



November 24, 2025

VIA EMAIL

Isaiah Vivanco, Chairman
Soboba Band of Luiseño Indians
P.O. Box 487
San Jacinto, CA 92581

Re: Soboba Band of Luiseño Indians Gaming Ordinance

Dear Chairman Vivanco:

I am writing with respect to the October 22, 2025 request of the Soboba Band of Luiseño Indians (Band) to the National Indian Gaming Commission to review and approve the Band's amended gaming ordinance. The amended gaming ordinance was adopted by the Tribal Council through Resolution No. CR25-AMENDGAMORD-68 on October 21, 2025.

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

Sincerely,

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

Sharon M. Avery
Chairwoman (A)



SOBOBA BAND OF LUISEÑO INDIANS

P.O. BOX 487 • SAN JACINTO, CA 92581 • TELEPHONE (951) 654-2765

RES. NO. CR25-AMENDGAMORD-68

RESOLUTION

Re: AMENDMENT OF SOBOBA GAMING ORDINANCE, ORDINANCE NO. GC93-BGO-04, AS AMENDED

WHEREAS, the Soboba Band of Luiseño Indians (“Soboba Band”) is a federally recognized Indian tribe eligible for all rights and privileges afforded to federally recognized tribes; and

WHEREAS, the Soboba Band of Luiseño Indians is organized under the Tribal Constitution of October 2, 1993; and

WHEREAS, the Soboba Band has a Soboba Gaming Ordinance, Ordinance No. GC93-BGO-04, as amended, (“Gaming Ordinance”) under which it conducts gaming activities on its Indian lands for the purpose of generating revenue that is needed for economic development, promoting Tribal self-sufficiency, employment and a strong Tribal government, and in order to fund and ensure essential Tribal social programs and services, and provide for the welfare of the Tribe and its members; and

WHEREAS, the Soboba Band recognizes the importance of strong and effective gaming regulations to assure the integrity of its gaming activities, and to protect gaming revenues and gaming resources; and

WHEREAS, Section 5-1.04 of the Gaming Ordinance authorizes Soboba Tribal Council to amend the Ordinance in any manner, provided that any amendment is not less restrictive than the original terms of the Ordinance; and

WHEREAS, Section 5-1.04 of the Gaming Ordinance further provides that any such amendments to the Gaming Ordinance shall be effective upon review and approval by the Chairman of the National Indian Gaming Commission (“NIGC”); and

WHEREAS, the Soboba Tribal Council wishes to amend the Gaming Ordinance to reflect the Soboba Band’s updated operational and regulatory procedures and to ensure ongoing compliance with the terms of any Class III Gaming Compact with the State of California, Class III Secretarial Procedures, or Memorandum of Understanding with the NIGC to which the Soboba Band is or may become a party; and

WHEREAS, the Soboba Tribal Council wishes to amend the Gaming Ordinance to conform with comments from the NIGC.

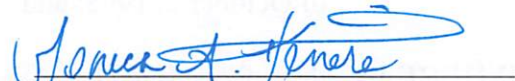
NOW THEREFORE BE IT RESOLVED that the Tribal Council of the Soboba Band of Luiseño Indians authorizes the amendment of Gaming Ordinance No. GC93-BGO-04, attached hereto, in order to reflect updated operational and regulatory procedures of the gaming facility that are in the best interest of the Soboba Band, not less restrictive than the original terms of the Ordinance, and in conformity with comments from the NIGC.

CERTIFICATION

We, the elected members of the Soboba Tribal Council of the Soboba Band of Luiseño Indians do hereby certify that the foregoing Resolution was adopted by the Soboba Tribal Council at a duly held meeting convened on the Soboba Indian Reservation on October 21, 2025 by a vote of 4 **FOR**, 0 **AGAINST**, and 0 **ABSTAINING** and such Resolution has not been rescinded or amended in any way.


Isaiah Vivanco, Chairman


Geneva Mojado, Vice-Chairwoman


Monica Herrera, Secretary


Adona Salgado, Treasurer


Daniel Valdez, Sergeant of Arms





SOBOBA GAMING ORDINANCE

Adopted 10/21/2025

SOBOBA BAND OF LUISEÑO INDIANS

SOBOBA GAMING ORDINANCE

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ARTICLE I. GENERAL

SECTION 1.1. SHORT TITLE

This Ordinance shall be known and may be cited as the Soboba Gaming Ordinance.

SECTION 1.2. STATEMENT OF PURPOSE

The General Council of the Soboba Band of Luiseño Indians ("Band") in the exercise of its inherent sovereign powers established the original Soboba Gaming Ordinance, No. GC93BGO-04 for the purpose of authorizing and regulating the operation of all forms and classes of gaming conducted on lands subject to the Band's jurisdiction, including the Soboba Reservation and such other of its lands on which gaming lawfully may be conducted under the Indian Gaming Regulatory Act, Public Law 100-497, 102 Stat. 2467 (Oct. 17, 1988), 25 U.S.C. § 2701, *et seq.* ("IGRA"), to generate revenue for its government operations, economic diversification and the health, safety, education and general welfare of its Tribal Citizens. The purpose of this Gaming Ordinance is to update that Ordinance to reflect the Band's operational and regulatory experience and to ensure ongoing compliance with the terms of any Class III Gaming Compact with the State of California, Class III Secretarial Procedures or Memorandum of Understanding with the National Indian Gaming Commission ("NIGC") to which the Band is or may become a party.

SECTION 1.3. STATEMENT OF POLICY

All gaming conducted within the Band's jurisdiction and that is otherwise authorized by applicable law shall be authorized, regulated and licensed pursuant to the provisions of this Ordinance.

SECTION 1.4. DEFINITIONS

Unless a different meaning is set forth below, the definitions used in this Ordinance shall have the same meaning as in IGRA, any applicable compact between the Band and the State of California, or Class III procedures prescribed by the Secretary of the Interior pursuant to 25 U.S.C. § 2710(d)(7)(B)(vii).

- (a) "Applicant" means any person, partnership, corporation, joint venture or other entity applying for any license described in or required by the Ordinance.
- (b) "Application" means a request for the issuance of a license described in or required by this Ordinance.
- (c) "Chair" means the Chair of the Soboba Tribal Gaming Commission ("Commission").

(d) "Class I Gaming" means social games played solely for prizes of minimal value or traditional forms of Indian gaming when played by individuals in connection with tribal activities or celebrations.

(e) "Class II Gaming" means:

(1) Bingo or lotto (whether or not electronic, computer, or other technological aids are used, and including electronic terminals utilizing what is commonly known as an "auto-daub" or "one-touch" feature) when players:

- (i) Play for prizes with cards bearing numbers or other designations;
- (ii) Cover numbers or designations when objects, similarly numbered or designated, are drawn or electronically determined; and
- (iii) Win the game by being the first person to cover a designated pattern on such cards.

(2) Pull-tabs, punch boards, tip jars, instant bingo, and other games similar to bingo, if played in the same location as bingo or lotto.

(3) Non-banking card games that:

- (i) California state law explicitly authorizes; or
- (ii) Are not explicitly prohibited by California state law and are played legally anywhere in the state; and
- (iii) Are played in conformity with applicable California state laws and regulations concerning hours, periods of operation and limitations on wagers and pot sizes.

(4) For the purposes of this Ordinance, Class III Gaming" means all forms of gaming that are not Class I or Class II Gaming, including but not limited to:

- (i) Any house banking game, including but not limited to:
 - a. Card games such as baccarat, chemin de fer, blackjack (21), and pai gow (if played as house-banking games); and
 - b. Casino games such as roulette, craps, and keno, to the extent that such gaming would not be inconsistent with the terms of any Class III gaming Compact to which the Band may be a party.

- (ii) Any gaming devices as defined in 15 U.S.C. §1171 (a)(1), and electronic or electromechanical facsimiles of any game of chance.
 - (iii) Any sports betting and/or pari-mutuel wagering, including, but not limited to, wagering on horse racing, dog racing or jai alai, to the extent that such gaming would be consistent with the terms of any Class III gaming Compact or Secretarial Procedures to which the Band may be or become a party or as otherwise authorized under applicable laws; or
 - (iv) Lotteries, including the use of the Internet, to the extent that such use would be consistent with the terms of any Class III gaming Compact or Secretarial Procedures to which the Band may be or become a party.
- (f) "Ordinance" means the Soboba Gaming Ordinance.
- (g) "Compact" means any Tribal-State Class III Gaming Compact, including all renewals, extensions, amendments, appendices, exhibits and other attachments thereto between the Soboba Band of Luiseño Indians and the State of California authorizing and providing for the regulation of the conduct of Tribal Class III Gaming on lands subject to the Band's jurisdiction.
- (h) "Commission" means the Soboba Tribal Gaming Commission.
- (i) "Commissioner" means a person appointed to the Soboba Tribal Gaming Commission.
- (j) "Executive Director" means the person appointed by the Soboba Tribal Council to act as the Commission's chief executive officer and exercise direct oversight of the Commission's staff.
- (k) "Facility License" means a license issued by the Commission to each place, facility or location on Indian lands where the Band elects to allow Class II or Class III gaming.
- (l) "Fiscal year" means the period beginning on January 1 of each year and ending on December 31 of that same year.
- (m) "Gaming" means any Class I, Class II or Class III Gaming activity, either individually or collectively, whether authorized or unauthorized, in which something of value is risked on an outcome determined in part by chance.
- (n) "Gaming Facility" means any premises where Class II or Class III gaming is operated or conducted, and includes, to the extent required by a Compact,

appurtenant structures or improvements the primary purpose of which is to serve such gaming activities.

- (o) "Gaming Operation" means each economic entity that is licensed by the Commission to operate Class II and/or Class III Gaming activity and, to the extent so defined in a Compact, related facilities, amenities and activities on lands within the Band's jurisdiction, and that receives the revenues, issues the prizes, and pays the expenses. A Gaming Operation may be owned and operated directly by the Band, operated on the Band's behalf by a management contractor, or, under certain conditions, owned and operated by another person or entity if authorized by the Band and consistent with applicable federal law and any Compact to which the Band may be a party. If a gaming activity is conducted by an entity that also engages in activities unrelated to a gaming activity, only those aspects of the entity's gaming-related activities that are conducted in or in connection with a Gaming Facility will be considered to be part of a Gaming Operation.
- (p) "General Council" means the Band's governing body, consisting of all enrolled Tribal Citizens eligible to vote.
- (q) "Indian lands" means lands within the exterior boundaries of the Soboba Indian Reservation or over which the Band otherwise exercises governmental power and that is either held in trust by the United States for the benefit of the Band or an individual Band Citizen, or legal title to which is held by the Band but subject to a restriction against alienation imposed by the United States.
- (r) "Key Employee" means:
 - (1) A person who performs one or more of the following functions:
 - (i) Bingo caller, supervisor, cashier;
 - (ii) Counting room supervisor, and count and drop personnel;
 - (iii) Chief of security and security personnel;
 - (iv) Custodian of gaming supplies or cash;
 - (v) Floor manager;
 - (vi) Pit boss;
 - (vii) Dealer;
 - (viii) Cashier;

- (ix) Croupier,
 - (x) Approver of credit;
 - (xi) Any Gaming Operation employee engaged in finance or accounting functions;
 - (xii) Any custodian of gaming devices or other gaming-related equipment utilized in the conduct of Class II or Class III Gaming on lands within the Band's jurisdiction, including persons with access to cash and accounting records for such devices; or
 - (xiii) Custodian of surveillance systems or surveillance records;
- (2) If not otherwise included, any other person whose total cash compensation from employment in any Gaming Operation exceeds \$50,000.00 per year;
 - (3) If not otherwise included, the four most highly compensated persons in any Gaming Operation;
 - (4) Any Gaming Operation employee authorized by the Gaming Operation for unescorted access to secured gaming areas designated as secured gaming areas by the Commission; and
 - (5) Any other employee of any Gaming Operation that a Compact defines or the Commission designates by its rules as a Key Employee.
- (s) "License" means any authorization granted by the Executive Director or Commission pursuant to this Ordinance, to any person or Gaming Operation which is required to perform certain acts or engage in certain activities. The issuance of a license shall not create a property interest in such license for the benefit of the licensee.
 - (t) "Licensee" means any person to whom the Executive Director or Commission has issued a valid and current license pursuant to the provisions of this Ordinance.
 - (u) "Management Contract" means any contract, subcontract or collateral agreement under which a person or entity other than the Band or a wholly-owned sub-entity of the Band is vested with the right and authority to manage all or part of a Gaming Operation.
 - (v) "Net Gaming Revenues" means, for the purposes of this Ordinance, gross gaming revenues of a Gaming Operation less,
- (1) Amounts paid out as, or paid for, prizes; and

(2) Total gaming-related operating expenses, including all those operating expenses and non-operating expenses consistent with the official pronouncements of the American Institute of Certified Public Accountants ("AICPA"), excluding management fees; *provided*, that if "Net Revenues" from Class III gaming is defined differently by a Compact to which the Band is a party, the Compact definition shall control as to such revenues.

(w) "NIGC" means the National Indian Gaming Commission. Notwithstanding that the NIGC ordinarily lacks jurisdiction over class III gaming activities, the Band specifically consents to the NIGC's exercise of the regulatory oversight of the Band's class III gaming activities conducted pursuant to class III Secretarial Procedures in lieu of a tribal-state Compact.

(x) "Patron" means any natural person who participates in gaming in, or who is physically present on, the premises of a Gaming Facility, and who is not an employee, vendor or contractor of the Gaming Operation, or a tribal official engaged in the performance of his/her official duties.

(y) "Person" means any association, partnership, corporation, firm, trust or other form of business association or entity, as well as a natural person.

(z) "Primary Management Official" means:

(1) The person(s) having management responsibility over all or any part of any Gaming Operation;

(2) Any person who has authority:

(i) To hire and fire employees of a Gaming Operation; or

(ii) To establish working policy for a Gaming Operation;

(3) The chief financial officer or other person who has financial management responsibility for any Gaming Operation;

(4) The general manager or a position with duties a general manager; and

(5) Any person the Commission designates by Commission rule as a Primary Management Official.

(aa) "Secretarial procedures" mean Class III gaming procedures prescribed by the Secretary of the Interior in lieu of a Class III Gaming Compact pursuant to the

Indian Gaming Regulatory Act. By this reference, the Band incorporates the provisions of such Secretarial Procedures into this Ordinance as if set forth in full.

- (bb) "Soboba" means, and shall refer to, the Soboba Band of Luiseño Indians, also referred to herein as the "Band".
- (cc) "Supplier of gaming goods or services" means any person who manufactures, sells, leases, or distributes supplies or makes modifications to, any gaming goods or services including, but not limited to, any gaming device utilized by the Band, and all persons holding any direct or indirect financial interest in such supplier; *provided*, that if a Supplier of gaming goods or services is a publicly-traded company, this definition shall not apply to the holders of less than 10% of the equity interests in such company.
- (dd) "Tribal Council" means the elected Tribal Council of the Soboba Band of Luiseño Indians.

SECTION 1.5. GAMING AUTHORIZED

The following forms of Gaming are authorized to be conducted on lands within the Band's jurisdiction, provided such gaming is conducted in accordance with the requirements of the Ordinance, IGRA, any applicable tribal-state Compact to which the Band may be a party, or Secretarial Procedures, and any applicable regulations:

- (a) Class I Gaming;
- (b) Class II Gaming; and
- (c) Class III Gaming;
- (d) Any Internet gaming authorized under the Ordinance and conducted in accordance with any other applicable laws and regulations, whether Class II or Class III;
- (e) The minimum age to participate in Class II Gaming shall be eighteen (18) years;
- (f) The minimum age to participate in Class III Gaming shall be eighteen (18) years, or such other minimum age as may be specified in the Compact.

SECTION 1.6. OWNERSHIP OF GAMING OPERATIONS

The Band shall have sole proprietary interest in and responsibility for the conduct of gaming operations authorized under this Ordinance. Such authority may be delegated to a legal entity wholly owned by the Band or to individually-owned gaming operations in accordance with IGRA, the NIGC's regulations and any applicable Compact or Secretarial Procedures.

SECTION 1.7. USE OF NET GAMING REVENUE

- (a) The Band shall use net gaming revenue from Class II and Class III Gaming only for the following purposes:
 - (1) To fund the Band's government operations and/or programs;
 - (2) To provide for the general welfare of the Band, its Citizens and other persons within the Band's jurisdiction;
 - (3) To promote economic development;
 - (4) To donate to charitable organizations; and/or
 - (5) To help fund operations of local government agencies.
- (b) If the Band elects to make per capita payments of Net Gaming Revenues to its members, those payments shall be made pursuant to applicable Band and federal laws and regulations and a revenue allocation plan approved by the Secretary of the Interior under 25 U.S.C.2710(b)(3).

SECTION 1.8. SOBOBA-CALIFORNIA CLASS III GAMING COMPACT AND/OR SECRETARIAL PROCEDURES

The Tribal Council is authorized to enter into negotiations for a new, extended and/or amended Class III gaming compact with the State of California or new or amended class III Secretarial Procedures authorizing and regulating the conduct of all forms of Class III Gaming activities that may be authorized consistent with IGRA, and to take any and all actions necessary to execute such a Compact or Secretarial Procedures upon approval thereof by the General Council. In the event that the State fails or refuses in good faith to negotiate and enter into such a Compact, the Tribal Council is authorized to sue the State under 25 U.S.C. § 2710(d)(7) (B)(ii), and, if such suit results in a judgment that the State has failed in good faith to negotiate for or agree to a Compact, to participate in further negotiations and mediation pursuant to 25 U.S.C. § 2710(d)(7)(B)(iii), and, if necessary, to obtain procedures from the Secretary of the Interior to authorize and regulate the conduct of Class III Gaming on Indian lands within the Band's jurisdiction; *provided*, that as long as the General Council had approved the Tribal Council's proposed compact submitted to the mediator during mediation with the State, further General Council approval of Class III Gaming Procedures prescribed by the Secretary of the Interior consistent with or more favorable to the Band than the Tribal Council's proposed compact shall not be required in order for the Tribal Council to accept those procedures on behalf of the Band.

SECTION 1.9. AUDITS

- (a) The Commission shall cause to be conducted an annual independent audit of the Band's Gaming Operations, which audit shall include a review of agreed-upon procedures for compliance with the Band's Internal Control Standards, and the results of each such audit shall be submitted to the Tribal Council, the NIGC and any other agencies as required by the Band's Class III Gaming Compact, Class III Secretarial Procedures or the NIGC's applicable regulations within 120 days after the end of each fiscal year of the Gaming Operations.
- (b) All gaming-related contracts that result in the purchase of supplies, services or concessions for more than \$25,000 annually, except for legal or accounting services, shall be included within the scope of the annual independent audit.

ARTICLE II. SOBOBA TRIBAL GAMING COMMISSION

SECTION 2.1. ESTABLISHMENT

- (a) The Soboba Tribal Gaming Commission (“Commission”) hereby is established to regulate all Class II and Class III Gaming Activities and Gaming Operations on lands within the Band's jurisdiction, and to exercise all powers necessary to effectuate the purposes of this Ordinance, the Band's Class III Compact(s), Secretarial Procedures or other laws or regulations applicable to gaming on lands within the Band's jurisdiction.
- (b) The Commission shall be identified as the law enforcement agency that will take fingerprints for conducting criminal history checks.
- (c) The Commission shall consist of at least one (1) but not more than three (3) Commissioners and shall be appointed by the Tribal Council for terms of two (2) years. In the event only one Commissioner is appointed, he/she shall be designated as the Chair of the Commission. In the event more than one Commissioner is appointed, the Tribal Council shall designate a Chair and Vice-Chair. The Vice-Chair and other Commissioner shall report to the Chair. Should more than one Commissioner be appointed at the same time, the Tribal Council is authorized to limit one Commissioner's term to one (1) year for the first term to provide for staggered terms.
- (d) Upon ratification of this Ordinance, the Tribal Council may, in its discretion, continue the tenure of the Commission members currently serving in their positions for the remainder of their respective terms, or fill the Commissioner positions by making new appointments.
- (e) There shall be no limit on the number of terms to which a Commissioner may be appointed.
- (f) Except as provided in subsection (c) above, a Commissioner may be removed from office by the Tribal Council prior to the end of the Commissioner’s term only for the cause(s) and pursuant to the process set forth in Sec. 2-1.09.
- (g) All members of the Commission shall continue to serve until their successors are appointed, except that no such member of the Commission shall continue to serve more than one year after the date on which his or her term would otherwise expire, at which time his or her position will become vacant unless that vacancy would result in there being no Commissioner in office.
- (h) Upon resignation, removal, death or any other reason creating a vacancy prior to the end of a Commissioner’s term, the Tribal Council may appoint a replacement Commissioner to fill the remaining term of a Commissioner being replaced.

- (i) If the Tribal Council intends to fill a vacancy occurring on the Commission, the vacancy shall be filled by a majority vote of the Tribal Council within sixty (60) calendar days of the occurrence of the vacancy for whatever reason. If the vacancy occurs within ninety (90) days prior to the date upon which the term of the Commissioner being replaced otherwise would expire, the Tribal Council shall specify whether the successor Commissioner is being appointed for a full two-year term, or for the unexpired balance of the term of the Commissioner being replaced.
- (j) The Commission shall recruit and employ an Executive Director, subject to final approval by the Tribal Council, who shall be responsible for managing, supervising and overseeing the daily activities of the Commission. The Executive Director shall serve as a full-time employee and shall report directly to the Chair of the Commission. In the event there is a vacancy in the position of the Executive Director, the Tribal Council shall designate one of the Commissioners or other qualified person to act as interim Executive Director pending appointment of a permanent Executive Director.

SECTION 2.2. INDEPENDENCE

To ensure that the Commission will be able to adequately protect the Band's assets and integrity of Gaming Operations conducted on lands within the Band's jurisdiction, the Commission shall be and shall act independently and autonomously from the Tribal Council, Gaming Operations management and the General Council in all matters within the Commission's purview and responsibilities. Specifically, the Commission's actions shall not be subject to prior or subsequent review or approval by the General Council, the Tribal Council or Gaming Operations management except as otherwise expressly provided in this Ordinance or by other applicable law or ordinance. As an arm of the Band, the Commission shall be cloaked by the Band's sovereign immunity; however, the Commission shall not be bound or affected by any contractual waiver of the Band's sovereign immunity made in the Band's proprietary capacity.

SECTION 2.3. SUITABILITY OF COMMISSIONERS

- (a) **Candidates Qualifications.** Candidates for appointment to the Commission must possess sufficient education, gaming industry training and/or experience to satisfy the Tribal Council that he/she will be able to competently perform the duties of office. In addition, candidates must have a clean credit history, not have been convicted of any felony or other crime involving dishonesty, and not have any other attributes that would render the candidate unsuitable for a Primary Management Official license.
- (b) **Candidate Backgrounds.** Candidates for appointment to the Commission shall complete license applications and shall be subject to the same background investigations for Primary Management Official licensure as required otherwise under this Ordinance or by the Band's Compact for Primary Management Officials, but Commissioners need not actually be licensed. Such background investigations shall be performed at the direction of the Tribal Council by an independent third party selected by the Tribal Council. Upon

completion and review of the results of a prospective Commissioner's background investigation, and assuming that the candidate otherwise possesses qualifications acceptable to the Tribal Council, the Tribal Council shall, by majority vote, either approve or deny the appointment of a Commissioner. Appointment of Commissioners shall be made by Tribal Council Resolution.

- (c) If the Tribal Council has reason to believe that a Commissioner has violated any provision(s) of this Ordinance, its rules or regulations or any other applicable law while in office, the Tribal Council shall direct an investigation to be conducted by an independent third party selected by the Tribal Council. Any action to remove a Commissioner from office for cause shall be conducted in compliance with Sec. 2-1.09.

SECTION 2.4. RESTRICTIONS ON COMMISSIONERS

- (a) In order to avoid conflicts of interest or the appearance of conflicts of interest, no person shall be appointed to, or if appointed, continue to serve on the Commission if:
 - (i) Such person is a member of the Tribal Council or is a member of the same household or immediate family of a Tribal Council member; or
 - (ii) Such person's employment or other duties on boards, other activities, including business activities or relationships, actually conflicts or is reasonably likely to conflict with his/her duties and responsibilities as a Commissioner.
- (b) A Commissioner shall recuse himself/herself from any investigation into, or vote concerning, any matter involving any member of the Commissioner's immediate household, sibling, spouse, registered domestic partner, parent, step-parent, grandparent, child, step-child or grandchild.
- (c) No Commissioner may gamble in any Soboba Gaming Facility or accept any complimentary goods or services from any Soboba Gaming Operation, supplier of goods or services to any Soboba Gaming Operation, or any patron or employee of any Soboba Gaming Operation; *provided*, that nothing herein precludes a Commissioner from accepting gifts in connection with traditional holidays or celebratory events such as birthdays, anniversaries or similar celebrations from family members, personal friends, or relatives who might patronize a Soboba Gaming Operation.

SECTION 2.5. NO FINANCIAL INTEREST IN GAMING OPERATIONS

No Commissioner shall have any direct or indirect financial interest in the Band's Gaming Operations other than his/her right, if any, to receive *per capita* distributions of Net Gaming Revenues pursuant to a plan approved by the Department of the Interior. Further, a Commissioner may not provide services to a Gaming Operation or have an ownership or other

financial or controlling interest in an entity (such as retail sales) that is subject to the Commission's jurisdiction.

SECTION 2.6. COMMISSION BUDGET AND COMPENSATION OF COMMISSIONERS

The Commission shall approve an annual budget for its staffing and operations to be reviewed by the Tribal Council and submitted to the General Council for approval. Commissioners shall be compensated at a rate set by the Tribal Council, but to ensure the Commission's independence, that rate shall not be based on a percentage of gaming revenue, or be reduced during a Commissioner's term of office except as part of a general reduction in the Soboba Tribal government's budget and compensation schedule.

SECTION 2.7. ORGANIZATION AND MEETINGS

- (a) The Commission may organize itself into any functional divisions and hire staff as it deems necessary. Within the limits of its budget as approved by the General Council, the Commission shall employ and fix the salaries, or contract for the services, of such professional, technical and operational personnel and consultants as the effective execution of the Commission's duties may require.
- (b) All decisions of the Commission shall be made by a majority vote of those present at a Commission meeting at which a quorum is present, unless otherwise expressly authorized by this Ordinance. The Commission shall conduct meetings on such dates and at such times and places as it deems necessary. A quorum of the Commission shall consist of at least two Commissioners if there are three Commissioners in office, or both Commissioners if there are two Commissioners in office. There is no quorum requirement if there is only one Commissioner in office. Commissioners can attend and participate in Commission meetings telephonically or by other electronic means, as long as each Commissioner can hear and be heard by all other Commissioners at all times during such meeting.
- (c) Unless the Commission duly delegates to an individual Commissioner authority to act on a specific matter other than in a Commission meeting, individual Commissioners shall have no authority to take official action on behalf of the Commission.
- (d) Each vote by a Commissioner in a Commission meeting shall constitute a discretionary act taken within the course and scope of the Commissioner's duties and authority, and no Commissioner may be held individually liable for any such discretionary act. The Commission shall defend and indemnify a Commissioner who is sued as an individual based upon voting as a Commissioner, unless the Commission has a reasonable basis to believe that the vote was cast as the result of bribery or other corrupt activity.

SECTION 2.8. POWERS AND DUTIES

- (a) The Commission, acting primarily through its Executive Director, shall regulate Soboba's Gaming Operations and the personnel employed therein, and shall conduct oversight to ensure compliance with the requirements of applicable Soboba, federal and California laws, ordinances and regulations, including the terms of the Band's Class III Gaming Compact or Secretarial Procedures. The Commission shall discharge its duties and exercise its authority in a manner that will best promote and ensure the integrity, safety, security, honesty and fairness in the administration and operation of all Gaming Activities on lands within the Band's jurisdiction.
- (b) The Commission shall promulgate comprehensive Tribal Internal Control Standards and other appropriate regulations as required by applicable law and any Compact(s) to which the Band may be a party. The Commission shall submit the Tribal Internal Control Standards (TICS) to the Tribal Council for approval before taking effect.
- (c) The Commission shall establish and periodically update technical standards for all gaming devices and other gaming equipment purchased, leased or otherwise acquired by Gaming Operations, and ensure ongoing compliance with those standards. The Commission shall maintain a complete and current inventory of all gaming devices and related equipment (whether or not such devices or equipment are in use) located at any Gaming Facility or other location within the Commission's jurisdiction.
- (d) The Commission, acting primarily through its Executive Director, shall conduct, or cause to be conducted by qualified third-party contractors, background investigations on all applicants for licenses and shall require that licensees periodically update background information at such times as the Commission, in its discretion, may require. With regard to all licensees, the Commission shall have the power and authority to approve or deny any license application; to limit, cancel, revoke, terminate, condition, modify, suspend, or restrict any license; to make findings of suitability; to inspect and license Gaming Facilities and related premises; and to impose fines or sanctions upon any licensee determined to have violated this Ordinance, the Commission's regulations or other applicable law or regulation, subject to the hearing process set forth in Section 3-1.06 of this Code. The Commission is empowered to conduct regulatory enforcement, exclusion, tort claim and other hearings and appeals as provided in this Ordinance or any other applicable law, ordinance or regulation.
- (e) The Commission shall maintain complete and confidential records regarding the following: all applications, financial statements, fingerprints, contracts, licenses, suspension and cancellation notices, and correspondence to or from all applicants and licensees, Gaming Facilities, Gaming Operations, and suppliers of gaming goods and services, reports relating to patron disputes, complaints or tort claims, and notices from and correspondence with all federal and State regulatory agencies.

- (f) The Commission shall submit such written reports to the Tribal Council as the Tribal Council may from time to time request, including but not limited to: number and types of licenses issued during the previous calendar quarter; identity of licensees; information regarding license denials, suspensions or revocations; and reports of any events of noncompliance, breach or violations of gaming rules, compact, Secretarial Procedures, IGRA, Commission license, or any other applicable law or regulation; *provided*, however, that the Commission need not include in its reports confidential information obtained during background investigations or other matters that are the subject of or related to a pending Commission investigation or hearing; and *provided further*, that the Tribal Council shall not disseminate such reports to the General Council unless the names and other identifying information of individuals identified in such reports have been redacted to protect the applicable privacy rights, if any, of such individuals.

SECTION 2.9. REMOVAL OF GAMING COMMISSIONERS

- (a) A Commissioner may be removed from office by the Tribal Council prior to the end of the Commissioner's term only for official acts of malfeasance, misfeasance, unexcused failure to perform the duties of his/her office, or official or unofficial conduct that renders the Commissioner unfit to occupy a position of trust or that is reasonably likely to damage the Commission's and/or the Soboba Band's reputation for integrity and competence. Mere disagreement with a Commission decision, or an individual Commissioner's vote on a Commission decision, shall not constitute grounds for removal of a Commissioner. Notwithstanding any other provision of this Ordinance, the Tribal Council may, by a vote of a majority of the Tribal Council members then in office, temporarily suspend a Commissioner for up to fourteen (14) calendar days, with or without compensation, if the Tribal Council has probable cause, based on reliable information, to believe that grounds exist to remove a Commissioner.
- (b) A Commissioner subject to removal shall be given written notice at least fourteen (14) calendar days before the Tribal Council convenes to consider his/her proposed removal. The written notice shall set forth with specificity the grounds for removal. The notice shall also inform the Commissioner of the date, time and location when the Tribal Council will consider the proposed removal.
- (c) A Commissioner subject to removal from office shall be afforded the opportunity to present written and oral testimony and other evidence to the Tribal Council before it renders a final decision. The Tribal Council shall issue a final decision on removal within ten (10) calendar days of the date of the hearing. Removal of a Commissioner shall require a determination by a four-fifths (4/5) vote of the Tribal Council that there are substantial grounds for removal. If there are fewer than five members on the Tribal Council, a Commissioner may be removed by a majority vote of the members of the Tribal Council then in office. If the Commissioner has been temporarily suspended pending the hearing, the Tribal Council may continue the suspension under the same terms and conditions pending issuance of its decision after hearing.

- (d) The Tribal Council's decision after the hearing shall be in writing and shall set forth specific findings on each allegation of cause for removal. A Commissioner shall not be removed unless the Tribal Council determines that there are substantial grounds upon which the Commissioner should be removed for malfeasance, misfeasance, nonfeasance or official or unofficial conduct that renders the Commissioner unfit to occupy a position of trust or that is reasonably likely to damage the Commission's and/or the Soboba Band's reputation for integrity and competence, and its written decision, which is final, shall be provided to the Commissioner within five days of issuance, and also shall be sent to the NIGC and, if required by the Band's Compact or Secretarial Procedures, to the State Gaming Agency.

ARTICLE III. GAMING LICENSES AND APPEALS

SECTION 3.1. GAMING LICENSES REQUIRED

The Executive Director, or only in the absence of an Executive Director, the Commission, respectively, are in accordance with this Ordinance, hereby authorized and responsible for the issuance of all licenses required for the conduct of any gaming under this Ordinance, or any other licenses related to gaming which the Commission by rule or regulation, may require.

- (a) Natural Persons. The following persons must obtain licenses as a precondition to employment or providing goods and services to the gaming and non-gaming portions of the Band's Gaming Operations, as applicable:
 - (1) All Primary Management Officials and Key Employees, including but not limited to persons who have authority to hire, fire and direct subordinate employees, to establish policies for the Gaming Operations or who have responsibilities involving the maintaining of books and records or handling gaming-related cash.
 - (2) Any other employee or class of employees as required by a Compact or Secretarial Procedures to which the Soboba Band is a party, or as determined by Commission rules or regulations.
- (b) Vendors. Providers of Gaming Resources as defined by the Band's Compact or Secretarial Procedures must be licensed and registered with the Commission in accordance with Commission regulations. Suppliers of non-gaming goods or services for the Band's Gaming Operations must comply with the Commission's vendor regulations and licensing requirements in accordance with Commission regulations unless exempted under the Commission's licensing rules or regulations. Each entity, including a supplier of gaming and/or non-gaming goods and services, applying for a license must complete the following items:
 - (1) Application for vendor registration by entity;
 - (2) Request/Consent to release information by entity;
 - (3) Any additional forms or information from an applicant as deemed necessary.
- (c) Labor organizations. For the purposes of this Ordinance, and except as otherwise specifically provided herein, a Labor Organization (Union) seeking to organize or represent any persons or groups of persons employed by the Soboba Band in connection with its Gaming Operations or related activities shall apply for licensure in the same manner as would a vendor; *provided*, that because representatives of a Labor Organization may have access to areas of a Gaming Facility not ordinarily open to the

public, and will be interacting directly with Gaming Operation employees, a Labor Organization shall submit the following additional information:

- (1) The name and address of any national or international organization(s) with which the Applicant is affiliated;
- (2) A copy of the Applicant's constitution, by-laws and written rules;
- (3) A diagram depicting the Applicant's organizational structure;
- (4) A copy of each collective bargaining agreement with another gaming employer to which the Applicant currently is a party;
- (5) Applicant's rules regarding qualifications for or restrictions on membership, levying of dues or other assessments, participation in insurance or other benefit plans, authorization for disbursement of Labor Organization funds, audit of Labor Organization financial records, calling of special or regular meetings; the selection of officers and stewards; discipline or removal of officers, stewards or agents; and imposition of fines, suspensions or expulsions of members and the grounds for such actions;
- (6) A copy of the three most recent Annual Reports as submitted the U.S. Department of Labor's Form LM-2 or similar;
- (7) A description of any pending legal proceeding(s) or proceeding(s) concluded within the three years immediately preceding the date of application initiated by any federal agency and involving the Applicant, its business agent(s), Officer(s) or principal employees acting on behalf of or at the direction of the Applicant or any other Labor Organization; and
- (8) Information releases allowing the Commission to conduct a background investigation of the Applicant, any person whose name is required to appear on the application, and any person employed by Applicant who will have contact with Gaming Operation employees on Gaming Operation premises.
- (9) The Application must be verified under penalty of perjury and executed by the President or Authorized Officer of the applicant and shall contain a written certification that the information provided in the application is complete and accurate.
- (10) Any person affiliated with the Applicant who will be engaged in organizing activity at the Gaming Facility, or who will be present on the premises of the Gaming Facility for the purpose of interacting with Gaming Operation employees, whether

for organizing purposes or in connection with implementing a collective bargaining agreement, shall be required to obtain a vendor license from the Commission prior to engaging in any organizing activity.

- (11) Notwithstanding anything to the contrary in the preceding subsections, the Executive Director, in his/her sole discretion, may relieve a Labor Organization of the obligation to submit personal information about the officers and employees of the national or international Labor Organization with which the local Labor Organization is affiliated, and to waive licensure of and personal information about individuals who will not be engaged in organizing activities or union representation of Gaming Operation employees on the Soboba Indian Reservation.

- (d) Gaming Facilities. Each place, facility, or location where gaming is conducted on the Band's Reservation or Indian lands must obtain a separate facility license from the Commission.

- (1) 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. The Commission shall issue a facility license, valid for two years, to a Gaming Facility if the Gaming Facility:

- (i) Is a sound physical structure meeting the Band's life safety codes, with adequate and safe plumbing, electrical, heating, cooling and ventilation systems, and potable water supply and wastewater disposal systems in place and operational;
- (ii) Has been inspected and approved for safety by qualified building and fire inspectors designated by the Commission;
- (iii) Is adequate in all respects to accommodate the gaming and non-gaming activities intended to be carried on within the structure;
- (iv) Is equipped with security and surveillance equipment meeting or exceeding provisions set forth in regulations established by the Commission or by other applicable laws and regulations for the protection of patrons, employees, and casino assets; and
- (v) Meets all requirements of applicable rules and regulations set forth in the Ordinance, other Band ordinances, applicable federal laws and regulations, and the Band's Class III Gaming Compact or Secretarial procedures.

SECTION 3.2. APPLICATIONS FOR GAMING LICENSES

- (a) Every person and entity applying for a gaming license shall be required to complete an application as prescribed by the Commission, including but not limited to forms to verify application information.
- (b) To the extent not otherwise covered in paragraph (a) in this section, every applicant for a Primary Management Official or Key Employee position shall be required to provide the following information:
 - (1) Full name, other names used (oral or written), Social Security Number(s), birth date, place of birth, proof of citizenship or legal immigration status, gender, and all languages spoken or written;
 - (2) Currently and for the immediately preceding 10 years: business and employment positions held, ownership interests (if any) in those businesses, business and residential addresses, and driver's license numbers (together with jurisdiction of issuance);
 - (3) 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 (b)(2) of this section;
 - (4) Current business and residential telephone numbers, all current mobile phone numbers, e-mail addresses and social media addresses;
 - (5) A description of any existing and previous business relationships with other Indian Tribes, including ownership interests or management positions held in those businesses;
 - (6) A description of any existing and previous business relationships within the gaming industry generally, including ownership or management interests in those businesses;
 - (7) The name and address of each 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, denied or withdrawn, and the result of each such application;
 - (8) For each felony for which the applicant was convicted or is being prosecuted, the charge(s), the name and address of the court involved, and the date and disposition, if any;
 - (9) For each misdemeanor for which the applicant was convicted or is being prosecuted (excluding infractions or motor vehicle moving violations not involving drugs or

alcohol) within 10 years of the date of the application, the name and address of the court involved, the charge(s), and the date and disposition, if any;

- (10) For each criminal charge (excluding infractions or motor vehicle moving violations not involving drugs or alcohol), whether or not there is a conviction, if such criminal charge is within 10 years of the date of the application and is not otherwise listed pursuant to paragraph (B)(8) or (B)(9) of this section, the criminal charge, the name and address of the court involved and the date and 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 color photograph taken within the previous 12 months and showing at least the applicant's full face and shoulders (applicable to natural persons only);
 - (13) Fingerprints obtained in accordance with procedures adopted by the Commission pursuant to 25 C.F.R. Sec. 522.2(h), or as otherwise permitted by the Band's Compact or Secretarial Procedures. Fingerprints shall be forwarded to the NIGC for processing through the Federal Bureau of Investigation ("FBI") and the National Criminal Information Center ("NCIC"), , to determine the applicant's criminal history, if any; and
 - (14) Any other information the Commission deems relevant.
- (c) All applicants shall agree in writing to abide by all conditions of the license, this Ordinance, applicable regulations, the Band's compact, Secretarial procedures or IGRA, as applicable, and to be subject to the jurisdiction of the Commission and the Soboba Band in any matter connected to the Band's Gaming Operations.
- (d) All applicants shall have a continuing duty to provide any materials, assistance, or other information required by the Commission relative to an application or ongoing licensure. If any information provided on an application changes or becomes inaccurate in any way, the applicant shall promptly notify the Executive Director, or designee, of such changes or inaccuracies and provide updated or corrected information. Failure to do so may result in license denial, suspension or revocation.
- (e) Any applicant may submit a written request to the Executive Director to withdraw an application prior to the Executive Director's decision on the application. The Executive Director may approve such request on a case by case basis taking into consideration all factors involving the request.
- (f) Every applicant shall contain the following notice 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 USC Sections 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 Soboba Gaming Commission 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 Soboba 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 gaming operation. Failure to consent to the disclosures indicated in this notice will result in Soboba 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 or errors in processing your application.

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 3.3. BACKGROUND INVESTIGATIONS

Background investigations shall be conducted by the Executive Director through Commission staff or a contracted agent for each applicant for a gaming license to determine whether an applicant's prior activities, criminal records, if any, and reputation, habits and associations pose a threat to the public interest or to the effective regulation of gaming on lands within the Band's jurisdiction, or create or enhance the dangers of unsuitable, unfair, or illegal practices and methods and activities in the conduct of gaming on lands within the Band's jurisdiction.

(a) When a person has applied for a Primary Management Official or Key license position, the Commission staff shall:

- (1) Conduct a background investigation to determine the eligibility of the applicant for employment in a Gaming Operation. Before issuing a license, the Executive Director or Commission, as applicable, shall review the applicant's prior activities, criminal records, if any, and reputation, habits and associations to make an eligibility determination. In conducting a background investigation of a Key Employee or Primary Management Official, the Executive Director shall:

- (i) Verify the applicant's identity and eligibility for employment through items such as a Social Security Card, valid and current driver's license, birth certificate, passport or other means;
 - (ii) Contact each personal and business reference provided in the license application, when possible;
 - (iii) Obtain a personal credit check;
 - (iv) Conduct a civil litigation history check;
 - (v) Conduct a criminal history check via the submission of the applicant's fingerprints to the NIGC or other appropriate agency, and further obtain information from the appropriate court regarding any convictions and charges within the past 10 years;
 - (vi) Inquire into any previous or existing business relationships within the gaming industry and/or with Indian tribes;
 - (vii) Verify the applicant's history and status with any licensing agency be contacting the agency; and
 - (viii) Take other appropriate steps to verify the accuracy of the information provided by the applicant.
- (b) Before issuing a License to a Primary Management Official or to a Key Employee, the Commission shall create and maintain an investigate report on each background investigation. An investigative report shall include all of the following:
- (1) Steps taken in conducting a background investigation;
 - (2) Results obtained;
 - (3) Conclusions reached; and
 - (4) The basis for the conclusions.
- (c) Upon completion of a background investigation, the Executive Director or Commission, as applicable, shall make a specific determination of eligibility for licensure as an employee in a Gaming Operation. For Primary Management Officials or Key Employees, within sixty (60) days of initial employment, the Executive Director or Commission, as applicable, shall forward to the NIGC a completed Eligibility Determination Notice of Results, as required by 25 CFR 556.6. After the Commission has provided a Notice of Results to the NIGC, it may issue the license.

- (d) The Commission shall notify the NIGC of the issuance of a license within thirty (30) days of its issuance.
- (e) The NIGC shall receive a report submitted under paragraph (b) of this section. If the NIGC requests additional information from the Commission concerning a Key Employee or a Primary Management Official who is the subject of a report, such a request shall be made within thirty (30) days.
- (f) If, within the thirty (30) day time period described in paragraph (d) of this section, the NIGC provides the Commission with a statement itemizing objections to the issuance of a license to a Key Employee or to a Primary Management Official for whom the Commission has provided a Notice of Results to the NIGC, the Commission shall reconsider the application, taking into account the objections itemized by the NIGC.
- (g) If the Commission has issued a license prior to receiving the NIGC's objections, it shall immediately suspend the license and shall provide the licensee with written notice of suspension. The Commission shall also notify the licensee of a time and place of a hearing to determine whether the license should be granted despite the NIGC's objections.
- (h) If the Commission reinstates or 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, the Commission shall so notify the NIGC within forty-five (45) days of receiving notification from the NIGC pursuant to paragraph (e) of this section. The Commission shall forward copies of its Notice of Results for inclusion in the Indian Gaming Individuals Record System.
- (i) The Commission shall make the final decision whether to issue a license to such applicant and shall so inform the NIGC.
- (j) If the Commission does not license an applicant, then the Commission shall notify the NIGC and shall forward copies of its eligibility determination and notice of results to the NIGC for inclusion in the Indian Gaming Individuals Record System.
- (k) If the Commission revokes the License for a Key Employee or Primary Management Official, then the Commission shall notify the NIGC and shall forward copies of its license revocation decision to the NIGC for inclusion in the Indian Gaming Individuals Record System.
- (l) A Band Gaming Operation shall not continue to employ a Key Employee or Primary Management Official beyond ninety (90) calendar days from the start of employment if the employee has not obtained a license by that date.

- (m) For Primary Management Officials or Key Employees, the Commission shall retain license application, background investigations and eligibility determinations for inspection by the NIGC and, for Class III licensees pursuant to a Compact, by the State Gaming Agency, for no less than three (3) years from the date of termination of employment.
- (n) To the extent required by a Compact that is in effect, the Commission shall provide notification to the State Gaming Agency of licensing determinations for Primary Management Officials and Key Employees. To the extent that applicable Compact licensing requirements and procedures for persons or entities engaged in or affecting Class III gaming activities differ from the NIGC's requirements as set forth above, the Compact's requirements also shall apply to those persons or entities.
- (o) The Commission may develop regulations for the licensure of non-Key Employees.
- (p) The Commission shall keep confidential the identity of each person interviewed in the course of any background investigation.

SECTION 3.4. TEMPORARY AUTHORIZATIONS FOR EMPLOYMENT

- (a) The Executive Director or Commission, as applicable, may issue temporary gaming licenses for Gaming Operation Primary Management Officials or Key Employees pending the satisfactory completion of all background investigations and other applicable requirements of this Ordinance, IGRA, the Band's applicable Class III gaming compact or Class III Secretarial procedures. In no event shall a Primary Management Official or Key Employee temporary gaming license be valid for more than ninety (90) calendar days after commencement of employment. The Commission may adopt regulations for the issuance of temporary licenses to non-Key Employees of the casino.
- (b) Any person may start employment prior to the issuance of a gaming license only if the Executive Director or Commission, as applicable, has issued a temporary license based on the preliminary finding of eligibility for employment in Gaming or related non-Gaming Operational areas, which shall require a preliminary determination that the individual in question is not a person whose prior activities, criminal record or reputation, habits or associations pose a threat to the public interest or to the effective regulation and control of gaming, or create or enhance the dangers of unsuitable, unfair, or illegal practices, methods, or activities in the operation of gaming or the carrying on of the business and financial arrangements incidental thereto.
- (c) A Gaming Operation immediately shall terminate the employment of any person whose gaming license, whether temporary, conditional or otherwise, has expired without a new application having been filed, been denied, or revoked by the Executive Director or Commission, as applicable. A Gaming Operation shall suspend the employment of any person whose gaming license has been suspended by the Executive Director or

Commission, and such suspension of employment shall continue for at least the duration of the suspension of the person's license. A person whose employment has been terminated based upon the Executive Director's or Commission's denial or revocation of a required gaming license shall be deemed to have been terminated for misconduct inimical to the interests of his/her employer.

SECTION 3.5. TERMS AND CONDITIONS OF LICENSURE

Any gaming employee license issued by the Executive Director or Commission, as applicable, except a temporary or a conditional license, shall be subject to biennial renewal unless revoked, suspended or terminated by the Executive Director or Commission.

- (a) In order for the Commission to recover the costs of complying with federal and state regulatory processes applicable to Class II Gaming and Class III Gaming, biennial license and other related fees may be imposed in accordance with a fee schedule established by the Commission. In its discretion, the Commission may require or allow such fees to be paid by a Gaming Operation.
- (b) A gaming license shall be denied or revoked if the employee is determined by the Executive Director or Commission to be a person whose activities, criminal record, reputation, habits or associations pose a threat to the public interest or to the effective regulation and control of gaming, or create or enhance the dangers of unsuitable, unfair, or illegal practices, methods, or activities in the operation of gaming or the carrying on of the business and financial arrangements incidental thereto.
- (c) Violations of any provision of this Ordinance by an employee under a license, or engaging in acts of sexual, racial, gender or religious harassment, discrimination or retaliation shall be deemed contrary to the public health, safety, morals, good order and general welfare of the Band and its Citizens, and shall be grounds for suspension or revocation of a license. Acceptance of a license by an employee constitutes an agreement of the part of the employee to be bound by the provisions of this Ordinance and the rules as they now exist, or as they hereafter may be amended or restated, to cooperate fully with the Executive Director or Commission and to be subject to the regulatory and adjudicatory jurisdiction of the Soboba Band. It is the responsibility of each employee and other licensee to remain informed of the contents of this Ordinance, the Commission's rules and all other applicable regulations, amendments, provisions, and conditions, and ignorance thereof will not excuse violations.
- (d) A license issued hereunder is a privilege and no legally vested right shall attach thereto.

SECTION 3.6. LICENSE APPEALS

- (a) Individual Licensees. Any decision by the Executive Director, or by a Commissioner acting if the position of Executive Director is vacant, resulting in the disapproval,

revocation or suspension of a gaming license or the imposition of fines, conditions, or other sanctions on an individual licensee under this Ordinance may be appealed to the Commission. The Commission shall provide the licensee with (1) notice of the proceeding, (2) an opportunity to be present, and (3) an opportunity to show cause why the decision should be affirmed or vacated and remanded for further consideration.

- (b) Upon receipt of an appeal, the Commission shall schedule the matter for hearing within thirty (30) calendar days. No member of the Commission may participate in hearing or adjudicating the appeal of an appellant who is a member of the Commissioner's immediate household, or whose relationship with the appellant would otherwise give rise to a conflict of interest. If all Commission members would be disqualified from participating in hearing or adjudicating the appeal, the Commission shall retain an independent hearing officer through an established provider of alternative dispute resolution services to conduct and adjudicate the appeal. The independent hearing officer shall be a retired tribal judge, federal judge or magistrate judge, or a retired California state court judge.
- (c) As promptly following a license appeal hearing as is feasible, the Commission shall issue its decision to the licensee, which decision shall include:
 - (1) Whether action(s) taken by the Executive Director were authorized under the Ordinance;
 - (2) Whether the Executive Director's actions and decisions were supported by substantial evidence in the record; and
 - (3) Whether the Executive Director's actions/decisions, including fines, should be upheld, modified or vacated and remanded for further consideration as the Commission may direct.
 - (4) Whether the Executive Director's actions were arbitrary or capricious or the Executive Director clearly erred in his/her interpretation or application of applicable laws and/or regulations.
- (d) The Commission's decision on appeal shall be final and binding and not subject to further appeal to any other entity or court.

ARTICLE IV. ENFORCEMENT

SECTION 4.1. ENFORCEMENT ACTIONS

(a) The Commission may issue a notice of violation to any person or entity for a violation of any provision of the Ordinance, the Band's applicable Compact or Secretarial Procedures, the IGRA or other applicable tribal or federal law or regulation.

(1) A notice of violation shall contain:

- (i) A citation to the tribal, applicable Compact, Secretarial Procedures or federal legal requirement that has been or is being violated;
- (ii) A description of the circumstances surrounding the violation, set forth in plain and concise language;
- (iii) Measures required to correct the violation, if the violation can be corrected;
- (iv) If the violation can be corrected, a reasonable time for correction, if the respondent cannot take measures to complete correction of the violation immediately; and
- (v) Notice of rights of appeal.

(b) The Commission may impose such fees as are reasonably related to costs of enforcement, including investigations and proceedings before the Commission, which will in the aggregate be sufficient to enable the Commission to recover its reasonable costs of enforcing the Ordinance.

(c) Order of Temporary Closure or Restricted Operation.

Upon the issuance of a notice of violation, the Commission shall cause the notice to be delivered to the General Manager of the Gaming Operation, with a copy to the Tribal Council. Simultaneously with or subsequent to the issuance of a notice of violation involving an imminent threat to the integrity of gaming activities, tribal assets or the public health, safety and welfare, the Commission may issue and serve upon the General Manager of the Gaming Operation, with a copy to the Tribal Council, an order temporarily closing or restricting operation of all or part of a Gaming Operation for substantial violations of tribal and/or federal law or the Band's Compact or Secretarial Procedures. If, for any reason, the General Manager cannot be located for service, the notice and any associated order shall be delivered to the senior-most management official present at the Gaming Facility.

- (1) The Gaming Operation shall close or restrict its operations as directed upon receipt or posting of an order of temporary closure or restricted operation unless the order provides otherwise.
 - (2) Informal expedited review. Within one (1) calendar day after service of an order of temporary closure or restricted operation, the General Manager of the Gaming Operation may request, in writing submitted to the Executive Director, informal expedited review by the Commission,
 - (i) The Commission shall complete the expedited review provided for by this paragraph as soon as is practicable and in no event later than one (1) calendar day after receipt of a timely request. If the Commission fails to timely complete its expedited review by 11:59 p.m. of the day following receipt of the request for expedited review, the temporary closure or restricted operation order shall expire at that time, subject to being re-imposed by the Commission if the violation poses a threat to public health or safety, would constitute grounds for termination of the Band's Compact, or would result in the issuance of a Notice of Violation by the NIGC that could result in a closure order or imposition of a fine by that agency.
 - (ii) The Commission shall, as soon as is practicable and no later than one (1) calendar day after the expedited review provided for by this paragraph, decide whether to continue an order of temporary closure or restricted operation and provide the Gaming Operation with an explanation of and the factual basis for that decision.
 - (iii) Whether or not Gaming Operation seeks informal expedited review under this paragraph, the Gaming Operation may appeal the order to the full Commission pursuant to paragraph (d) below by filing a notice of appeal with the Commission within thirty (30) days after the Commission serves an order of temporary closure or restricted operation. Otherwise, the order shall remain in effect unless rescinded or modified by the Commission for good cause.
- (d) Civil Fine Assessments.
- (1) The Commission shall review every notice of violation and order of temporary closure or restricted operation to determine whether a civil fine should be assessed, the appropriate amount of the fine, and, in the case of continuing violations, whether each daily illegal act or omission will be deemed a separate violation for purposes of the total civil fine assessed.
 - (2) Within fifteen (15) calendar days after service of a notice of violation, or such longer period as the Commission may grant for good cause, the respondent may submit written information about the violation to the Commission. The Commission shall

consider any information so submitted in determining the facts surrounding the violation and the amount of the civil fine to be imposed.

- (3) The Commission shall serve a copy of the proposed assessment on the respondent within thirty (30) calendar days after the notice of violation was issued.
- (4) The Commission may review, reassess, withdraw or stay the imposition of any civil fine if necessary to consider facts that were not reasonably available on the date of issuance of the proposed assessment.
- (5) If the respondent fails to request a hearing as provided in paragraph (e) below, the proposed civil fine assessment shall become the final order of the Commission. Civil fines assessed under this part against individual licensees shall be paid by the person or entity assessed, and shall not be paid by or treated as an operating expense of the Gaming Operation.

(e) Hearings Before the Commission.

- (1) Within thirty (30) calendar days after notification of an adverse Commission action, a respondent may request a hearing to contest:
 - (i) A notice of violation;
 - (ii) A proposed civil fine assessment or reassessment;
 - (iii) An order of temporary closure or restricted operation; or
 - (iv) An order of exclusion under sec.4-1.02 from one or more of the Band's gaming establishments.
- (2) A request for hearing shall reference the notification or decision being contested.
- (3) Within ten (10) calendar days after filing a request for hearing, a hearing shall be scheduled, with notice of the time, date and place of the hearing provided to the respondent.
- (4) Within ten (10) calendar days after the respondent receives notice of the hearing, the respondent shall file with the Commission a supplemental statement that states with particularity the relief desired and the grounds therefor, and that includes, when available, supporting evidence in the form of documents and declarations under penalty of perjury. At the hearing, the respondent is entitled to call witnesses and present evidence. If the respondent wishes to present oral testimony or witnesses at the hearing, the respondent shall include notice of this in the supplemental statement. The notice shall specify the names, contact information and job titles of proposed witnesses, a summary of the expected testimony, and whether a closed hearing is

requested and, if so, why. The respondent may waive its right to an oral hearing and instead elect to have the matter determined by the Commission solely on the basis of written submissions.

- (5) The full Commission shall issue a decision by majority vote within thirty (30) calendar days after the date on which the hearing was held. The decision of the Commission shall be in writing, based upon the whole record and shall include findings of fact upon each material issue of fact, and conclusions of law on each legal issue presented on the record. In rendering a decision, the Commission shall apply a substantial evidence standard. The decision of the Commission shall be final and not subject to further administrative or judicial review.
- (6) Notwithstanding the above, the Commission shall comply with any hearing procedures and/or requirements set forth in the Band's Class III compact or Secretarial Procedures.

SECTION 4.2. EJECTION OR EXCLUSION OF PERONS

- (a) Gaming Operation personnel may, directly or with the assistance of Gaming Operation Security or the Soboba Department of Public Safety, eject or exclude any person from a Gaming Facility in accordance with casino policy, as approved by the Commission, who:
 - (1) Is visibly under the influence of liquor, a drug or other intoxicating substance;
 - (2) Is under the minimum age, if any, applicable to an area of a Gaming Facility in which the person is present;
 - (3) Is engaging in disorderly or unlawful conduct;
 - (4) Is a person known to have committed a gaming-related crime;
 - (5) Is known to have a reputation for cheating or manipulation of games; or
 - (6) Has been excluded from a Band gaming facility by the Commission or Tribal Council for the time period ordered by either of those entities, or has voluntarily excluded himself/herself from a Band gaming facility.
 - (7) Is determined otherwise to pose a threat to the health or safety of Gaming Facility patrons, staff or other persons or property, or whose presence would be harmful to the functioning, reputation or assets of the Gaming Operation or the Soboba Band.
- (b) Upon ordering any person ejected or excluded from a Gaming Facility by Gaming Operation personnel, the person ordering the ejection or exclusion shall immediately

notify the surveillance department, who shall preserve video in accordance with surveillance policies as approved by the Commission.

- (c) The Commission may exclude any person from the premises of any Band gaming facility for any violation under this Ordinance, applicable Compact requirements, Secretarial Procedures or applicable federal or California law or regulation. Any individual so excluded is entitled to a hearing pursuant to Sec.41.01(e)(iv).

SECTION 4.3. PROHIBITED ACTS

- (a) In addition to other civil and criminal acts that may be regulated or prohibited by this Ordinance, the Band's applicable Class III gaming compact, Secretarial Procedures, or other applicable Tribal or federal law, the following shall constitute a non-exhaustive list of prohibited activities and unauthorized gaming under this Ordinance and may subject any perpetrator to Commission action including, but not limited to, enforcement actions, exclusions, referral to appropriate law enforcement authorities, and license suspension or revocation:
 - (1) Altering or misrepresenting the outcome of gaming or other events on which wagers have been made after the outcome of such gaming or event has been determined but before such outcome is revealed to the players;
 - (2) Placing or increasing a bet or wager after acquiring knowledge of the outcome of the gaming or event which is the subject of the bet or wager, including past-posting and pressing bets;
 - (3) Aiding anyone in acquiring such knowledge referred to in subsection (ii) of this section for the purposes of increasing or decreasing any bet or wager, including past-posting and pressing bets;
 - (4) Claiming, collecting or taking, or attempting to claim, collect or take, money or anything of value in or from a game with intent to defraud or claiming, collecting or taking an amount greater than the amount actually won in such game;
 - (5) Knowingly to entice or induce another to go to any place where gaming is conducted or operated in violation of the provisions of this Ordinance, with the intent that the other person play or participate in such unlawful gaming;
 - (6) Reducing the amount wagered or canceling a wager after acquiring knowledge of the outcome of the game or other event which is the subject of the bet or wager, including pinching bets;
 - (7) Manipulating, with intent to cheat or defraud, any component or part of a game in a manner contrary to the designed and normal operational purpose for such

component or part, with knowledge that such manipulation will affect the outcome of the game, or with knowledge of any event that affects the outcome of the game;

- (8) Defrauding the Band, any licensee or any participant in any Band Gaming Activity;
- (9) Participating on the Soboba Indian Reservation in any Gaming Activity not authorized under this Ordinance and/or the Band's applicable Compact or Secretarial Procedures;
- (10) Knowingly providing false information or making any false statement with respect to an application for employment or for any license, certification or determination provided for in this Ordinance;
- (11) Knowingly providing false or misleading information or making any false or misleading statement to the Band or the Commission in connection with any contract for services or property related to gaming;
- (12) Knowingly making any false or misleading statement in response to any official inquiry by the Commission or its agents, or in any proceedings under this Ordinance;
- (13) Offering or attempting to offer anything of value to a Commissioner or a licensee in an attempt to induce the Commissioner or licensee to act or refrain from acting in a manner contrary to the official duties of the Commissioner or licensee under this Ordinance, applicable Tribal or federal law, NIGC regulations or the IGRA;
- (14) Acceptance by a Commissioner or licensee of anything of value with the expectation that receipt of such thing of value is intended, or may be perceived as intended, to induce the Commissioner or licensee to act or refrain from acting, in a manner contrary to the official duties of the Commissioner or licensee under this Ordinance, NIGC regulations, Tribal and applicable federal law or the IGRA;
- (15) Falsifying, destroying, erasing or altering any books, computer data, records, or other information relating to a Gaming Operation in ways other than is provided in approved internal control procedures;
- (16) Taking any action which interferes with or prevents the Commission or any Band entity from fulfilling its duties and responsibilities under this Ordinance, applicable Tribal or federal law, NIGC regulations or the IGRA;
- (17) Entering into any contract, or making payment on any contract for the delivery of goods or services to a Gaming Operation, with knowledge that such contract fails to

provide for or fails to result in the delivery of goods or services of fair value for the payment made or contemplated;

- (18) Except as specifically permitted by the Commission, possessing on the Soboba Indian Reservation, with the intent to use in connection with a Gaming Activity, whether individually or in concert with others, any calculator, computer, or other electronic or mechanical device to assist in predicting the outcome or odds of such Gaming Activity, to keep track of or analyze cards, or to change probabilities of any game or the playing strategies regularly utilized in such Gaming Activity; and
- (19) Any other act or omission that would threaten the integrity of games, put at risk Gaming Operation assets, or jeopardize the health or safety of persons present on Gaming Operation premises or the reputation of the Soboba Band or its Gaming Operations.

SECTION 4.4. PATRON DISPUTES AND UNCLAIMED WINNINGS

- (a) Unclaimed Winnings. Any winnings, whether property or cash, which are due and payable to a participant in any gaming activity, and which remain unclaimed for twenty-four hours, shall be held by the Gaming Operation in safekeeping for the benefit of such participant for up to 90 days. The Gaming Operation shall notify the Commission of the amount of cash or the estimated value of the property, and, if known, the identity and contact information of the person for whom the cash or property is being held. The Gaming Operation shall make a good faith attempt to notify the owner of the unclaimed cash or property. At the end of the safekeeping period, such cash or property shall be deemed abandoned, and title thereto shall revert to the Gaming Operation.
- (b) Patron Disputes. Patron disputes involving game outcomes, currency, tokens, coins, or any other thing of value, or other matters not involving claims for personal injury, bodily injury and/or property damage, shall be resolved in accordance with Commission regulations promulgated in accordance with Section 10 of the Band's Secretarial Procedures.
- (c) Any patron claim for bodily injury, personal injury or property damage based on the alleged negligent act or omission of a Gaming Operation employee or Band official on or in connection with the operation of the premises of a Gaming Facility shall be processed pursuant to the Soboba Tort Claims (or Liability) Ordinance in effect when the event upon which the claim is based occurred.
- (d) Immediately upon learning of the existence of any dispute, disagreement or other grievance with a Gaming Operation, or immediately upon learning of the occurrence of an incident involving any injury to persons or property, Gaming Operation personnel shall notify the surveillance department, who shall take necessary actions to preserve all

related/relevant video in accordance with surveillance policies as approved by the Commission.

ARTICLE V. GENERAL REQUIREMENTS

SECTION 5.1. CONSENT TO JURISDICTION

Any person who applies for a license under this Ordinance, applies for employment in any Gaming Facility, enters into any contract or agreement related to gaming on the Soboba Reservation, enters into a Soboba Gaming Facility or participates in any Soboba Gaming Activity, shall be deemed to have consented to the civil regulatory and adjudicatory jurisdiction of Band and the Commission. Notice of such implied consent shall be posted at the entrances of any Gaming Facility.

SECTION 5.2. AGENTS FOR SERVICE OF PROCESS

The Chairperson of Soboba Tribal Council shall be the Band's agent for service of any official determination, order or notice of violation. The Chairman of the Soboba Gaming Commission shall be the Commission's agent for service of any notice of appeal, claim for personal injury, bodily injury or property damage, patron dispute, or court process relating to any claim for personal injury or property damage.

SECTION 5.3. RECOGNITION AND ENFORCEMENT OF ORDERS

The Commission is empowered to seek recognition and enforcement of its orders from and in the courts and agencies of the Band and any other jurisdiction whose assistance may be required to give effect to the orders of the Commission.

SECTION 5.4. AMENDMENTS

Pursuant to the authority granted by the General Council in GC93-BGO-04, all provisions of this Ordinance are subject to amendment by the Tribal Council, provided that any such amendment(s) may not be inconsistent with or less restrictive than the original terms of GC93-BGO-04. All amendments to this Ordinance shall be effective upon review and approval by the Chairman of the NIGC.

If any provision of this Ordinance is inconsistent with the terms of any Class III Secretarial Procedures or Class III Gaming Compact to which the Band is or may become a party, or another later-enacted Band Ordinance, the terms of the Secretarial Procedures, Compact or such Ordinance automatically shall supersede the inconsistent provision(s) of this Ordinance without the Ordinance having to be amended.

All rules and regulations promulgated by the Commission under this Ordinance may be revised, repealed and amended by the Commission to comply with any Compact or Class III Secretarial Procedures to which the Band is or may become a party, the Ordinance and applicable Band and federal law.

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SECTION 5.5. SEVERABILITY

If any provision of this Ordinance, or any portion of any provision of this Ordinance, is found to be invalid by any court of competent jurisdiction, the full remainder of this Ordinance shall not be affected.

SECTION 5.6. REPEAL

To the extent that they are inconsistent with this Ordinance, all prior Band gaming laws, rules, regulations or ordinances are hereby repealed.

