; Contracts.**

- (a) A separate license issued by the TGRA shall be required for each Gaming Facility located on the Reservation at which any Class II Gaming Activity is conducted.
- (b) The TGRA may regulate a Tribally-owned Class II Gaming Activity if:
  - (i) Such Gaming Activity is located on the Reservation and the State of California permits such Gaming Activity for any purpose by any Person, organization or entity and such Gaming Activity is not otherwise specifically prohibited on Indian lands by federal laws; and
  - (ii) The Tribe will have the sole propriety interest and responsibility for the conduct of such Gaming Activity; and
  - (iii) Net Revenue from such Gaming Activity is used in accordance with this Ordinance, other applicable Tribe law and federal law; and
  - (iv) Such Gaming Activity is subject to annual outside audits, which may be encompassed within existing independent Tribal audit systems and provided to the Business Committee; and
  - (v) All contracts for supplies, services or concessions for an aggregate amount in excess of \$25,000 annually relating to such Gaming Activity are also subject to independent audits; and
  - (vi) The construction and maintenance of the Gaming Facility and the operation of that Gaming Facility is conducted in a manner which adequately protects the environment and the public health and safety; and
  - (vii) All Primary Management Officials and Key Employees of the Class II Gaming Activity have successfully passed a background investigation, which is approved by the TGRA, or are in the process of being licensed in conformance with the procedures adopted by the TGRA.

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**9.09. Issuance of Tribal Gaming Licenses - Objections.** The TGRA may consult with appropriate law enforcement officials concerning any Gaming licenses it may issue. If, after issuance of a Gaming license by the TGRA, reliable information is received that a Licensee does not meet the eligibility criteria set forth herein, the Executive Director shall suspend such license and, after notice and hearing, the Executive Director may revoke such license.

**9.10. License & Regulation of Class III Gaming Activities - Secretarial Procedures Required.** The TGRA may license and regulate Class III Gaming Activity if:

- (a) Such Gaming Activity meets the requirements of Section 4 of this Ordinance; and
- (b) Such Gaming Activity is conducted in conformance with the terms and conditions of the Secretarial Procedures in effect, or otherwise has been authorized by the Secretary of the Interior or federal law.

**9.11. Notification of Change of Principals.** After an entity is licensed pursuant to this Ordinance, it shall file a report of each change of its principals with the Executive Director. The Executive Director may, at his/her discretion, request that a new principal file with the TGRA a complete Application within thirty (30) days after appointment or election. The entity's license shall remain valid unless the Executive Director disapproves the change or denies the Application.

**9.12. Application Fee.** The TGRA may set a fee for Applications, background investigations and licenses. All money orders or checks for such fees shall be made payable to the Tribe and delivered to the Tribe's accounting office. Nothing herein shall prohibit the TGRA from collecting fees for Applications, background investigations and licenses through payroll deduction.

**9.13. Background Investigation.** No license shall be granted to any Person who has been determined to be a Person whose prior activities, criminal record 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 or activities in the conduct of Gaming, or the carrying on of the business and financial matters incidental thereto.

**9.14. Failure of Applicant to Disclose Material Information.** An applicant for licensing shall make true and full disclosure of all information to the TGRA as necessary to carry out the policies of this Ordinance. It shall constitute a violation of this Ordinance to fail to disclose, to mislead or to misstate any material information to the TGRA or TGRA Staff. It is the duty of the applicant to disclose all information material to whether the



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applicant's involvement with Gaming would jeopardize or compromise the Tribal interest, whether or not the applicant has been specifically requested to provide that information. Any failure to disclose, misstatement, or furnishing of misleading information shall be grounds for denial, suspension or revocation of a license.

**9.15. Temporary Gaming License.** The TGRA may issue a temporary Gaming license to any Person applying for a license to work in a licensed Gaming Facility, which shall be valid pending the background investigation of the applicant. In no event shall a temporary license be valid for greater than ninety (90) days for Primary Management Officials and Key Employees, or one hundred eighty (180) days for all other Persons.

**9.16. Parameters of Licenses.** Violation by a Licensee of any provision of this Ordinance or of its implementing Regulations shall be deemed grounds for refusing to grant or renew a license, suspension or revocation of a license. Acceptance of a Gaming license or renewal thereof, or any condition imposed upon a Licensee, constitutes an agreement on the part of the Licensee to be bound by all the Regulations and conditions of the TGRA, and by the provisions of this Ordinance as the same are now, or may hereafter be, amended or promulgated, and to cooperate fully with the TGRA and the TGRA Staff. It is the responsibility of the Licensee to keep informed of the contents of this Ordinance and all Regulations, amendments, provisions and conditions thereof; ignorance thereof will not excuse violations.

**9.17. Initial Licensing.** The initial decision to approve, disapprove, revoke, suspend, limit or condition a license shall be made by the Executive Director.

**9.18. Voting on Licensing; Notice Procedures and Review Hearings.** Following a determination by the Executive Director, the applicant or Licensee shall be notified in writing of the approval, disapproval, limitation, condition, suspension or revocation of a license by either personal service or certified mail to the last known address provided to the Executive Director. The Executive Director shall not be responsible for undeliverable mail. Should an applicant or Licensee disagree with the determination of the Executive Director, the applicant or Licensee shall submit a written statement to the Executive Director within ten (10) days from the date of the postmark on the written notice of determination. The Executive Director shall hold a hearing to review the Executive Director's determination no less than twenty (20) days from the date the applicant or Licensee files his/her disagreement with the Executive Director. The applicant or Licensee shall be notified in writing of the date, time and place for the review hearing. At the hearing, the burden shall be on the applicant or Licensee to show cause why the Executive Director's determination was incorrect.

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**9.19. Executive Director Findings Following Review Hearing.** Following such review hearing, the Executive Director shall within ten (10) days issue a final determination concerning:

- (a) The accuracy of any preliminary certifications of facts; and
- (b) Whether the license in question should be denied, granted, continued, suspended, revoked, conditioned or limited; and
- (c) Whether any other action, including but not limited to forfeitures, should be taken.

**9.20. Notification of Executive Director Decision.** Within five (5) working days following a final determination, the Executive Director shall inform the applicant or Licensee in writing of that final determination. Written notification may be delivered to the applicant or Licensee in person, by fax, or by mailing to the applicant's or Licensee's last known address. If not appealed, such determination shall be the final decision of the TGRA.

**9.21. Right to Appeal; Scope of Review; Timing.**

- (a) The applicant or Licensee shall have a right to appeal the final determination of the Executive Director, other than a civil fine or forfeiture action, to the Full TGRA. Appeal must be made to the TGRA in written form on or before the tenth (10<sup>th</sup>) day following receipt of the written determination of the Executive Director.
- (b) The decision of the Executive Director shall be affirmed unless the Full TGRA determines that the decision is:
  - (1) Ultra vires;
  - (2) Arbitrary, capricious or an abuse of discretion;
  - (3) Contrary to law; or
  - (4) Unsupported by substantial evidence.
- (c) Such appeals shall be heard within ninety (90) days of the filing of the notice of appeal.
- (d) Adjudication of such appeal by the Full TGRA shall be final and no other appeal shall be permitted.

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**9.22. Ability to Reapply for a License.** After a review hearing, if an applicant's or Licensee's license has been denied, suspended, or revoked, the applicant or Licensee shall not be permitted to re-apply for a license for at least one (1) year from the date of the denial, suspension, or revocation.

**9.23. Right to Appeal Civil Fine and Forfeiture Action to the Full TGRA.**

- (a) A Person who has been the subject of a forfeiture action or has been fined by the TGRA shall have a right to appeal the issuance of the fine or order of seizure of property to the Full TGRA. Appeal must be made to the Full TGRA in written form on or before the tenth (10<sup>th</sup>) day following the issuance of the fine or forfeiture action.
- (b) The TGRA's issuance of a fine or seizure and forfeiture of property shall be affirmed unless the Full TGRA determines that the decision is:
  - (1) Ultra vires;
  - (2) Arbitrary, capricious or an abuse of discretion;
  - (3) Contrary to law; or
  - (4) Unsupported by substantial evidence.

**9.24. Registration of Persons Providing Goods and Services to the Gaming Operation.** All Persons providing \$50,000 or more in goods or services to the Gaming Operation in a calendar quarter shall register with the TGRA. Registration shall be accomplished by completing and submitting the registration form provided by the TGRA, which registration form must be submitted to the TGRA within ten (10) days of such Person providing \$50,000 or more in goods or services to the Gaming Operation in a calendar quarter. The TGRA shall promulgate a Regulation adopting a form of registration form within ninety (90) days of approval of this Ordinance. The Gaming Operation shall notify Persons providing goods or services to the Gaming Operation that they may be obligated to complete the registration form. It is the responsibility of the Person providing goods or services of \$50,000 or more to the Gaming Operation in a calendar quarter to complete the registration form, and it is their responsibility to update the registration form in the event of any change in information. To facilitate compliance with this Section, the Gaming Operation shall establish a tracking system to monitor the purchase of goods and services of \$50,000 or more from any Person in a calendar quarter. The Gaming Operation shall make this information available to the TGRA upon request. This registration obligation shall become effective sixty (60) days after the effective date of this Ordinance or promulgation of the Regulation adopting a form of registration form, whichever is later.

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**9.25. Waiver of Licensing and Registration for Certain Entertainers.** The TGRA has determined that registration and licensing of certain entertainers is not necessary to protect the public interest, regardless of the value of services provided, subject to the requirements of this Section. In the event the Tribe or Gaming Operation contracts directly with an entertainer, the TGRA will waive the certification and licensing requirements for an entertainer, employees of the entertainer, and Persons providing personal services to the entertainer who are paid by the entertainer so long as: (A) the entertainer does not perform within the Gaming Facility more than three days in a calendar year; and (B) the entertainer, employees of the entertainer, and Persons providing personal services to the entertainer who are paid by the entertainer are not allowed unescorted access to any secure area of the Gaming Facility. Performances ending after midnight that are part of a show or series of shows that started the previous evening will be considered part of the performance from the previous evening, and performances do not include setting up and tearing down the stage, props, or light and sound equipment, or warm-ups and sound checks. The TGRA may rescind this waiver if it has a reasonable, good faith belief that the entertainer, employees of the entertainer, or Persons providing personal services to the entertainer who are paid by the entertainer would pose a threat to the public interest.

## 10. MANAGEMENT CONTRACTS

### 10.01. TGRA Licensing of Management Contractor Required.

- (a) Any Management Contract entered into by the Tribe for the operation and management of Class II Gaming Activity or Class III Gaming Activity must provide that the parties in interest associated with the Management Contractor shall submit to a suitability determination by and the licensing requirements of the TGRA. The TGRA may require and obtain the following information:
  - (i) The name, address and other additional pertinent background information on each Person including, in cases involving entities, each individual, partner, officer, shareholder, and director of such entity having direct financial interest in or management responsibility for, such entity; and in the case of a corporation, those individuals who serve on the board of directors of such corporation and each of its stockholders who hold, directly or indirectly, 10% or more of its issued and outstanding stock; and
  - (ii) A complete financial statement for each Person listed pursuant to subsection (i) above.

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- (b) Any Person listed pursuant to subsection (a)(i) above shall be required to respond to such written or oral questions that the TGRA may propound in accordance with its responsibilities under this Ordinance.
- (c) The TGRA may require management contractors and potential management contractors to pay a fee as set from time to time to cover the cost of the investigation necessary to reach a suitability determination as required by this Ordinance.

**10.02. Provisions of Management Contracts.** Any Management Contract entered into by the Tribe must include the following provisions:

- (a) That accounting procedures are maintained, and verifiable financial reports are prepared, by or for the Business Committee on a monthly basis;
- (b) For access to the daily operations of the Gaming Facility to appropriate Tribal officials and their accountants and assistants, who shall also have a right to verify the daily gross revenues of the Gaming Operation and income made from any Gaming Activity or other activities managed pursuant to the Management Contract;
- (c) For a minimum guaranteed payment to the Tribe that has preference over the retirement of development and construction costs;
- (d) For an agreed ceiling for the repayment of development and construction costs;
- (e) For a Management Contract term not to exceed five (5) years, except that, upon the request of the Tribe, a Management Contract term that exceeds five (5) years but does not exceed seven (7) years;
- (f) For grounds and mechanisms for terminating such Management Contract; and
- (g) That preference will be given to Tribal members and non-member Indians in the hiring of employees for the Gaming Facility.

**10.03. Percentage of Net Revenue Fees.** A Management Contract providing for a management fee based upon a percentage of the Net Revenues of a Gaming Operation shall not exceed 30% of the Net Revenue, unless the Business Committee is satisfied that the capital investment required, and the income projections for, such Gaming Operation justify an increased management fee, provided that in no event shall such increased management fee exceed 40% of Net Revenue.

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**11. LICENSES FOR KEY EMPLOYEES AND PRIMARY MANAGEMENT OFFICIALS**

**11.01. Policies and Procedures.** The TGRA shall ensure that the policies and procedures set out in this Section are implemented with respect to Key Employees and Primary Management Officials employed at any Class II or Class III Gaming Operation operated on the Reservation.

**11.02. Application Forms.**

- (a) The following notice shall be placed on the Application form for a Key Employee or a Primary Management Official before that form is filled out by an applicant:

In compliance with the Privacy Act of 1974, the following information is provided: Solicitation of the information on this form is authorized by 25 U.S.C. 2701 et seq. The purpose of the requested information is to determine the eligibility of individuals to be granted a gaming license. The information will be used by the Tribal gaming regulatory authorities and by the National Indian Gaming Commission members and staff who have need for the information in the performance of their official duties. The information may be disclosed by the Tribe or the National Indian Gaming Commission to appropriate Federal, Tribal, State, local, or foreign law enforcement and regulatory agencies when relevant to civil, criminal or regulatory investigations or prosecutions or when pursuant to a requirement by a tribe or the National Indian Gaming Commission in connection with the issuance, denial, or revocation of a gaming license, or investigations of activities while associated with a tribe or a gaming operation. Failure to consent to the disclosures indicated in this notice will result in a tribe's being unable to license you for a primary management official or key employee position.

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

- (b) Existing Key Employees and Primary Management Officials shall be notified in writing that they shall either:
- (i) Complete a new Application form that contains a Privacy Act Notice; or

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- (ii) Sign a statement that contains the Privacy Act Notice and consents to the uses described in that notice.

**11.03. Application Notice.** The following notice shall be placed on the application form for a Key Employee or a Primary Management Official before that form is filled out by an applicant:

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

**11.04. Updated Notice.** The Executive Director shall provide notice in writing to existing Key Employees and Primary Management Officials that they shall either:

- (a) Complete a new Application form that contains the notice set forth in Section 11.03; or
- (b) Sign a statement that contains the notice set forth in Section 11.03.

**11.05. Background Investigations.** Each Primary Management Official and each Key Employee shall provide the TGRA with the following information:

- (a) Full name, other names used (oral or written), Social Security Number(s), birth date, place of birth, citizenship, gender, all languages spoken or written;
- (b) Currently and for the previous five (5) years: all businesses in which the applicant holds an ownership interest, all business and employment positions held, all business and residential addresses, and driver's license numbers;
- (c) The names and current addresses of at least three personal references, including one personal reference that was acquainted with the applicant during each period of residences listed under paragraph (b) of this Section;
- (d) Current business and residence telephone numbers, and all cell phone numbers;
- (e) A description of any existing and previous business relationships with any Indian tribes, including ownership interests in those businesses;

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- (f) A description of any existing and previous business relationships with the gaming industry generally, including ownership interests in those businesses;
- (g) The name and address of every licensing or regulatory agency with which the applicant has filed an application for a license or permit related to gaming, whether or not such license or permit was granted;
- (h) For each felony for which there is an ongoing prosecution or a conviction, the charge, the name and address of the court involved, and the date and disposition if any;
- (i) For each misdemeanor conviction or ongoing misdemeanor prosecution (excluding minor traffic violations), within ten (10) years of the date of the Application, the name and address of the court involved and the date and disposition;
- (j) For any Gaming-related criminal conviction, whether such conviction was for a felony or misdemeanor;
- (k) For each criminal charge (excluding minor traffic charges), within ten (10) years of the date of the Application, whether or not there is a conviction, the name and address of the court involved and the date and disposition;
- (l) The names and address of each licensing or regulatory agency with which the applicant has filed an application for an occupational license or permit, whether or not such license or permit was granted;
- (m) A current photograph;
- (n) Any other information the TGRA may deem relevant under the circumstances; and
- (o) Fingerprints consistent with procedures adopted by the TGRA in accordance with 25 C.F.R. §522.2 (g).

The Executive Director shall be responsible for the conduct of an investigation sufficient to make a determination under Section 11.06 below. The Executive Director shall conduct a background investigation that meets or exceeds the requirements of 25 C.F.R. §§ 556 and 558. In conducting a background investigation, the Executive Director shall keep confidential the identity of each Person interviewed in the course of the investigation. This confidentiality shall also be maintained by the TGRA and any other person provided with such information.



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**11.06. Eligibility Determination.** The Executive Director shall review an applicant's prior activities, criminal record, if any, and reputation, habits and associations to make a determination, pursuant to this Ordinance, concerning the suitability for licensure of Key Employee and Primary Management Official applicants. No license shall be issued to an applicant unless, based on all information and documents submitted, the TGRA is satisfied that the applicant is all of the following:

- (a) A person of good character, honesty and integrity.
- (b) A person whose prior activities, criminal record (if any), reputation, habits, and associations do not pose a threat to the public interest or to the effective regulation and control of gambling, or create or enhance the dangers of unsuitable, unfair, or illegal practices, methods, or activities in the conduct of gambling, or in the carrying on of the business and financial arrangements incidental thereto.
- (c) A person who is in all other respects qualified to be licensed as provided in the Secretarial Procedures, IGRA, this Ordinance, and any other criteria adopted by the TGRA or the Tribe. An applicant shall not be found to be unsuitable solely on the ground that the applicant was an employee of a Tribal gaming operation in California that was conducted prior to June, 2000.

**11.07. Procedures for Forwarding Applications and Reports for Key Employees and Primary Management Officials to the NIGC.**

- (a) When a Key Employee or Primary Management Official begins work at a Gaming Operation, the Executive Director shall forward to the NIGC a Notice of Results of the TGRA's review of any Application for employment, and the TGRA's background investigation ("NOR") and the TGRA's determination referred to in Section 11.06 of this Ordinance.
- (b) The Executive Director shall forward the NOR to the NIGC within sixty (60) days after an employee begins work or within sixty (60) days of the approval of this Ordinance by the Chairman of the NIGC.
- (c) The Gaming Operation shall not allow any person to perform the duties, functions and responsibilities of a Key Employee or Primary Management Official who does not obtain a license within ninety (90) days after the person's commencement of employment.

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**11.08. Preparation of Investigative Reports and NORs.** The Executive Director shall prepare an Investigative Report and an NOR regarding each applicant for a license as a Key Employee or Primary Management Official.

- (a) The Investigative Report shall, at a minimum, include all of the following:
- (i) Steps taken in conducting the background investigation;
  - (ii) Results obtained;
  - (iii) Conclusions reached; and
  - (iv) The basis for those conclusions.
- (b) The NOR shall, at a minimum, include the following information:
- (1) The applicant's name, date of birth, and social security number;
  - (2) The date on which the applicant began, or will begin, working as a Primary Management Official or Key Employee;
  - (3) A summary of the information presented in the investigative report, which shall, at a minimum, include a listing of:
    - (A) licenses that have previously been denied;
    - (B) gaming licenses that have been revoked, even if subsequently reinstated;
    - (C) every known criminal charge brought against the applicant within the last ten (10) years of the date of the application; and
    - (D) every felony offense of which the applicant has been convicted or any ongoing prosecution; and
  - (4) A copy of the eligibility determination made in accordance with this Section 11.

**11.09. Additional Eligibility Determination Requirements.** The Executive Director shall submit to the NIGC, with the NOR, a copy of the eligibility determination made pursuant to this Ordinance.

- (a) If a license is not issued to an applicant, the TGRA:

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- (i) Shall notify the NIGC; and
  - (ii) Shall forward copies of its eligibility determination and any NOR to the NIGC for inclusion in the Indian Gaming Individuals Record System.
- (b) With respect to Key Employees and Primary Management Officials, the Executive Director and TGRA shall retain Applications for employment and reports (if any) of background investigations for inspection by the Chairman of the NIGC or his or her designee for no less than three (3) years from the date of termination or denial of employment. At a minimum, such retained records shall include:
- (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 five (5) years: Business and employment positions held, ownership interests in those businesses, business and residence addresses, and driver's 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 subparagraph (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;

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- (9) For each misdemeanor conviction or ongoing misdemeanor prosecution (excluding minor traffic violations) within ten (10) years of the date of the application, the name and address of the court involved and the date and disposition;
- (10) For each criminal charge (excluding minor traffic charges) whether or not there is a conviction, if such criminal charge is within ten (10) years of the date of the application and is not otherwise listed pursuant to subparagraphs (8) and (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 Tribe deems relevant;
- (14) Fingerprints consistent with procedures adopted by the Tribe
- (15) Investigative reports relating to the applicant or Licensee;
- (16) Eligibility determinations related to the applicant or Licensee;
- (17) The Privacy Act notice to the applicant or Licensee; and
- (18) the False Statement notice as set forth in Section 11.03 provided to the applicant or Licensee.

**11.10. Granting a Gaming License.**

- (a) If, within a thirty (30) day period after the NIGC receives any NOR, the NIGC fails to respond or notifies the TGRA that it has no objection to the issuance of a license pursuant to a license Application filed by a Key Employee or Primary Management Official, or an applicant for whom the TGRA has provided an Application and investigative report to the NIGC pursuant to Section 11.08, the TGRA may issue a license to such applicant. The TGRA shall within thirty (30) days notify the NIGC of the issuance of such licenses.

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- (b) The TGRA, through the Executive Director, shall respond to a request for additional information from the Chairman of the NIGC concerning a Key Employee or a Primary Management Official who is the subject of a report. Such a request shall suspend the thirty (30)-day period described above until the Chairman of the NIGC receives the additional information.
- (c) If, within the thirty (30) day period described above, the NIGC provides the TGRA with a statement itemizing its objection(s) to the issuance of a license to a Key Employee or a Primary Management Official for whom the TGRA has provided a NOR, the TGRA shall reconsider the Application, taking into account the objection(s) itemized by the NIGC. The TGRA shall make the final decision as to whether to issue a license to such applicant.

**11.11. License Suspension or Revocation.**

- (a) The right to a revocation hearing shall vest upon receipt of a license.
- (b) If, after issuance of a gaming license, the TGRA receives reliable information from the NIGC or other reliable source indicating that a Key Employee, Primary Management Official or other Licensee is not eligible for licensure under the eligibility criteria established herein, the Executive Director shall immediately suspend the license and shall notify the Licensee in writing of the license suspension and proposed revocation.
- (c) In circumstances where the immediate suspension is the result of information provided by the NIGC:
  - (i) The notice to the Licensee shall also include a time and place for a hearing on the proposed revocation;
  - (ii) The TGRA shall take the NIGC's objections into account when reconsidering a license application;
  - (iii) The TGRA shall conduct the hearing, decide whether to revoke or reinstate the license, and notify the NIGC of its decision within forty-five (45) days from the TGRA's receipt of the information provided by the NIGC.
- (d) Summary Suspension. The Executive Director may summarily suspend any license if continued licensing of a Licensee constitutes an immediate threat to the public health, safety or welfare. A Licensee may appeal such suspension in the manner provided in Section 9.21.

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- (e) In circumstances where the immediate suspension is not the result of information provided by the NIGC:
  - (i) A Licensee shall be notified in writing by either personal service or certified mail to the last known address provided to the TGRA. Notice shall be deemed given on the tenth (10<sup>th</sup>) day after deposit of notice in the U.S. Mail. Should a Licensee disagree with the initial determination of the Executive Director, the Licensee shall submit a written statement and a separate request for hearing to the TGRA within ten (10) days of the written notice.
  - (ii) After a hearing, the TGRA shall decide whether to revoke or reinstate a license, and shall notify the NIGC of such decision.
- (f) If the TGRA revokes a Key Employee or Primary Management Official's license:
  - (1) The TGRA shall notify the NIGC; and
  - (2) The TGRA shall forward copies of the license revocation decision for inclusion in the Indian Gaming Individuals Record System.

**11.12. No Property Interest in License.** Nothing herein shall create a property interest in the issuance or retention of a license provided for in this Ordinance. Failure of a Key Employee or Primary Management Official to maintain a gaming license shall be grounds for immediate license revocation.

**11.13. No Assignment or Transfer.** All licenses issued under this Ordinance are non-assignable and non-transferable. Any effort to assign or transfer a license shall void such license.

## 12. AUDITING AND INTERNAL CONTROL

**12.01. Minimum Procedure for Control of Internal Fiscal Affairs.** The TGRA shall promulgate Regulations for the control of internal fiscal affairs of the Gaming Operation. At a minimum, those regulations shall require:

- (a) Minimum procedures for safeguarding the Gaming Operation's assets and revenues, including recording of cash, evidence of indebtedness and mandatory count procedures. Such procedures shall establish a control environment, accounting system and control procedures that safeguard the assets of the Gaming Operation, assure that operation transactions are

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properly recorded, promote operational efficiency and encourage adherence to prescribed policies;

- (b) Minimum requirements for reports from the Gaming Operation to the TGRA of information that is required by this Ordinance or any Regulation;
- (c) The conducting, adoption, reporting and use of audits by internal auditors who are employees of the TGRA;
- (d) The formation of a uniform code of accounts and accounting classifications to ensure consistency, comparability and effective disclosure of financial information. Such code shall require that records be maintained that reflect statistical drop (amount of cash wagered by Patrons), statistical win (amount of cash won by the Gaming Activity) and the percentage of statistical win to statistical drop, or provide similar information for each type of game or Gaming Device;
- (e) The maintenance of documentation (i.e., checklists, programs, reports) to evidence all internal work performed as it relates to the requirements of this Section; and
- (f) That all financial statements and documentation required by this Section be maintained by the Gaming Operation for a minimum of five (5) years.

**12.02. Minimum Internal Control Standards.**

- (a) Applicable Standards. The TGRA shall adopt and make applicable to the Tribe's Gaming Operation minimum internal control standards that:
  - (1) Contain standards for currency transaction reporting that comply with 31 CFR Part 103;
  - (2) Establish internal control standards for all Class II and Class III Gaming Activity consistent with the requirements of this Ordinance, IGRA, and the Secretarial Procedures in effect; and
  - (3) Meet or exceed the standards promulgated (e.g., 25 C.F.R. Part 542) or recommended by the NIGC (e.g., Bulletin 2018-3) without regard to whether the NIGC otherwise has authority to promulgate or recommend such standards.
- (b) Compliance.

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- (1) The TGRA shall require the Gaming Operation to adopt a system of internal controls which complies with the standards adopted by the TGRA pursuant to Sections 12.01 and 12.02; and
- (2) The TGRA shall monitor and enforce compliance with the internal control standards adopted pursuant to Sections 12.01 and 12.02.

**12.03. TGRA's Right to Conduct Audits.** The TGRA may require audits of the financial statements of the Gaming Operation and of any Gaming Activity. The TGRA shall require such audits to occur when necessary to ensure the integrity, security, honesty and fairness of the Gaming Operation and all Gaming Activity. The TGRA shall take reasonable steps to coordinate the timing of such audits with the annual audit required by Section 13, provided that the TGRA may require audits to occur at other times if necessary to preserve the assets of the Tribe or to ensure the integrity, security, honesty and fairness of the Gaming Operation or any Gaming Activity. Such audits may:

- (a) Be made by independent Certified Public Accountants authorized to practice public accounting in the State of California;
- (b) Include an opinion (qualified or unqualified), or if appropriate, disclaim an opinion, on the financial statements taken as a whole in accordance with standards of the accounting profession established by rules and regulations of the California State Board of Accountancy and the American Institute of Certified Public Accountants;
- (c) Disclose whether the accounts, records and control procedures maintained by the Gaming Operation are as required by the Regulations promulgated by the TGRA pursuant to Sections 12.01 or 12.02; and
- (d) Provide for a review of the internal control structure by the independent Certified Public Accountant, to disclose any deviation from prescribed rules, regulations, or industry practice and report such finding to the TGRA and management.

**12.04. Prohibition Against Embezzlement.** Any maneuver or action of any kind which in the opinion of the TGRA is effectuated by any Person to unlawfully divert Gaming proceeds or other proceeds properly belonging to the Tribe shall constitute grounds for taking disciplinary action against the Person. If the TGRA finds an unlawful diversion was attempted, it may sanction the Person. Sanctions may include restitution, fining, revoking, suspending, limiting or refusing to renew such Person's gaming license. The TGRA or Business Committee may also seek prosecution of the offender under Tribal, state, and federal laws.



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**13. ANNUAL AUDIT**

**13.01. Requirement of Annual Audit.** The Business Committee, on behalf of the Tribe, shall cause to be conducted at least annually an independent audit of all Gaming Operations pursuant to 25 U.S.C. § 2710(b)(2)(C), and shall submit the resulting audit reports to the NIGC.

**13.02. Contracts Included in Scope of Audit.** All gaming-related contracts that result in the purchase of supplies, services, or concessions in excess of \$25,000 annually, except contracts for professional, legal and accounting services, shall be specifically included within the scope of the audit that is described in Section 13.01.

**14. REVIEW AND APPROVAL OF GAMING**

**14.01. Prohibition Against Gaming.** No Person duly authorized by the TGRA to conduct Gaming shall engage, conduct or condone any game unless and until such game is authorized and approved pursuant to Section 4 of this Ordinance, a valid license has been issued and all fees are paid by the Licensee, and procedures governing such game have been duly approved by the TGRA. Each request for approval of a new game shall be filed with the TGRA. The TGRA will consider the request and if not inconsistent with this Ordinance, will recommend that the Business Committee approve the game. The Business Committee may approve any game not prohibited by this Ordinance or the Secretarial Procedures.

**14.02. Grace Period.** The prohibition contained in Section 9.07 shall not apply to those games already being played as of the date of the enactment of this Ordinance; provided, however, that the Licensee conforms to the then-existing rules and any subsequent rules promulgated hereunder within five (5) days of such promulgation.

**14.03. Authorization of Gaming.** The TGRA shall approve rules and procedures governing all authorized games, including rules governing Gaming Equipment, including without limitation, chips, dice, cards and tiles. Any provision in the Secretarial Procedures providing for notice to and comment from the NIGC shall be complied with before the TGRA authorizes any game.

**14.04. Approval of Gaming Equipment.** The TGRA shall have the discretion to review, and to reject or approve, all Gaming Equipment and other devices used in the Gaming Activity as to quality, design, integrity, fairness, honesty and suitability.

- (a) The TGRA may require a prototype or sample of any model of Gaming Equipment or other device used in the Gaming Activity to be placed in the

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custody of the TGRA and retained by it as a control for comparison purposes.

- (b) Any evidence that Gaming Equipment or other devices used in the Gaming Facility have been tampered with or altered in any way which would affect the integrity, fairness, honesty or suitability of the equipment or device, shall be immediately reported to the TGRA.

**14.05. Maintenance of Rules.** The rules of each game offered at any duly licensed Gaming Facility shall be maintained in a location at the Gaming Facility and shall be clearly legible and available for public inspection upon request.

**14.06. Gaming Rules and Procedures.** The management of a Gaming Facility may adopt rules and procedures governing the operations of all Gaming Activity with the approval of the TGRA. Such rules and procedures shall be complied with until such time as modified with the approval of the TGRA. Management may adopt emergency changes to such rules and procedures if necessary to preserve the assets of the Tribe and the integrity of the Gaming Activity; provided, however, that such changes shall be in writing and must be presented to the TGRA Staff immediately, and to the TGRA within twenty-four (24) hours, or the next day that the TGRA's offices are open for business, whichever is sooner, for approval or rejection.

**15. EXCLUSION OR EJECTION OF INDIVIDUALS**

**15.01. Exclusion List.** The TGRA shall provide for the establishment of a list of Persons who are to be excluded or ejected from any duly licensed Gaming Facility. The list shall include any Person whose presence in the Gaming Facility is determined by the TGRA to pose a threat to the integrity of the Gaming Operation, a threat to the health, safety or welfare of employees or Patrons, or a threat to the interests of the Tribe or State of California. Race, religious creed, color, national origin, ancestry, physical or mental disability, medical condition, marital status, sex, age or sexual orientation must not be grounds for placing the name of a Person on the exclusion list.

**15.02. Notice and Opportunity to be Heard.** The TGRA shall promulgate Regulations providing due process to any Person whose name the TGRA is considering placing on the exclusion list.

**15.03. Prohibition Against Listed Individuals.** It shall be a violation of this Ordinance for any Licensee to knowingly fail to exclude or eject from a Gaming Facility any Persons placed on the exclusion list referred to in 14.01. It shall be a violation of this Ordinance for any Person whose name appears on the exclusion list referred to in 14.01 to enter into or engage in any Gaming Activity at a duly licensed Gaming Facility.

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**16. UNLAWFUL ACTS**

**16.01. Additional Unlawful Acts.** It shall be a violation of this Ordinance for any Person to:

- (a) 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;
- (b) 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 knowledge that is the subject of the bet or wager, including past-posting and pressing bets;
- (c) Aid anyone in acquiring such knowledge as set forth in subsection (b) above, for the purpose of increasing or decreasing a bet or wager, or for the purpose of determining the course of play contingent upon that event or outcome;
- (d) Claim, collect or attempt to claim or take money or anything of value in or from an approved 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;
- (e) Knowingly entice or induce another to go to any place where a Gaming Activity is being conducted or operated in violation of the provisions of this Section, with the intent that the other person play or participate in that Gaming Activity;
- (f) Reduce the amount wagered or cancel the bet after acquiring knowledge of the outcome of the game or other event which is the subject of the bet or wager, including pinching bets;
- (g) Manipulate, with intent to cheat, any component of Gaming Equipment in a manner contrary to the designed and normal operational purpose for the component, with knowledge that the manipulation affects or may affect the outcome of the game, or with knowledge of any event that affects the outcome of the game;
- (h) Defraud the Tribe or any Person in any Gaming Activity;

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- (i) Offer or attempt to offer anything of value to a Licensee in an attempt to induce the Licensee to act or refrain from acting in a manner contrary to the duties of the Licensee under applicable law; and
- (j) Take any action which interferes with or prevents the TGRA or the Business Committee from fulfilling their duties and responsibilities under this Ordinance or other applicable law or regulation.

**16.02. Prohibition Against Electronic Aids.** Except as specifically permitted by the TGRA, it shall be a violation of this Ordinance for any Person to possess with the intent to use, or actually use, at any table game, either by himself or herself, or in concert with others, any calculator, computer or other electronic, electrical or mechanical device to assist in projecting an outcome at the table game, to keep track or analyze the cards having been dealt, or to change the probabilities of the game or the playing strategies to be utilized.

## 17. NIGC AND SECRETARIAL PROCEDURES

**17.01. NIGC and Regulations.** Notwithstanding any provision in this Ordinance or any Regulations promulgated thereunder, the TGRA is fully empowered to comply with all applicable regulations promulgated by the NIGC, including but not limited to all requirements to report ordinances, contracts, license applications, background checks and other information to the NIGC.

**17.02. NIGC and State Gaming Agency.** Upon notification by the TGRA to the NIGC pursuant to Section 8.4 of the Secretarial Procedures, that the State Gaming Agency has failed to carry out its regulatory responsibilities pursuant to the Secretarial Procedures, all regulatory responsibilities assumed by the State Gaming Agency over the Secretarial Procedures and Tribal internal controls shall revert to the NIGC.

- (A) In such event, the Tribe shall have the authority to enter into a Memorandum of Understanding with the NIGC to facilitate the transition of authority from the State Gaming Agency to the NIGC, and facilitate the exercise of the authority of the NIGC.
- (B) The TGRA shall have the authority to promulgate Regulations and otherwise take actions to facilitate and bring the Tribe into compliance with the NIGC's assumption of those regulatory responsibilities.
- (C) Any reference to the authority of the State of California or the State Gaming Agency in this Ordinance or in Regulations promulgated by this TGRA shall be interpreted to mean the authority of the NIGC. Nothing herein shall be interpreted to vest any authority to the State of California beyond such

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authority as it may have under existing law. Nothing herein shall be interpreted to require the NIGC to assume any authority beyond such authority authorized by the Secretarial Procedures and existing law.

- (D) The NIGC shall have authority to enforce and take actions to ensure compliance with any Memorandum of Understanding entered into by the Tribe and NIGC pursuant to subsection (A), in effect, including that certain Memorandum of Understanding, executed by the Tribe and the NIGC on February 8, 2023, as may be amended from time. The NIGC shall also have authority to enforce its regulations or take other actions, including actions necessary to ensure compliance with of Minimum Internal Controls pursuant to subsection (B).

**17.03. NIGC Assessments.** Notwithstanding any provision in this Ordinance or any Regulation, the TGRA is fully empowered to comply with all assessments authorized by the NIGC. Such assessments shall be paid by the Tribe.

**17.04. Secretarial Procedures.** Notwithstanding any provision in this Ordinance or any Regulation, the TGRA is fully empowered to enforce the provisions of the Secretarial Procedures; provided, however, that if any provision of the Secretarial Procedures provides for action by the Tribe, the TGRA is not authorized to, and shall not, contact the Secretary or officials under the Secretary's authority, or the State of California's appointed agencies (or its agents), without the prior approval of the Business Committee.

**17.05 Authority to Request Assistance by the State Gaming Agency or the NIGC.**

- (A) The Tribe may request the assistance of the State Gaming Agency whenever it reasonably appears that such assistance may be necessary to carry out the purposes described in Section 7.1 of the Secretarial Procedures, or otherwise to protect the public health, safety, or welfare. If requested by the Tribe or the TGRA, the State Gaming Agency, in its sole discretion, may provide requested services to ensure proper compliance with the Secretarial Procedures. The State of California may be reimbursed for its actual and reasonable costs of that assistance.
- (B) The Tribe may request the assistance of the NIGC whenever it reasonably appears that such assistance may be necessary to carry out the purposes described in Section 7.1 of the Secretarial Procedures, or otherwise to protect the public health, safety, or welfare. If requested by the Tribe or the TGRA, the NIGC may provide requested services to ensure proper compliance with the Secretarial Procedures. The NIGC may be reimbursed for its actual and reasonable costs of that assistance.

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**18. PROTECTION OF THE ENVIRONMENT AND PUBLIC HEALTH AND SAFETY**

**18.01.** Each Class II and Class III Gaming Facility on the Reservation shall be constructed, maintained and operated in a manner that adequately protects the environment and the public health and safety.

**18.02.** The TGRA shall ensure compliance with Section 18.01 and applicable NIGC regulations.

**19. MISCELLANEOUS**

**19.01. Security.** Each licensed Gaming Activity must provide for reasonable security. All security officers and personnel must be licensed by the TGRA. Such licensing may or may not entail full background investigations required for Primary Management Officials and Key Employees.

**19.02. Maintenance of Ordinance and Regulations.** Each licensed Gaming Facility shall obtain, maintain and keep current a copy of this Ordinance and the Regulations. Management of the Gaming Operation shall make a complete copy of this Ordinance and the Regulations available for review by any Patron. That a Licensee does not have a current copy of this Ordinance, the Regulations, or any of the rules of the TGRA shall not in any way diminish the Licensee's obligation to abide by this Ordinance and the Regulations. Any Regulations or amendments to this Ordinance shall be provided to the Gaming Operation within a reasonable time period after passage or adoption.

**19.03. Compliance with Other Laws.** The construction, maintenance and operation of each Gaming Facility shall be conducted in a manner which adequately protects the environment and public health and safety, and shall comply with any otherwise applicable Tribal and federal laws.

**19.04. Amendment of TGRA Regulations.** All Regulations promulgated herein by the TGRA are subject to proper revision, repeal or amendment by the TGRA. The Business Committee shall ratify, revise or veto all Regulations and any revisions or amendments thereto in the manner provided in Section 25.

**19.05. Severability.** If any provision of this Ordinance, or its application to any purpose or circumstance, is held invalid by a court of competent jurisdiction, the remainder of the provision, or the application of the provision to another Person or circumstance, shall not be affected.

**19.06. Captions.** The captions and heading of this Ordinance are included for convenience only and shall in no way limit or affect the text thereunder.

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**20. SOVEREIGN IMMUNITY**

Except as provided herein, nothing in this Ordinance shall be construed as a waiver of the sovereign immunity of the Tribe or any of its officers, employees or entities.

**21. CONSENT TO JURISDICTION**

Any person who applies for a license under this Ordinance, applies for employment in any Gaming Operation, enters into any contract or agreement with any Gaming Operation, or participates in any Gaming Activity on the Reservation, shall be deemed to consent to the civil jurisdiction of the Tribe, the TGRA and the Rincon Tribal Court. Nothing in this Section shall limit the jurisdiction of the Tribe, the TGRA or the Rincon Tribal Court under any circumstances not explicitly contemplated in this Ordinance.

**22. LAW ENFORCEMENT; FINGERPRINTING AND CRIMINAL BACKGROUND CHECKS**

Each applicant for a Key Employee or Primary Management Official position shall be required to have fingerprints taken as part of the license Application procedure. Fingerprints shall be taken by the TGRA. Fingerprints will then be forwarded to the NIGC for processing through the FBI and NCIC to determine the applicant's criminal history, if any. Nothing herein shall prohibit the TGRA from accessing CLETS, if such access is lawfully available to the TGRA.

**23. AGENT FOR SERVICE**

The Chairperson of the Business Committee is hereby appointed as the agent for service of process. The Chairperson's address is 1 Government Center Lane, Valley Center, California 92082.

**24. PATRON DISPUTES**

**24.01. Patron Gaming Disputes.** Any Patron who has any dispute, disagreement or other grievance (herein "gaming dispute") with the Gaming Operation that involves the play of any Class II or Class III Gaming Activity shall have their dispute resolved as provided in Sections 24.02 and 24.03. The manager of the Gaming Operation shall provide notice to any Patron of the Gaming Operation of this dispute resolution procedure. In addition, the manager shall also make forms for filing a claim available to Patrons of the Gaming Operation.

**24.02. Patron Rights Regarding Gaming Disputes.** Any Patron with a gaming dispute shall file a written statement of the facts or circumstances of the gaming dispute with the manager of the Gaming Operation within five (5) days of the gaming dispute. The manager

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of the Gaming Operation shall have five (5) days to prepare the Gaming Operation's written response to the Patron. If a Patron is unable to resolve his or her gaming dispute with the Gaming Operation, the Patron has the right to contact the TGRA to resolve the issue. The manager shall provide copies of the Patron's statement and management's response to the TGRA.

**24.03. TGRA Action on Patron Gaming Disputes.** In the event any Patron is dissatisfied with the response from the manager of the Gaming Operation, such Patron may request a hearing before the TGRA. This request must be submitted to the TGRA within seven (7) days of the response from the manager of the Gaming Operation. The TGRA shall notify such Patron and the manager of the Gaming Operation of the time and place set for the hearing in writing at least five (5) days before any hearing on the matter. The TGRA shall hold a hearing within twenty (20) days of its receipt of a request for a hearing. The Patron shall be authorized to submit written and oral evidence in support of his/her claim. The manager of the Gaming Operation or his/her designee shall also attend the hearing to respond to the claim(s) made by such Patron. The decision of the TGRA shall be final.

## 25. AMENDMENTS

All provisions of this Ordinance are subject to amendment by the Business Committee. All Regulations and rules promulgated by the TGRA are subject to proper revision, repeal, or amendment by the TGRA. All amendments to this Ordinance shall be effective upon the date of passage by the Business Committee and approval by the Chairman of the NIGC. The TGRA shall monitor changes to IGRA and regulations of the NIGC. The TGRA may make recommendations for changes to this Ordinance to the Business Committee from time to time to ensure compliance with applicable law.

## 26. REPEAL

Rincon Band of Luiseno Indians Tribal Gaming Ordinance #2011-18 and all amendments thereto are hereby repealed. To the extent that any determinations, rules or regulations of the TGRA concerning Gaming are inconsistent with this Ordinance, they are hereby repealed. Conversely, any determinations made or rules or regulations promulgated by the current or a previous TGRA acting under any Rincon Band of Luiseno Indians Tribal Gaming Ordinance which are consistent with this Ordinance are valid and remain in effect.

## 27. EFFECTIVE DATE

This Ordinance shall take effect immediately upon its approval by the Chairperson of the NIGC.



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**LEGISLATIVE HISTORY**

7/11/1995 – NIGC approval of Rincon Gaming Ordinance # 94-01A, Tribal Council Ordinance 94-11

2/14/2001 – NIGC approval of Rincon Gaming Ordinance # 2000-303, Tribal Council Resolution 2000-107

4/28/2011 – NIGC approval of Rincon Gaming Ordinance # 2011-224, Tribal Council Resolution 2011-18

9/28/2011 – NIGC approval of Rincon Gaming Ordinance #2011-809, Tribal Council Resolution 2011-42

1/9/2015 – NIGC approval of Amendments to Rincon Gaming Ordinance, Tribal Council Resolution 2014-52