



May 18, 2021

HAND DELIVERED

Douglas T. Welmas, Chairman
Cabazon Band of Mission Indians
84-245 Indio Springs Parkway
Indio, CA 92203

Re: Cabazon Band of Mission Indians
Gaming Ordinance Amendment

Dear Chairman Welmas:

This letter responds to your March 10, 2021 request on behalf of the Cabazon Band of Mission Indians for the National Indian Gaming Commission to review and approve the Band's amendments to its gaming ordinance. The amendments were adopted by Resolution #2-25-21-01, on February 21, 2021, and reflect the Tribe's comprehensive review and revision.

The amendments update the definition of key employees and primary management officials, and include mobile gaming in the definition of Class II and Class III gaming. Also, the amendments restructure background and licensing procedures that are consistent with the National Indian Gaming Commission's Parts 556 and 558 regulations, include patron dispute procedures, and designate an agent for service of process.

The Cabazon Band of Mission Indians played a significant role in the United States' affirmation of the inherent authority for tribal governments to regulate commerce on their lands. While the Indian Gaming Regulatory Act presents a multi-jurisdictional framework for the regulation of Indian gaming; tribal governments remain the engines behind the establishment of successful and innovative approaches to balance strong tribal economic development and sound gaming regulation.

Thank you for bringing the amended ordinance to the Agency's attention and for providing a copy of it to the Agency. The amended ordinance is approved as it is consistent with the Indian Gaming Regulatory Act and National Indian Gaming Commission regulations. If you have any questions, please contact Sharon Avery, Associate General Counsel at (202) 632-7003.

Sincerely,



E. Sequoyah Simermeyer
Chairman

Cc: Glenn M. Feldman, Procopio, Cory, Hargreaves & Savitch LLP (via e-mail)

TITLE 5

GAMING

Ch. 1. Indian Gaming Regulatory Act Compliance

Ch. 2. Tribal Gaming Commission

CHAPTER 1. INDIAN GAMING REGULATORY ACT COMPLIANCE

Section 5-101 Purpose.

The Cabazon Band of Mission Indians (hereinafter “Tribe”), empowered by the Tribe’s Articles of Association to enact ordinances, hereby enacts this Chapter in order to ensure that Class II and Class III gaming operations on tribal lands are conducted in accordance with the Indian Gaming Regulatory Act.

Section 5-102 Definitions.

Unless otherwise defined herein, the terms used in this Title shall have the same meanings as set forth in the Compact and in the Indian Gaming Regulatory Act, (“IGRA”), 25 U.S.C. § 2701 et seq.

Compact means the Tribal-State Compact between the State of California and the Tribe currently in effect.

Key Employee means a person who performs one or more of the following functions:

- (a) Bingo Caller;
- (b) Counting Room Supervisor;
- (c) Director of Security;
- (d) Custodian of Gaming Supplies or Cash;
- (e) Floor Manager;
- (f) Pit Boss;
- (g) Dealer;
- (h) Croupier;
- (i) Approver of Credit; or
- (j) Custodian of Gaming Devices, including persons with access to cash and accounting records within such devices.

(k) If not otherwise included, any other person whose total cash compensation is in excess of \$50,000 per year;

(l) If not otherwise included, the four most highly compensated persons in the Gaming Operation; and/or

(m) Any position formally designated by the Tribal Gaming Commission to be considered a Key Employee.

License means the written approval of the Tribal Gaming Commission that authorizes the privilege of conducting gaming or working in gaming within the jurisdiction of the Tribe to a specific individual and/or a specific entity and/or a specific Gaming Facility and/or Gaming Operation.

Licensee means an individual, entity and/or facility, which has received a License.

Minimum Internal Control Standards or MICS means the Internal Controls Established by the National Indian Gaming Commission as published in the Federal Register.

National Indian Gaming Commission or NIGC, means the federal gaming regulatory body created by the IGRA, and as IGRA may hereafter be amended.

Net Revenues means gross gaming revenues of the Gaming Operation less amounts paid out as, or paid for, prizes, and 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 any management fees.

Primary Management Official means:

(a) The person having management responsibility for a management contract;

(b) Any person who has authority to:

(1) hire and fire employees, or

(2) set up working policy for the Gaming Operation.

(c) The chief financial officer or other person who has financial management responsibilities for the Gaming Operation; or

(d) Any position formally designated by the Tribal Gaming Commission as a Primary Management Official

Regulation or Regulations means the authoritative rule or set of rules governing Class II and Class III gaming on tribal lands adopted and implemented by the Tribal Gaming Commission pursuant to this Title.

Tribal Gaming Commission or Commission means the Cabazon Tribal Gaming Commission, as established under this Title.

Tribal Internal Control Standards or “TICS” means the Internal Controls established by the Tribal Gaming Commission.

Section 5-103 Gaming Authorized.

(a) Generally. Class II gaming, as defined in the Indian Gaming Regulatory Act, P.L. 100-447, 25 U.S.C. Section 2703(7)(A) (“IGRA”), and Class III gaming, as defined in Section 2703(8) of IGRA, are hereby authorized.

(b) Class II and Class III Gaming Played Using Mobile Devices and/or the Internet. The Cabazon Tribal Gaming Commission may authorize the use of mobile devices and/or the internet to play Class II or Class III games on the Tribe’s Indian lands provided the Cabazon Tribal Gaming Commission issues regulations or standards that meet the requirements of subsection (c) and (d) of this part, but only if such bets or wagers do not violate any provision of:

- (1) the Interstate Horseracing Act of 1978 (15 U.S.C. 2001 et seq.);
- (2) Chapter 178 of Title 28 (commonly known as the “Professional and Amateur Sports Protection Act”);
- (3) the Gambling Devices Transportation Act (15 U.S.C. 1171 et seq.);
- (4) the Indian Gaming Regulatory Act (25 U.S.C. 2701 et seq.);
- (5) the Compact; or
- (6) any other applicable laws.

(c) Age, Location and Data Security Requirements. Before allowing the play of a Class II or Class III game using mobile devices and/or the internet, the Cabazon Tribal Gaming Commission shall adopt standards or regulations to implement the following age, location and data security requirements, which are intended to comply with the safe harbor provisions of the Unlawful Internet Gaming Enforcement Act, 21 U.S.C. 5361 et seq.:

- (1) Only patrons who have provided their legal name, date of birth, address and contact information shall be allowed to establish an account for Class II or Class III gaming using mobile devices and/or the internet.
- (2) Such information must be encrypted by the Gaming Operation and the patron must establish an account password or other authentication method approved by the Cabazon Tribal Gaming Commission.
- (3) The patron shall be required to authenticate his or her identity prior to accessing his/her account and/or placing a wager.
- (4) The location of the patron on Indian lands must be verified by the Gaming Operation prior to the first wager in the patron session using a geolocation method that provides the latitude and longitude coordinates of the patron.

- (5) The location of the patron must be verified on an ongoing basis and the patron session must be disabled any time the Gaming Operation is unable to verify the patron is present on Indian lands.
- (6) The patron shall be allowed to create an account or withdraw funds from that account, other than for game play, only in person at a Gaming Facility.

(d) Technical Standards. Class II games played using mobile devices and/or the internet must comply with the requirements of 25 C.F.R. Part 547, including any Alternative Standards adopted by the Cabazon Tribal Gaming Commission and approved by the Chair of the National Indian Gaming Commission. Class III games shall comply with the standards set forth in the Compact.

(e) Unauthorized or Unapproved Gaming. Class II and Class III Gaming by any individual on the Reservation, except as authorized pursuant to this Title, is prohibited.

Section 5-104 Ownership of Gaming.

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

Section 5-105 Use of Gaming Revenue.

(a) Net revenues from Class II and Class III gaming shall be used only for the following purposes: To fund tribal government operations and programs; provide for the general welfare of the Tribe and its members; promote tribal economic development; donate to charitable organizations; or help fund operations of local government agencies.

(b) If the Tribe elects to make per capita payments to tribal members from gaming revenues, it shall authorize such payments only upon approval of a plan submitted to the Secretary of the Interior under 25 U.S.C. § 2710(b)(3) and the NIGC's regulations at 25 C.F.R. §§ 522.4(b)(2)(ii) and 522.6(b).

Section 5-106 Audit.

(a) The Tribe shall cause to be conducted annually an independent audit of gaming operations and shall submit the resulting audit reports to the National Indian Gaming Commission.

(b) All gaming-related contracts that result in the purchase of supplies, services, or concessions in excess of twenty-five thousand dollars (\$25,000.00) annually, except contracts for professional legal and accounting services, shall be specifically included within the scope of the audit that is described in subsection (a) above.

Section 5-107 Protection of the Environment and Public Health and Safety.

Class II and Class III gaming facilities shall be constructed, maintained and operated in a manner that adequately protects the environment and the public health and safety.

Section 5-108 Licenses for Key Employees and Primary Management Officials.

(a) The Tribe 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 enterprise operated on Indian lands.

(b) License Application Forms.

(1) The following notice shall be placed on the Tribe's license application form for a key employee or a primary management official before it 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 NIGC 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 NIGC 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 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.

(2) The following additional notice shall be placed on the application form for a key employee or a primary management official before it is filled out by an applicant:

A false statement on any part of your 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).

(c) Background Investigations.

(1) The Tribe shall perform a background investigation for each primary management official and key employee in its gaming operation. The investigation must be sufficient to allow the Tribal Gaming Commission to make an eligibility determination under Section 5-108 (e) of this Title.

(2) The Tribal Gaming Commission is responsible for conducting the background investigations of primary management officials and key employees. The background investigation shall include a check of criminal history records information maintained by the Federal Bureau of Investigation ("FBI").

(3) The Tribe shall request fingerprints from each primary management official and key employee. The law enforcement agencies designated to take fingerprints are the FBI and NIGC.

(4) The Tribal Gaming Commission shall request from each primary management official and key employee all of the following information:

- (A) Full name, other names used (oral or written), social security number, birth date, place of birth, citizenship, gender and all languages (spoken and/or written);
- (B) Currently, and for the previous five (5) years; business and employment positions held, ownership interests in those businesses, business and residential addresses, and driver's license numbers;
- (C) The names and current addresses of at least three (3) personal references, including one (1) personal reference who was acquainted with the applicant during each period of residence listed under paragraph (4)(B) of this section;
- (D) Current business and residential telephone numbers, and all cell phone numbers;
- (E) A description of any existing and previous business relationships with other tribes, including any ownership interests in those businesses;
- (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 any licensing or regulatory agency with which the person has filed an application for a license or permit related to gaming, whether or not such license or permit was granted;
- (H) For each felony for which there is an ongoing prosecution or a conviction, the charge, the name and address of the court involved, and the date of disposition, if any;
- (I) For each misdemeanor conviction or ongoing misdemeanor prosecution (excluding minor traffic violations) within 10 years of

the date of the application, the name and address of the court involved and the date of disposition, if any;

- (J) For each criminal charge (excluding minor traffic charges), whether or not there is a conviction, if such criminal charge is within 10 years of the date of the application, and is not otherwise listed pursuant to paragraphs (4)(H) or (4)(I) of this section, the criminal charge, the name and address of the court involved, and the date of disposition, if any;
- (K) 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;
- (L) A photograph;
- (M) Any other information the Tribe deems relevant; and
- (N) Fingerprints obtained in accordance with procedures adopted by the Tribe.

(5) When a primary management official or key employee is employed by the Tribe, a complete application file, containing all of the information listed in subsection (c)(4), shall be maintained.

(6) The Tribal Gaming Commission, and its investigators, shall keep confidential the identity of each person interviewed in the course of conducting a background investigation.

(d) Investigative Reports.

(1) The Tribe shall create and maintain an investigative report for each background investigation of a primary management official or key employee.

(2) Investigative reports shall include all of the following information:

- (A) Steps taken in conducting the investigation;
- (B) Results obtained;
- (C) Conclusions reached; and
- (D) The basis for those conclusions.

(e) Eligibility Determinations.

(1) Before a license is issued to a primary management official or key employee, an authorized Tribal official shall make a finding concerning the eligibility of that

person for receiving a gaming license by reviewing the applicant's prior activities, criminal record, if any, and reputation, habits and associations.

(2) If the authorized Tribal official, in applying the standards adopted in this Chapter, determines that licensing the person poses a threat to the public interest or to the effective regulation of gaming, or creates or enhances the dangers of unsuitable, unfair or illegal practices, methods and/or activities in the conduct of gaming, he or she shall not license that person in a key employee or primary management official position.

(3) Copies of the eligibility determination shall be included with the notice of results that must be submitted to the NIGC before the licensing of a primary management official or key employee.

(f) Notice of Results of Background Investigations.

(1) Before issuing a license to a primary management official or key employee, the Tribal Gaming Commission shall prepare a notice of results of the applicant's background investigation to submit to the NIGC.

(2) The notice of results must be submitted to the NIGC no later than 60 days after the applicant begins working for the Tribe.

(3) The notice of results shall include the following information:

- (A) The applicant's name, date of birth and social security number;
- (B) The date on which the applicant began, or will begin, working as a primary management official or key employee;
- (C) A summary of the information presented in the investigative report, including:
 - 1. licenses that have previously been denied
 - 2. gaming licenses that have been revoked, even if subsequently reinstated;
 - 3. every known criminal charge brought against the applicant within the last 10 years of the date of the application; and
 - 4. every felony offense of which the applicant has been convicted or any ongoing prosecution; and
- (D) A copy of the eligibility determination made in accordance with subsection (e).

(g) Granting Gaming Licenses.

(1) All primary management officials and key employees of the gaming operation must have a gaming license issued by the Tribe.

(2) The Tribal Gaming Commission is responsible for granting and issuing gaming licenses to primary management officials and key employees.

(3) The Tribal Gaming Commission may license a primary management official or key employee applicant after submitting a notice of results of the applicant's background investigation to the NIGC, as required by Section 22.

(4) The Tribal Gaming Commission shall notify the NIGC of the issuance of a license to a primary management official or key employee within 30 days of issuance.

(5) The Tribe shall not employ an individual in a primary management official or key employee position who does not have a license after 90 days of beginning work at the gaming operation.

(6) The Tribal Gaming Commission must reconsider a license application for a primary management official or key employee if it receives a statement of itemized objections to issuing such a license from the NIGC, and those objections are received within 30 days of the NIGC receiving a notice of results of the applicant's background investigation.

(7) The Tribal Gaming Commission shall take the NIGC's objections into account when reconsidering a license application.

(8) The Tribe will make the final decision whether to issue a license to an applicant for a primary management official or key employee position.

(9) The Tribe will make the final decision whether to issue a license to an applicant for a primary management official or key employee position.

(h) Denying Gaming Licenses.

(1) The Tribal Gaming Commission shall not license a primary management official or key employee if an authorized Tribal official determines, in applying the standards in Section 5-107(e) for making a license eligibility determination, that licensing the person:

- (A) Poses a threat to the public interest;
- (B) Poses a threat to the effective regulation of gaming; or
- (C) Creates or enhances the dangers of unsuitable, unfair or illegal practices, methods and/or activities in the conduct of gaming.

(2) When the Tribal Gaming Commission does not issue a license to an applicant for a primary management official or key employee position, or revokes a previously issued license after reconsideration, it shall:

- (A) Notify the NIGC; and
- (B) Forward copies of its eligibility determination and notice of results of the applicant's background investigation to the NIGC for inclusion in the Indian Gaming Individuals Record System.

(i) Gaming License Suspensions and Revocations

(1) If, after a license is issued to a primary management official or a key employee, the Tribe receives notice from the NIGC that the primary management official or key employee is not eligible for employment, or if the Tribe becomes aware of other information warranting suspension of that license, the Tribal Gaming Commission shall do the following:

- (A) Immediately suspend the license;
- (B) Provide the licensee with written notice of the suspension and proposed revocation; and
- (C) Provide the licensee with notice of a time and place for a hearing on the proposed revocation of the license.

(2) Following a revocation hearing, the Tribe shall decide whether to revoke or reinstate the license at issue.

(3) The Tribe shall notify the NIGC of its decision to revoke or reinstate a license within 45 days of receiving notification from the NIGC that a primary management official or key employee is not eligible for employment.

(j) Records Retention.

(1) The Tribal Gaming Commission shall retain, for no less than three years from the date a primary management official or key employee is terminated from employment with the Tribe, the following documentation:

- (A) Application for licensing;
- (B) Investigative Reports; and
- (C) Eligibility Determinations.

Section 5-109 Facility Licenses.

The Tribe shall issue a separate license to each place, facility, or location on Indian lands where Class II or Class III gaming is conducted under this chapter.

Section 5-110 Minimum Internal Control Standards.

(a) Applicable Standards. The Cabazon Tribal Gaming Commission shall comply with 25 CFR 542 by formally adopting and making applicable to the Tribe's gaming operation(s) internal control standards that:

(1) Provide a level of control that equals or exceeds those set forth in 25 CFR 542, as published or as revised by mutual agreement between the NIGC and the Tribe and as required by the Compact;

(2) Contain standards for currency transaction reporting that comply with 31 CFR 103; and

(3) Establish internal control standards for Class II and Class III games that are not addressed in the MICS, if any.

(b) Annual CPA Testing of Compliance. In order to verify that the gaming operation is in compliance with the internal control standards adopted pursuant to paragraph A, an independent certified public accountant (CPA) shall be engaged annually to perform "Agreed-Upon Procedures" in the manner provided for in 25 CFR 542.3(f).

(c) Compliance. The Cabazon Tribal Gaming Commission and the NIGC shall monitor and enforce compliance with the internal control standards adopted pursuant to paragraph (a) in the manner provided for in 25 CFR 542.3(g). In addition, the National Indian Gaming Commission shall, for the purpose of enforcing compliance with the Class II internal control standards, have the power to:

(1) monitor all Class II gaming on a continuing basis;

(2) inspect and examine all premises on which Class II gaming is conducted; and

(3) demand access to and inspect, examine, photocopy, and audit all papers, books, and records respecting gross revenues of all Class II gaming or any other matters necessary to ensure and enforce compliance with the MICS.

(d) Enforcement. Any failure to adopt internal control standards pursuant to paragraph (a), to perform Agreed-Upon Procedures pursuant to paragraph (b), to prevent or obstruct the exercise of any of the Commission's powers under paragraph (c), or to comply with the internal control standards once adopted is a violation of this Chapter. The Chairman of the National Indian Gaming Commission shall have the authority to remedy violations of this Chapter under 25 U.S.C. 2713 and its implementing regulations, and the Tribe shall have all rights and remedies available thereunder.

Section 5-111 Repeal.

To the extent that they are inconsistent with this chapter, the inconsistent provisions of all prior gaming ordinances are hereby repealed.

CHAPTER 2. TRIBAL GAMING COMMISSION

Section 5-201 Purpose.

The purpose of this Chapter is to establish the Cabazon Tribal Gaming Commission, to define the role of the Tribal Gaming Commissioners, and to authorize the Commission to regulate Tribal gaming in accordance with the Indian Gaming Regulatory Act (IGRA) and policies and procedures of the National Indian Gaming Commission (NIGC), as well as the Tribal-State Gaming Compacts with the State of California (the "Compacts").

Section 5-202 Scope.

The scope of this Chapter is focused upon the organization of the Cabazon Tribal Gaming Commission, on establishing powers and duties of the Commissioners, and on the ability of Tribal Gaming Commissioners to function as an independent, regulatory oversight entity, with appropriate resources committed, so that the Commission is able to perform an independent regulatory function of all gaming operations within the jurisdiction of the Cabazon Band of Mission Indians.

Section 5-203 Creation and Organization of the Cabazon Tribal Gaming Commission.

There is hereby created and established the Cabazon Tribal Gaming Commission, which shall constitute an independent agency and instrumentality of the Cabazon Band of Mission Indians, vested with all necessary power and authority as set forth herein to regulate the conduct of all gaming operations within the jurisdiction of the Cabazon Band of Mission Indians.

The Commission shall consist of five Commissioners and one alternate Commissioner. The Commissioners shall be part-time, consisting of professional members of the community at large, and shall be nominated and selected by the Business Committee of the Cabazon Band of Mission Indians (the "Business Committee"). The Commissioners shall be completely independent of the Cabazon Band of Mission Indians, the Tribal Administration, and the gaming operations management. In order to ensure the integrity of the gaming operation as well as insulate the Cabazon Band of Mission Indians from the appearance of any conflict of interest, or the appearance of impropriety of any kind with the Commission function, no employee of the Cabazon Band of Mission Indians shall be permitted to serve as a Cabazon Tribal Gaming Commissioner.

Section 5-204 Authority of the Commission.

The authority to establish the Commission as a regulatory agency derives from the sovereign powers of tribal governments recognized by the federal government through the United States Department of the Interior. The Indian Gaming Regulatory Act (IGRA), the regulations of the National Indian Gaming Commission (NIGC), and the Tribe-State Gaming Compacts between the Tribe and the State of California require tribes to establish gaming commissions. The existence, powers and authority of the Cabazon Tribal Gaming Commission are derived from and set forth in the provisions of this Chapter, which affirms the creation and authority of the Commission.

The Commission shall have the authority to develop the necessary independent structure to oversee the gaming operation, to maximize the protection of tribal assets, to address risk of loss, and to

ensure maximum available public safety to patrons, management, and associates of the gaming enterprise. Effective regulatory oversight requires that there be a separation between regulatory and operational aspects of the casino operation.

The Commission shall function as the independent regulatory body establishing checks and balances for the accomplishment of this goal. The Commission shall report directly to the Business Committee. Commissioners shall have unrestricted access to all areas of the gaming operation, including but not limited to the books and records, in order to carry out their duties. The Commission shall enact policies and procedures for conducting gaming activities. The Commission shall promulgate forms as needed to accomplish the intended goals. All reports and forms utilized by the casino operations shall be forwarded to the Commission, or made available and brought to the attention of the Commissioners as a general rule of operation as established by the Commission.

Section 5-205 Commission Structure and Officers.

(a) The Commission shall nominate and select a Commission Chairman and Vice-Chairman from among the Commissioners.

(b) The Chairman shall oversee Commission activities and be charged with conducting Commission meetings and coordinating the administrative functions of the Commission. The Chairman shall have the same authority as all other Commissioners; however, he or she shall serve the Commission as the coordinator of Commission functions, insuring effective scheduling and assisting the Commission as required.

(c) The Vice-Chairman shall conduct Commission meetings when the Chairman is absent.

(d) Commission meetings and hearings shall be conducted in a semi-formal manner, with traditional parliamentary style rules (such as Robert's Rule of Order) governing all meetings and proceedings. The Commission shall have regulatory oversight responsibility of the gaming operation through the use of the surveillance function, the internal and external audit function, the licensing and investigative functions of casino and gaming operations, and its other regulatory tools and resources.

(e) Three (3) Commissioners shall constitute a quorum for the transaction of business at a meeting of the Commission. The affirmative vote of a majority of Commissioners present and voting at a meeting shall be required to take official action.

Section 5-206 Compensation.

Each Commissioner, including the Alternate Commissioner, shall be compensated at a rate of One Thousand Five Hundred Dollars (\$1,500) per month, as consideration for his or her service to the Commission. The compensation of the Commissioners may be adjusted from time to time by resolution of the Business Committee without the need for a formal amendment of this Chapter. Commissioners shall also be reimbursed for reasonable travel expenses.

Section 5-207 Term.

Commissioners shall serve four year terms. The individual terms shall be staggered. Three of the Commissioners shall be designated for re-appointment on odd years in order to accomplish the staggered term process. The other three Commissioners (including the alternate) shall be designated for re-appointment on even years. Commissioners may serve an unlimited number of terms at the pleasure of the Business Committee. A Commission Chairman shall serve as Chairman indefinitely. The term shall be for calendar years, beginning on January 1st of each year. Any portion of a year served by a Commissioner shall be considered a calendar year for the purpose of a Commissioners term.

Section 5-208 Alternate Member.

An alternate Commissioner shall attend and participate in all meetings, functions, and operations of a Cabazon Tribal Gaming Commissioner. The alternate Commissioner shall keep informed and up to date on all concerns of the Commission. The alternate Commissioner shall have the full authority of other Commissioners, both as an administrative and investigative authority, and shall function as a Commissioner with such full authority, and may contribute valuable ideas and oversight to the operation, however, the alternate Commissioner may not vote on any motions, elections, nominations, or agendas presented by the Commission. In the event that a regular Commissioner resigns or becomes unable to perform his/her duties as a Commissioner as determined by the Cabazon Tribal Business Committee, the alternate shall become a full voting Commissioner, and the Business Committee, on request of the Commission Chairman, shall immediately consider removal of the incapacitated member by vote, and nominate and confirm a new alternate Commissioner.

Section 5-209 Duties of the Commission.

The Commissioners shall be responsible for over-seeing the entire gaming operation, ensuring the integrity of such operations, the safety of the public, and the security of the tribal assets generated from the gaming operations. In so doing:

(a) The Commissioners shall meet and become informed about all aspects of the gaming enterprise.

(b) The Commission shall oversee the entire gaming operation, including licensing operations, investigations, surveillance, and audit functions of all casino gaming.

(c) The Commission shall employ an Executive Director, to whom shall be delegated oversight responsibility for the day-to-day operations of the Commission.

(d) The Commission shall promulgate regulations, controls and policies governing the conduct of Class II and Class III Gaming Activities.

(e) The Commission shall create and enforce systems for the Tribe's Gaming Operation to best prevent and/or discover employee and/or patron dishonesty.

(f) The Commission shall establish and approve internal minimum control standards and procedures for the gaming operation, including the operation's credit policies and procedures for acquiring supplies and equipment.

(g) The Commission shall perform audits of business transactions to ensure compliance with regulations and/or the policies established by the Commission.

(h) The Commission shall establish any supplemental criteria for the licensing of primary management officials, key employees, and other employees that the tribe deems necessary.

(i) The Commission shall oversee all key employees and primary management personnel.

(j) The Commission shall take testimony as necessary and conduct investigations when determined necessary.

(k) The Commission may issue orders of temporary and permanent closure of Class II and Class III Gaming Activities or Gaming Facilities for violation of this Chapter, Regulations, the Compact, IGRA and its implementing regulations, and any other applicable law.

(l) The Commission shall adopt an annual operating budget and submit to the Business Committee for approval.

(m) The Commission may issue any order to a Gaming Facility, a Licensee or any other person within the jurisdiction of the Commission to take any action, or cease and desist from taking any action, in order to comply with this Chapter, the Compact, IGRA or other applicable law or regulation.

(n) The Commission shall review management methods, policies, and procedures, and make quarterly reports thereon to the Business Committee.

(o) The Commission shall keep adequate records as required and necessary, including but not limited to records on licensees and on persons denied licenses, including persons otherwise excluded or prohibited from engaging in gaming activities within the tribe's jurisdiction.

(p) The Commissioners shall become informed of requirements of the Indian Gaming Regulatory Act (IGRA), applicable laws and policies affecting Class II and Class III gaming, as well as bulletins, rules and procedures of the National Indian Gaming Commission (NIGC), and the Compacts

Section 5-210 Tribal Gaming Commission Staff.

The Commission shall employ an Executive Director to oversee Commission staff and assist the Commission with its operations and functions. The Executive Director shall report to the Commission and shall act as a liaison between the Commission, the management of the gaming operation and the Cabazon Business Committee. The Executive Director will manage the day to day operations of all Departments of the Commission, and shall employ such inspectors,

investigators and other staff as required to fulfill the official duties as requested by the Commission. Any Commissioner shall have the power to request support personnel as deemed necessary. The Commission and any Commissioner shall be furnished legal assistance by the Legal Affairs Department of the Cabazon Band of Mission Indians as deemed necessary.

Section 5-211 Compliance.

The Commission shall be responsible for ensuring compliance by the Gaming Enterprise with all applicable gaming laws and regulations. The Commission shall also inspect Gaming Devices as necessary for compliance or corrective action.

Section 5-212 Audit Function.

The Commission shall be responsible for overseeing the internal audit function of the gaming operation. In this regard, Commissioners and Commission staff shall have unrestricted access to all documents, reports, information and files of the gaming operation. The Commission shall oversee the outside independent audit function as necessary. The Commission shall inspect gaming related contracts that result in purchases of supplies, services, or concessions for more than \$25,000.00 in any year.

Section 5-213 Licensing.

The Commission shall have the responsibility to oversee and approve all licensing functions with respect to the gaming operation, and shall direct and approve all internal licensing in preparation for NIGC consideration. The Background-Licensing Department shall conduct all investigations and application processes required for the licensing process, and shall compile the applications with a staff recommendation from the Executive Director. The Commission shall have the power to issue, suspend, renew, and revoke licenses. The Commission shall develop policies and procedures for the notification and administration of license processes, including application and revocation procedures. The Commission shall oversee all management contracts, background investigations, and vendor investigations involving casino gaming operations. Commissioners shall ensure that gaming facilities are constructed, maintained and operated in a manner that adequately protects the environment and the public health and safety. The Commission shall make the final determination regarding the suitability of potential licensees, making such determinations according to policies established by the Commission.

In the event of a formal appeal of a final determination by the Commission regarding any licensing issue, the Cabazon Tribal Court shall maintain the jurisdiction to review the Commission's decision, and issue a final decision regarding the validity of the appeal.

Section 5-214 Finances of the Commission.

The costs and expenses of the Commission in carrying out its duties hereunder shall be paid principally from assessments to be levied on the gaming operation and from such fines and assessments as the Commission may levy from time to time in accordance with the policies of the Commission, all of which the Commission shall have authority to levy and assess as it shall reasonably determine; provided that nothing herein shall limit the ability of the Tribe to appropriate for the benefit of the Commission such other governmental funds as the Business Committee may

determine in its discretion. All funds received by the Commission shall be maintained by the Commission separate and apart from the general funds of the Cabazon Band of Mission Indians for the purpose of paying the expenses incurred by the Commission in carrying out its responsibilities. To the extent the Commission may from time to time hold funds in excess of amounts necessary for such purposes, such funds shall be applied as a credit against future cost assessments against the tribal gaming operation or applied for other purposes consistent with the purposes of the Commission hereunder. In no event shall such amounts be transferred or credited to the general funds of the Tribe.

Nothing herein shall prohibit the use by the Commission of the general administrative services of the Cabazon Band of Mission Indians (e.g. legal, accounting, information technology and human resources), and to reimburse the tribal government for the fairly allocable costs of such services.

Section 5-215 Patron Disputes.

The Commission shall have full authority to resolve patron disputes. The method and due process aspect of the dispute resolution procedure shall be developed by the Commission, and shall be the initial forum for resolving such disputes. The decision of the Commission may be appealed to the Cabazon Reservation Court for a final determination.



CABAZON BAND OF MISSION INDIANS

84-245 Indio Springs Parkway

Indio, CA 92203

RESOLUTION NO. 2-25-21-01

RE: Approval of Revised Tribal Gaming Ordinance

WHEREAS, the Cabazon Band of Mission Indians (the "Tribe") is a federally recognized Indian Tribe located in the County of Riverside, State of California, with powers of self-governance pursuant to Articles of Association; and

WHEREAS, by Resolutions dated June 5, 1985 and July 20, 1988, the Cabazon General Council has authorized the Cabazon Business Committee to transact business on behalf of the Tribe, including the authority to approve contracts and other forms of agreements on behalf of the Tribe and to enact codes, ordinances, and resolutions; and

WHEREAS, the Business Committee is fully aware of its options relative to role, functions, authorities and responsibilities; and

WHEREAS, on January 27, 1994, the Business Committee adopted its "Indian Gaming Regulatory Compliance Ordinance" (the "Gaming Ordinance"), which was approved by the Chairman of the National Indian Gaming Commission ("NIGC") on March 14, 1994; and

WHEREAS, by Resolution No. 02-07-08-1, the Business Committee approved an amendment to the Gaming Ordinance, which amendment was approved by the Chairman of the NIGC on February 28, 2008; and

WHEREAS, on May 10, 2016, the Cabazon Band requested that the Chairman of the NIGC approve an "Amended and Restated Tribal Gaming Commission Ordinance" by which the Tribe established and empowered the Cabazon Tribal Gaming Commission, but which made no changes to the previously approved Gaming Ordinance; and

WHEREAS, by letter dated July 12, 2016, the Chairman of the NIGC advised the Tribe that his approval of the "Amended and Restated Tribal Gaming Commission Ordinance" was not required under IGRA; and

WHEREAS, the Tribe is now updating and modernizing its entire Cabazon Tribal Code, of which its gaming ordinances are a part; and



WHEREAS, the Tribe has now developed a revised and amended gaming ordinance that will be codified as Title 5 of the Cabazon Tribal Code; and

WHEREAS, the revised gaming ordinance consists of two chapters: Chapter 1 – Indian Gaming Regulatory Act Compliance, and Chapter 2 – Tribal Gaming Commission; and

WHEREAS, the Business Committee has now determined that it is in the best interest of the Tribe to approve the revised gaming ordinance;

NOW THEREFORE BE IT RESOLVED by the Cabazon Business Committee that the attached revised gaming ordinance is hereby approved and codified as Title 5 of the Tribal Code.

BE IT FINALLY RESOLVED that the Business Committee shall take appropriate action with the Tribe's legal counsel to have the revised gaming ordinance approved by the Chairman of the National Indian Gaming Commission.

CERTIFICATION

This is to certify that the foregoing resolution was adopted by the Cabazon Business Committee, by a vote of 3 for, 0 against, 0 abstaining, at a duly called meeting on February 25, 2021, a quorum being present.



Douglas T. Welmas
Tribal Chairman



San Juanita Callaway
Vice Chairwoman



Brenda Soulliere
Member-at-Large



Helen Ruth Callaway
Secretary/Treasurer



Alexis R. Nichols
Liaison to the General Council