



April 6, 2023

**VIA EMAIL**

Chairwoman Lovina Redner  
Santa Rosa Band of Cahuilla Indians  
65200 State Highway 74  
Mountain Center, CA 92561  
[lsaul@santarosa-nsn.gov](mailto:lsaul@santarosa-nsn.gov)

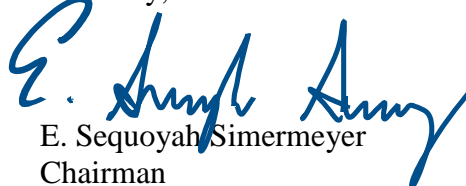
**Re: Santa Rosa Band of Cahuilla Indians' Gaming Ordinance**

Dear Chairwoman Redner,

This letter responds to the February 16, 2023 submission on behalf of the Santa Rosa Band of Cahuilla Indians (Tribe) informing the National Indian Gaming Commission (NIGC) that the Tribe adopted a tribal gaming ordinance. Upon review, the ordinance is substantially similar to the NIGC Revised Model Ordinance promulgated in NIGC Bulletin 2018-1 and provides the Tribe with regulation of anticipated gaming activities.

Thank you for bringing this ordinance to our attention. The ordinance, as noted above, is approved as it is consistent with the requirements of the Indian Gaming Regulatory Act and NIGC's regulations. If you have any questions or require anything further, please contact Logan Takao Cooper at (503) 318-7524 or [Logan.Takao-Cooper@nigc.gov](mailto:Logan.Takao-Cooper@nigc.gov).

Sincerely,

  
E. Sequoyah Simermeyer  
Chairman

cc: Vanessa Minott, Tribal Administrator, [vminott@santarosa-nsn.gov](mailto:vminott@santarosa-nsn.gov)  
Thomas Weathers, Tribal Attorney, [tom@thomasweatherslaw.com](mailto:tom@thomasweatherslaw.com)

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**REGIONAL OFFICES** Portland, OR; Sacramento, CA; Phoenix, AZ; St. Paul, MN; Tulsa, OK; Oklahoma City, OK; Rapid City, SD  
[WWW.NIGC.GOV](http://WWW.NIGC.GOV)

# **SANTA ROSA BAND OF CAHUILLA INDIANS**

## **GAMING ORDINANCE**

Ordinance No. 103

### **SECTION 1: PURPOSE**

The General Council of the Santa Rosa Band of Cahuilla Indians, empowered by the Governing Document of the Santa Rosa Band of Cahuilla Indians adopted December 22, 2014 ("Governing Document"), to enact ordinances, hereby enacts this Gaming Ordinance ("Ordinance") to govern and regulate the operation of Class II and Class III gaming operations on the Tribe's Indian lands.

### **SECTION 2: APPLICABILITY**

Unless specifically indicated otherwise, all provisions of this Gaming Ordinance shall apply to Class II and Class III gaming on the Tribe's Indian lands.

### **SECTION 3: DEFINITIONS**

The following terms shall have the following meanings:

(a) "Class II gaming" means Class II gaming as defined at 25 U.S.C. § 2703(7), as may be amended, and/or in regulations adopted under the Indian Gaming Regulatory Act ("IGRA") by the National Indian Gaming Commission ("NIGC").

(b) "Class III gaming" means Class III gaming as defined at 25 U.S.C. § 2703(8), as may be amended, and/or in regulations adopted under IGRA by the NIGC.

(c) "Commission" or "Gaming Commission" means the Tribe's Gaming Commission established to perform regulatory oversight and to monitor compliance with applicable tribal, federal, and state regulations.

(d) "Commissioner" or "Gaming Commissioner" means a tribal gaming commissioner who is a member of the Commission.

(e) The phrase "directly related to" means a spouse, child, parent, grandparent, grandchild, or sibling.

(f) The term "facility license" means a separate license issued by the Tribe to each place, facility, or location on the Tribe's Indian lands where the Tribe elects to allow Class II or Class III gaming.

(g) "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 under a Management Contract, or, under certain conditions, by another person or entity.

(h) "General Council" means the Tribe's governing body as described in Article VII of the Governing Document.

(i) "Indian lands" means:

- (1) Land within the limits of an Indian reservation; or
- (2) Land over which an Indian tribe exercises governmental power and that is either –
  - A. Held in trust by the United States for the benefit of any Indian tribe or individual; or
  - B. Held by an Indian tribe or individual subject to restriction by the United States against alienation.

(j) The term "key employee" means:

- (1) A person who performs one or more of the following functions:
  - A. Bingo caller.
  - B. Counting room supervisor.
  - C. Chief of security.
  - D. Custodian of gaming supplies or cash.
  - E. Floor manager.
  - F. Pit boss.
  - G. Dealer.
  - H. Croupier.

- I. Approver of credit.
- J. Custodian of gambling devices, including persons with access to cash and accounting records within such devices.

(2) If not otherwise included in this subsection, any other person whose total cash compensation exceeds \$50,000 per year.

(3) If not otherwise included in this subsection, the four most highly compensated persons in the Gaming Operation.

(4) Any other person designated by the Tribe as a key employee.

(k) "Licensee" means a tribally owned Class II or Class III Gaming Operation or a person licensed by the Commission as a primary management official, key employee, or other gaming employee under the provisions of this Gaming Ordinance.

(l) "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 part of a Gaming Operation.

(m) The term "net revenues" means gross gaming revenues of each Gaming Operation less –

(1) Amounts paid out as, or paid for, prizes; and

(2) 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.

(n) The term "primary management official" means:

(1) The person(s) having management responsibility for a Management Contract.

(2) Any person who has authority –

A. To hire and fire employees; and/or

B. To set up working policy for the Gaming Operation,

(3) The chief financial officer or other person who has financial management responsibility.

(4) Any other person designated by the Tribe as a primary management official.

(o) "Tribal Council" means the Tribe's Tribal Council as described in Article XI of the Governing Document.

(p) "Tribal-State Compact" means an agreement between the Tribe and State of California about Class III gaming under 25 U.S.C. § 2710(d).

(q) "Tribe" means the Santa Rosa Band of Cahuilla Indians (also known as the Santa Rosa Band of Cahuilla Indians, California), a federally recognized Indian tribe.

#### **SECTION 4: GAMING AUTHORIZED**

Class II and Class III gaming are authorized to be conducted on the Tribe's Indian lands, if such gaming is conducted in accordance with this Gaming Ordinance, the Indian Gaming Regulatory Act, the NIGC's regulations, any other applicable laws or regulations, and as applicable, a Tribal-State Compact.

#### **SECTION 5: OWNERSHIP OF GAMING**

The Tribe shall have the sole proprietary interest in and responsibility for the conduct of any Gaming Operation authorized by this Gaming Ordinance.

#### **SECTION 6: USE OF NET GAMING REVENUES**

Net revenues from tribal gaming shall be used only to fund the Tribe's government operations or programs, to provide for the general welfare of the Tribe and its members, to promote tribal economic development, to donate to charitable organizations, and/or to help fund operations of local government agencies.

#### **SECTION 7: PER CAPITA PAYMENTS**

Net revenues from any Class II and Class III gaming activities conducted or licensed by the Tribe may be used to make per capita payments to members of the Tribe if the Tribe has prepared a plan to allocate revenues to one or more of the five uses authorized herein, the plan is approved by the Secretary of the Interior as adequate, particularly with respect to the uses described herein, the interests of minors and other legally incompetent persons who are entitled to receive any of the per capita payments are protected and preserved, and the per capita payments are disbursed to

the parents or legal guardian of such minors or legal incompetents in such amounts as may be necessary for the health, education, or welfare of the minor or other legally incompetent person, and the per capita payments are subject to federal taxation and the Tribe notifies its members of such tax liability when payments are made.

## SECTION 8: GAMING COMMISSION

(a) The Tribe hereby establishes a Commission to regulate the Tribe's Gaming Operation. The Commission shall consist of three members, including a Chair, Vice-Chair and one additional Commissioner. The General Council by resolution may increase the number of Commissioners. The Commission will serve as a regulator and not an operator.

(b) The Commission will conduct oversight to ensure compliance with applicable tribal, federal, and state laws and regulations. It will serve as the licensing authority for individuals employed in the Gaming Operation and will administer background investigations as part of the licensing process. The Commission will also have a role in monitoring compliance with the Gaming Operation's internal controls and in tracking gaming revenues. The Commission shall have unrestricted access to all areas of the Gaming Operation and to all its records. The Commission shall have authority to take enforcement actions, including suspension or revocation of an individual gaming license, when appropriate.

(c) Commissioner positions shall be filled through appointment by the Tribal Council. A majority of the Commission should be members of the Tribe. The Tribal Council shall fill any vacancy on the Commission for the balance of the term for the Commission position that becomes vacant. The Tribal Council shall seek to fill a Commission position within 30 days of it becoming vacant.

(d) Terms of office for members of the Commission shall be as follows: The Chair shall serve an initial term of one year, with subsequent Commission chairs serving 3-year terms; and the Vice-Chair and other Commissioners shall serve an initial term of two years, with subsequent vice-chairs and Commissioners serving 3-year terms. If additional Commissioner positions are added, the Commissioners filling those new positions will serve an initial term of two years, with subsequent Commissioners serving 3-year terms.

(e) The following persons are not eligible to serve as members of the Gaming Commission:

- (1) Tribal Council members, while serving as such.
- (2) Current employees of the Gaming Operation.

- (3) Persons who own, operate, or are employed by any business or other entity that conducts business with the Gaming Operation.
- (4) Persons directly related to, or sharing a residence with, any of the above.
- (5) Persons who are ineligible to be key employees or primary management officials.

(f) Non-members of the Tribe previously convicted of any felony, or misdemeanor offense of embezzlement, theft or any other money-related or honesty-related misdemeanor offense, cannot serve as Commissioner. Members of the Tribe previously convicted of any felony, or misdemeanor offense of embezzlement, theft or any other money-related or honesty-related misdemeanor offense, will only be allowed to serve as a Commissioner if the Tribal Council specifically finds that a significant amount of time has passed and the member of the Tribe is now rehabilitated and of trustworthy character.

(g) The Tribal Council shall require a criminal history check with appropriate law enforcement agencies for each Commissioner candidate, shall review the candidate's criminal history check results, and shall make an appropriate eligibility determination before appointing an individual to the position of Commissioner. The Tribal Council shall not appoint any person whose criminal record, if any, reputation, habits, or associations, in the determination of the Tribal Council, pose a threat to the public interest, threaten the effective regulation and control of gaming, or enhance the dangers of unsuitable, unfair, or illegal practices, methods, or activities in the conduct of gaming.

(h) The Tribe recognizes the importance of an independent Commission in maintaining a well-regulated Gaming Operation. The Commission shall be independent of, and act independently and autonomously from, the Tribal Council in all matters within its purview. No prior, or subsequent, review by the Tribal Council of any actions of the Commission shall be required or permitted except as otherwise explicitly provided in this Gaming Ordinance. To avoid potential conflicts of interest between the operation and regulation of the gaming facility, the Tribe requires, at a minimum, the following:

- (1) Members of the Commission are prohibited from gambling in the Tribe's facilities.
- (2) Commissioners are prohibited from accepting complimentary items from the Gaming Operation, excepting a limited or moderate amount of food and beverages.

- (3) Commissioners may only be removed from office by the Tribal Council, prior to the expiration of their respective terms, for neglect of duty, misconduct, embezzlement, malfeasance, or other acts that would render a Commissioner unqualified for the position. (As well, Commissioners may be removed from office for a criminal indictment or conviction.)
- (i) The Commission shall do the following:
    - (1) Conduct background investigations, or cause such investigations to be conducted, for primary management officials and key employees.
    - (2) Review and approve all investigative work conducted in connection with the background investigations of primary management officials and key employees.
    - (3) Create and maintain investigative reports based on the background investigations of primary management officials and key employees.
    - (4) Designate a law enforcement agency to obtain and process fingerprints and conduct a criminal history check that shall include a check of criminal history records information maintained by the Federal Bureau of Investigation.
    - (5) Make licensing eligibility determinations, which shall be signed by the Chair of the Commission.
    - (6) Submit a notice of results to the NIGC of the background investigations done for each primary management official and key employee applicant.
    - (7) Issue gaming licenses to primary management officials and key employees of the operation, if warranted by the eligibility determination.
    - (8) Establish standards for licensing tribal gaming facilities.
    - (9) Issue gaming licenses to tribal gaming facilities when appropriate.



- (10) Inspect, examine, and monitor all of the Tribe's gaming activities, and have immediate access to review, inspect, examine, photocopy and audit all records of the gaming facilities and operations.
- (11) Ensure compliance with all applicable tribal, federal, and state laws, rules, and regulations regarding Indian gaming.
- (12) Investigate any suspicion of wrongdoing associated with any gaming activities.
- (13) Hold hearings on patron gaming complaints, in accordance with procedures established in this Gaming Ordinance and the Tribe's gaming regulations.
- (14) Comply with any and all reporting requirements under IGRA, the NIGC's regulations and any Tribal-State Compact to which the Tribe is a party, and any other applicable law.
- (15) Promulgate and issue regulations necessary to comply with applicable internal control standards.
- (16) Promulgate and issue regulations on the levying of fees and taxes associated with gaming license applications.
- (17) Promulgate and issue regulations on the levying of fines and the suspension or revocation of gaming licenses for violations of this Gaming Ordinance or any applicable tribal, federal, or state gaming regulations.
- (18) Establish a list of persons not allowed to game in the Tribe's gaming facilities in order to maintain the integrity of the Gaming Operation.
- (19) Establish a list of persons who have voluntarily agreed to be excluded from the Tribe's gaming facilities and create regulations for enforcing the exclusions.
- (20) Provide referrals and information to the appropriate law enforcement officials when such information indicates a violation of applicable tribal, federal, or state statutes, ordinances, regulations, codes, or resolutions.

- (21) Create a list of regulatory authorities that conduct background investigations of, and license, vendors who are recognized as trustworthy.
- (22) Draft regulations exempting vendors from the licensing and background investigation requirements if they have received a license from a recognized regulatory authority.
- (23) Perform such other duties the Commission deems appropriate for the proper regulation of the Tribe's Gaming Operation.
- (24) Promulgate such regulations and guidelines as deemed appropriate to implement the provisions of this Gaming Ordinance, so long as they are in furtherance of, and not in conflict with, any provisions of this Gaming Ordinance.

(j) Before adopting, amending, and repealing regulations, the Commission shall give notice of any such proposed action to the Tribal Council, each Gaming Operation, and all other persons whom the Commission has reason to believe have a legitimate interest in the proposed action. The notice shall invite comments and describe the general nature of the proposed action and the manner in which comments on the proposed action shall be received by the Commission.

(k) The Commission shall ensure that all records and information obtained as a result of an employee background investigation, including the identity of each person interviewed in the course of an investigation, shall remain confidential and shall not be disclosed to any persons who are not directly involved in the licensing and employment processes. Information obtained during the course of an employee background investigation shall be disclosed to members of management, human resource personnel, and others employed by the Tribe's Gaming Operation on a need-to-know basis, for actions taken in their official capacities.

(l) The confidentiality requirements above do not apply to requests for such records or information from any tribal, federal, or state law enforcement or regulatory agency, or for the use of such records or information by the Commission and staff in the performance of their official duties, or for disclosures of such records or information otherwise required by law.

(m) A majority of the Commission shall constitute a quorum. The concurrence of a majority of the Commissioners shall be required for any final determination by the Commission. The Commission may act in its official capacity, even if there are vacancies on the Commission.

(n) Commissioners shall be compensated at a level determined by the Tribal Council as set forth in an annual operating budget. To ensure no improper influence on the Commission, a Commissioner's compensation shall not be based on a percentage of gaming revenue.

(o) The Commission shall keep a written or recorded record of all its meetings.

(p) The Commission shall adopt an annual operating budget, subject to Tribal Council approval. The Commission may, consistent with its budget, employ a staff as it deems necessary to fulfill the Commission's responsibilities under this Ordinance and may retain legal counsel, consultants, and other professional services, including investigative services, to assist the Commission with its responsibilities under this Ordinance. The expenses of the Commission identified in its annual operating budget shall be appropriated by the Tribal Council from the revenues of the Gaming Operation, unless otherwise determined by resolution of the Tribal Council.

## **SECTION 9: AUDITS**

(a) The Tribe shall cause to be conducted annually independent audits of each Gaming Operation and shall submit the results of those audits to the NIGC.

(b) Annual audits shall conform to generally accepted auditing standards.

(c) All gaming-related contracts that result in the purchase of supplies, services, or concessions for more than \$25,000 in any year (except contracts for professional legal or accounting services) shall be specifically included within the scope of the audit conducted hereunder.

(d) Copies of the annual audit of each licensed Gaming Operation, and each audit for supplies, services, or concessions of each Gaming Operation, shall be furnished to the NIGC within 120 days after the end of each fiscal year of the Gaming Operation pursuant to the requirements of 25 C.F.R. part 571, Subpart D (Audits), as may be amended.

## **SECTION 10: ENVIRONMENT AND PUBLIC HEALTH AND SAFETY**

Each gaming facility shall be constructed, maintained, and operated in a manner that adequately protects the environment and the health and safety of the public.

## SECTION 11: PATRON DISPUTE

(a) Patrons with complaints against the Gaming Operation regarding gaming shall have as their sole remedy the right to file a petition for relief with the Commission relating to the play or operation of any gaming activity at the Gaming Operation, including any refusal by the Gaming Operation to pay a patron any alleged winnings from any gaming activities at the Gaming Operation.

(b) As a pre-condition to filing a petition for relief with the Commission, a patron must file a written complaint regarding the incident with the Gaming Operation's general manager within one day of the incident giving rise to the complaint. The general manager, or his or her designee, will investigate the matter on a timely basis and provide his or her findings in writing, together with any proposed resolution or settlement, to the patron. In the event the patron accepts any proposed resolution or settlement, the general manager or designee and the patron shall execute a final release and settlement.

(c) In the event the patron disagrees with the findings or rejects any proposed resolution or settlement, as described above, the patron may submit a written petition for relief with the Commission. Any petition for relief must be submitted to the Commission within 15 days of the patron receiving, or being sent, the findings and any proposed resolution or settlement from the general manager or general manager's designee. Such findings shall include notice of the right to file a petition for relief with the Commission; in the event such notice is not provided, the above-described time-period for filing a petition for relief is extended from 15 days to 90 days.

(d) The Commission shall hold a hearing within 60 days of receipt of the patron's petition for relief. The petitioning patron may have counsel present at the hearing (at the patron's cost and expense). The petitioning patron may be allowed to present evidence, at the discretion of the Commission.

(e) After the hearing, the Commission shall render a written decision in a timely fashion, which will include findings of facts and the reasoning for the decision. All such decisions will be final when issued. The Commission's decision shall constitute the petitioning patron's final remedy.

(f) A notice describing the process for addressing a patron's gaming dispute under this section shall be posted or otherwise made available at the Gaming Operation.

## SECTION 12: FACILITY LICENSES

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

(b) The Commission is responsible for issuing new or renewed facility licenses to each place, facility, or location.

(c) The Commission shall require that a facility license application be completed by the chief management official of the gaming facility for each gaming place, facility, or location.

(d) The Commission shall identify the environmental, health, and public safety standards with which the place, facility, or location must comply, and specify the form, conditions, and content of a facility license application. The application shall include a legal description of the lands upon which the facility is located and a certification that the site constitutes "Indian lands," as defined in IGRA, the NIGC's regulations, the NIGC Office of General Counsel and DOI Solicitor Offices' Indian lands legal opinions, judicial decisions, and any other applicable law.

(e) The Commission shall only issue a facility license if the application includes the required information and documentation, and sufficiently satisfies any additional conditions deemed necessary by the Tribe.

(f) The Tribe or Commission shall submit to the NIGC Chair a notice that issuance of a facility license is under consideration by the Commission. The notice must include information or documentation as required under 25 C.F.R. part 559, as may be amended, and must be submitted at least 120 days before the opening of any new place, facility, or location on Indian lands where Class II or Class III gaming will occur.

(g) The Commission shall submit a copy of each newly issued or renewed facility license to the NIGC Chair within 30 days of issuance, along with any other required documentation, including, as required, an attestation certifying that by issuing the facility licenses, the Tribe has determined that the construction and maintenance of the gaming facility, and the operation of that gaming, is conducted in a manner which adequately protects the environment and the public health and safety.

(h) The Tribe shall notify the NIGC Chair within 30 days if a facility license is terminated or expires, or if a gaming place, facility, or location closes or reopens.

## SECTION 13: AGENT FOR SERVICE OF PROCESS

The Tribe designates the Tribal Chairperson as the agent for service of any official determination, order, or notice of violation.

## SECTION 14: TRIBAL ACCESS TO FINANCIAL INFORMATION

A copy of each Gaming Operation's annual audit will be made available for review to the Tribal Council and, upon request, to members of the General Council. For review by members of the General Council, the Gaming Commission may require that the annual audit is reviewed at a designated tribal office or facility, which is reasonably accessible, during regular business hours.

## SECTION 15: LICENSE APPLICATION FORMS

(a) 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.*

(b) 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 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).*

## SECTION 16: LICENSE FEES

The Tribe may charge a license fee, to be set by the Commission, to cover its expenses in investigating and licensing key employees and primary management officials of the Gaming Operation.

## SECTION 17: BACKGROUND INVESTIGATIONS

(a) 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 Commission to make an eligibility determination as required herein.

(b) The 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.

(c) The Tribe shall request fingerprints from each primary management official and key employee. The law enforcement agency designated to take fingerprints shall be designated by resolution of the Commission.

(d) The Commission shall request from each primary management official and key employee all the following information:

- (1) Full name, other names used (oral or written), social security number, birth date, place of birth, citizenship, gender, and all languages (spoken or written).
- (2) Currently, and for the previous five years, business and employment positions held, ownership interests in those businesses, business and residential 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 above.
- (4) Current business and residential telephone numbers, and all cell phone numbers.
- (5) A description of any existing and previous business relationships with other tribes, including any 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 of disposition, if any.
- (9) For each misdemeanor conviction or ongoing misdemeanor prosecution (excluding minor traffic violations) within 10 years of the date of the application, the name and address of the court involved and the date of disposition, if any.
- (10) For each criminal charge (excluding minor traffic charges), whether or not there is a conviction, if such criminal charge is within 10 years of the date of the application and is not otherwise listed, the criminal charge, the name and address of the court involved, and the date of disposition, if any.
- (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 current photograph.
- (13) Any other information the Tribe deems relevant.



(14) Fingerprints obtained in accordance with procedures adopted by the Tribe.

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

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

#### **SECTION 18: PROCEDURES FOR CONDUCTING BACKGROUND INVESTIGATIONS**

(a) The Commission, or its agent, shall employ or engage an investigator to conduct a background investigation of each applicant for a primary management official or key employee position. The background investigation must be sufficient for the Commission to make an eligibility determination for licensing purposes, and to this purpose, the Commission must be able to review a person's prior activities, criminal record (if any), and reputation, habits, and associations to make an eligibility finding for licensing purposes.

(b) To the extent deemed necessary to fulfill the requirements herein, and with oversight by the Commission, the investigator shall do the following:

- (1) Verify the applicant's identity through items such as a social security card, driver's license, birth certificate, or passport.
- (2) Contact each personal and business reference provided in the license application, when possible.
- (3) Conduct a personal credit check.
- (4) Conduct a civil history check, which may include, among other things, past or outstanding judgments, current liens, and past or pending lawsuits.
- (5) Conduct a criminal history records check.
- (6) Based on the results of the criminal history records check, as well as information acquired from an applicant's self-reporting or from any other source, obtain information from the appropriate court regarding any past felony or misdemeanor convictions or ongoing prosecutions within the past 10 years.

- (7) Inquire into any previous or existing business relationships with the gaming industry, including with any tribes with gaming operations, by contacting the entities or tribes.
- (8) Verify the applicant's history and current status with any licensing agency by contacting the agency.
- (9) Take other appropriate steps to verify the accuracy of the information, focusing on any problem areas noted.

## SECTION 19: INVESTIGATIVE REPORTS

- (a) The Tribe shall create and maintain an investigative report for each background investigation of a primary management official or key employee.
- (b) Investigative reports shall include the steps taken in conducting the investigation, results obtained, conclusions reached, and the basis for those conclusions.

## SECTION 20: ELIGIBILITY DETERMINATIONS

- (a) 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.
- (b) If the authorized tribal official, in applying the standards adopted in this Ordinance, 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 or methods or activities in the conduct of gaming, he or she shall not license that person.
- (c) 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.

## SECTION 21: NOTICE OF RESULTS OF BACKGROUND INVESTIGATIONS

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

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

(c) The notice of results shall 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, including the following:
  - 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 10 years of the date of the application.
  - D. Every felony offense of which the applicant has been convicted or any ongoing prosecution.
- (4) A copy of the eligibility determination.

## SECTION 22: GRANTING GAMING LICENSES

(a) All primary management officials and key employees of the Gaming Operation must have a valid and active gaming license issued by the Tribe.

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

(c) The 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 herein. A license is a privilege and not a right, and a license is subject to suspension or revocation at any time.

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

(e) The Tribe shall not employ an individual in a primary management official or key employee position who does not have a permanent license after 90 days of beginning work at the Gaming Operation. The Commission may issue temporary licenses for up to 90 days in compliance with this Ordinance.

(f) The 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.

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

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

(i) If the Commission has issued a license to a primary management official or key employee before receiving the NIGC's statement of objections, notice and a hearing shall be provided to the Licensee, as required herein.

## SECTION 23: DENYING GAMING LICENSES

(a) The Commission shall not license a primary management official or key employee if an authorized tribal official determines, in applying the standards for making a license eligibility determination, that licensing the person poses a threat to the public interest, poses a threat to the effective regulation of gaming, or creates or enhances the dangers of unsuitable, unfair, or illegal practices or methods or activities in the conduct of gaming.

(1) The decision of the Commission to deny and not issue a license is final and not subject to a hearing or appeal, except as provided in paragraph 2 of this subsection.

(2) In the event a decision to deny a license is made with respect to a person who previously held, or currently holds, a license for a primary management official or key employee (for example, where a primary management official's or key employee's license is expiring and he or she is applying for a new or renewal license), the Commission's written decision to deny the new or renewal license will be accompanied with a statement notifying the denied applicant of a right to make a request in writing for a hearing before the Commission on the denial decision. Such request must be submitted to the Commission within 10 days of the mailing or

delivery to the applicant of the written notice denying the license and providing notice of the right to request a hearing. In the event the applicant timely requests a hearing, the Commission shall provide the applicant with notice of a time and place for the hearing. The applicant may have counsel present at the hearing at the applicant's cost and expense. Following a license denial hearing before the Commission, the Commission shall decide whether to affirm the denial or issue the license. The decision of the Commission is final.

(b) When the 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 notify the NIGC and 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.

#### SECTION 24: GAMING LICENSE SUSPENSIONS AND REVOCATIONS

(a) If, after a license is issued to a primary management official or a key employee, the Tribe receives notice from the NIGC that the person is not eligible for employment, the Commission shall immediately suspend the license, provide the Licensee with written notice of the suspension and proposed revocation, and provide the Licensee with notice of a time and place for a hearing on the proposed revocation of the license. The Licensee may have counsel present at the hearing at his or her cost and expense. Following a revocation hearing before the Commission, the Commission shall decide whether to revoke or reinstate the license at issue, and the decision of the Commission is final. The Commission 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.

(b) After a license is issued to a primary management official or a key employee, the Commission may immediately suspend such license if the Commission determines that a person issued a license poses a threat to the public interest, poses a threat to the effective regulation of gaming, or creates or enhances the dangers of unsuitable, unfair, or illegal practices or methods or activities in the conduct of gaming, or that a person issued a license withheld pertinent information or made a false statement in the license application process, violated this Ordinance or the rules or regulations of the Gaming Commission, has been convicted or has entered a plea of *nolo contendere* to any crime involving gaming, fraud, theft, or embezzlement or the sale of illegal narcotics or controlled substances, or has refused to comply with any lawful order, inquiry or directive of the Commission, the Tribal Council, the federal government, or any court of competent jurisdiction.

- (1) A person suspended under this subsection shall be provided with written notice of the suspension and proposed revocation and provided with notice of a time and place for a hearing on the proposed revocation of the license. The person suspended may have counsel present at the hearing at his or her cost and expense.
- (2) Following a revocation hearing before the Commission, the Commission shall decide whether to revoke or reinstate the license at issue. The decision of the Commission is final.

## SECTION 25: RECORDS RETENTION

The 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 application for licensing, investigative reports, and eligibility determinations.

## SECTION 26: LICENSES FOR VENDORS

Vendors of gaming services or supplies, with a total value of \$25,000 or more annually, must have a vendor license from the Commission to transact business with the Gaming Operation. Contracts for professional legal and accounting services are excluded from this requirement.

## SECTION 27: SUBMISSION OF A VENDOR LICENSE APPLICATION

To obtain a gaming vendor license, the business must complete a vendor application and submit to background checks of itself and its principals. Principals of a business include those officers, directors, managers, members, owners, partners, and non-institutional stockholders that either own 10% or more of the business' stock, or interest in the business, or are the ten largest stockholders, or interest holders, as well as the on-site supervisors or managers designated in an agreement with the Tribe, if applicable.

## SECTION 28: CONTENTS OF THE VENDOR LICENSE APPLICATION

- (a) Applications for gaming vendor licenses must include the following:
  - (1) Name of business, business address, business telephone number(s), federal tax identification number (or social security number, if a sole proprietorship), main office address (if different from business address), any other names used by the applicant in business, and type of service(s) applicant will provide.

- (2) Whether the applicant is a partnership, corporation, limited liability company, sole proprietorship, or other entity.
- (3) If the applicant is a corporation, the state of incorporation and the qualification to do business in the State of California, if the Gaming Operation is in a different state than the state of incorporation.
- (4) Trade name, other names ever used, and names of any wholly owned subsidiaries or other businesses owned by the vendor or its principals.
- (5) General description of the business and its activities.
- (6) Whether the applicant will be investing in, or loaning money to, the Gaming Operation, and if so, how much.
- (7) A description of any existing and previous business relationships with the gaming industry generally, including ownership interests in those businesses.
- (8) A list of Indian tribes with which the vendor has an existing or previous business relationship, including ownership, financial, or management interests in any non-gaming activity (on a case by case basis the Commission may determine if the listing does not need to be all-inclusive, for example, where a vendor has extensive interaction with numerous Indian tribes).
- (9) Names, addresses, and telephone numbers of three business references with whom the company has regularly done business for the last five years.
- (10) The name and address of any licensing or regulatory agency with which the business has filed an application for a license or permit related to gaming, whether or not such license or permit was granted.
- (11) If the business has ever had a license revoked for any reason, the circumstances involved.
- (12) A list of lawsuits to which the business has been a defendant, including the name and address of the court involved, and the date and disposition, if any.

- (13) A list of the business' funding sources and any liabilities of \$50,000 or more (unless a higher dollar amount is established by the Commission).
- (14) A list of the principals of the business, their social security numbers, addresses, telephone numbers, titles, and percentage of ownership in the company.
- (15) Any further information the Tribe deems relevant.

(b) The following notice shall be placed on the application form for a vendor and its principals:

*Inclusion of false or misleading information in the vendor application may be grounds for denial or revocation of the Tribe's vendor license.*

(c) A vendor may submit to the Commission a copy of a recent license application to another jurisdiction if it contains the information listed above. The vendor will be required to submit, in writing, any changes in the information since the other license application was filed, and any information requested by the Tribe not contained in the other application.

## SECTION 29: VENDOR BACKGROUND INVESTIGATIONS

(a) The Commission shall employ or otherwise engage an investigator to complete an investigation of a gaming vendor.

(b) This investigation shall include, at a minimum, the following steps:

- (1) Verification of the vendor's business' incorporation status and qualifications to do business in the state where the Gaming Operation is located.
- (2) Obtaining a business credit report, if available, and conducting a Better Business Bureau check on the vendor.
- (3) Conducting a check of the vendor's business' credit history.
- (4) Calling and questioning each of the references listed in the vendor application.
- (5) Conducting an investigation of the principals of the vendor's business, including facilitating a criminal history check, obtaining



criminal history check results, obtaining a credit report, and interviewing the personal references listed.

#### **SECTION 30: VENDOR LICENSE FEES**

The Tribe may charge a license fee, to be set by the Commission, to cover its expenses in investigating and licensing vendors of the Gaming Operation.

#### **SECTION 31: VENDOR BACKGROUND INVESTIGATION REPORTS**

The investigator shall complete an investigative report covering each of the steps taken in the background investigation of the gaming vendor and its principals and present it to the Commission.

#### **SECTION 32: VENDORS LICENSED BY RECOGNIZED REGULATORY AUTHORITIES**

The Commission may adopt regulations naming specific licensing authorities that it recognizes and may authorize exemptions to the vendor licensing process for vendors who have received a license from one of the named regulatory authorities.

#### **SECTION 33: COMPLIANCE WITH FEDERAL LAW**

The Tribe shall comply with all applicable federal laws, including the Bank Secrecy Act, 31 U.S.C. § 5311 et seq.

#### **SECTION 34: MISCELLANEOUS**

(a) This Ordinance supersedes, replaces, and repeals all conflicting provisions of any prior ordinance of the Tribe. If the provisions of this Ordinance conflict with the provisions of any ordinance, regulation, policy, or procedure of the Tribe, the provisions of this Ordinance shall control.

(b) This Ordinance does not constitute a waiver of the sovereign immunity of the Tribe or its officers, officials, commissioners, managers, directors, employees, attorneys, and agents, and the Tribe reserves all rights for itself, and its officers, officials, commissioners, managers, directors, employees, attorneys, and agents not expressly waived by this Ordinance. No individual on behalf of the Tribe, Gaming Commission, or Gaming Operation may waive sovereign immunity without prior written approval from the Tribe, Gaming Commission, or Gaming Operation, as applicable.

(c) If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, the remainder shall not be affected and shall remain in full force and effect, provided the original intent remains.

(d) Any time-period set forth in this Gaming Ordinance that ends or expires on a weekend, federal holiday, or holiday recognized by the Tribe shall be extended to the next business day falling after such weekend, federal holiday, or tribal holiday.

(e) Unless the context clearly requires otherwise, plural words include the singular and singular words include the plural, the masculine, feminine, and neuter genders are each deemed to include the others, the words "shall" "will" "must" and "agrees" are mandatory, the words "may" "should" and "might" are permissive, the word "or" is not exclusive, the words "includes" and "including" are not limiting, and defined terms may or may not be capitalized herein.

(f) This Ordinance, including any ambiguities herein, shall be interpreted and construed strictly and narrowly in favor of the Tribe. The section headings, and other headings, contained in this Ordinance are for reference purposes only and shall not affect the meaning or interpretation of this Ordinance. Nothing in this Ordinance may be interpreted or construed to grant or permit any jurisdiction to the State of California not otherwise granted or permitted by applicable law.

## **SECTION 35: AMENDMENTS**

The Tribal Council may amend this Ordinance as it deems appropriate and reasonable, and to comply with changes in applicable federal law. All amendments to this Ordinance must receive NIGC approval as required by IGRA or its implementing regulations before the amendment becomes effective.

## **SECTION 36: EFFECTIVE DATE**

This Gaming Ordinance shall take effect immediately upon its approval by the NIGC Chair.

### CERTIFICATION

We, the Tribal Chair and Tribal Secretary of the Santa Rosa Band of Cahuilla Indians, hereby certify that the foregoing Ordinance No. 103 was adopted by the General Council by election on January 5, 2023 by a ballot vote of 46 in favor, and 4 opposed.



Tribal Chair

ATTEST:



Tribal Secretary