



February 16, 2017

BY FIRST CLASS MAIL

Cody J. Martinez, Tribal Chairman
Sycuan Band of the Kumeyaay Nation
1 Kwaaypaay Court
El Cajon, CA 92019

Re: Second Amended Tribal Gaming Ordinance of the Sycuan Band of the Kumeyaay Nation Amended and Adopted on December 14, 2016 by BC Resolution No. 2016-40

Dear Chairman Tucker:

This letter responds to your request on behalf of the Sycuan Band of the Kumeyaay Nation (Tribe) for the National Indian Gaming Commission to review and approve the Tribe's Second Amended Tribal Gaming Ordinance. The Second Amended Tribal Gaming Ordinance was adopted on December 14, 2016 by Resolution of the Tribe's Business Committee (BC Resolution No. 2016-40). This ordinance supersedes the Tribal Gaming Ordinance approved by the NIGC Chair on April 24, 2014.

The Second Amended Tribal Gaming Ordinance is approved as it is consistent with the requirements of the Indian Gaming Regulatory Act and the NIGC's regulations. If you have any questions, please feel free to contact Maria Getoff, Senior Attorney, at 202-632-7003.

Sincerely,

A handwritten signature in black ink, appearing to read "Jonodev O. Chaudhuri".

Jonodev O. Chaudhuri
Chairman

cc: Michelle Carr, Esq. via email

TRIBAL GAMING ORDINANCE
OF THE
SYCUAN BAND OF THE KUMEYAAY NATION
AMENDED AND ADOPTED ON

December 14, 2016

By Resolution Number 2016-40

SUPERSEDES:
TRIBAL GAMING ORDINANCE ADOPTED FEBRUARY 5, 2014
BY RESOLUTION NO. 2014-2

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CHAPTER 1

DEFINITIONS

In construing the provisions of this Ordinance, save when otherwise plainly declared or clearly apparent from the context; words in the present tense shall include the future tense, words in masculine, feminine or neuter genders shall include all genders, and words in the singular shall include the plural, and in the plural shall include the singular.

Unless a different meaning is clearly indicated, the terms used in this Ordinance shall have the same meaning as defined in the "Indian Gaming Regulatory Act," Public Law 100-497, 102 Stat. 2467, codified at 25 U.S.C. §§2701 - 2721 (Oct. 17, 1988). Additionally, any definitions set forth in a Compact signed by the Tribe and the State of California are adopted as if set forth herein.

Agreed Upon Procedures means the procedures that an independent certified public accountant shall employ in order to verify that the Gaming Operation is in compliance with the internal control standards in the manner provided for in 25 CFR 542.3(F).

Applicant means any person, partnership, corporation, joint venture or other entity applying for, or requesting renewal of, any License or permit described in or required by this Ordinance.

Application means a request for the issuance or renewal of a License or permit described in or required by this Ordinance.

Business Committee means the Business Committee of the Sycuan Band of the Kumeyaay Nation.

Calendar Day means the day of the year, including weekends and holidays.

Calendar Year means the period beginning on the first day of January at 12:00:01 and ending immediately following December 31 at 12:00 midnight.

Chairman/Chairwoman means the Commissioner appointed who shall chair all necessary Sycuan Gaming Commission hearings and meetings.

Class I Gaming means:

- A. Social games played solely for prizes of minimal value; or
- B. Traditional forms of Indian gaming when played by individuals in connection with Tribal ceremonies or celebrations.

Class II Gaming means:

- A. Bingo or lotto (whether or not electronic, computer, or other technologic aids are used) when players:
 - 1. Play for prizes with cards bearing numbers or other designations;

2. Cover numbers or designations when objects, similarly numbered or designated, are drawn or electronically determined; and
 3. Win the game by being the first person to cover a designated pattern on such cards.
 4. Any other games classified as Class II by either the NIGC or a court of competent jurisdiction.
- B. If played in the same location as bingo or lotto, pull tabs, punch boards, tip jars, instant bingo, and other games similar to bingo.
- C. Non house banking card games that:
1. State law explicitly authorizes, or does not explicitly prohibit, and are played legally anywhere in the state; and
 2. Are played in conformity with state laws and regulations concerning hours, periods of operation and limitations on wagers and pot sizes.

Class III Gaming means all forms of gaming that are not Class I Gaming or Class II Gaming including but not limited to:

- A. Any house banking game including but not limited to Card games such as baccarat, chemin de fer, blackjack (21) and pai gow (if played as a house-banking game).
- B. Any slot machine or electronic or electromechanical facsimile of any game of chance.
- C. Any sports betting and pari-mutuel wagering including but not limited to wagering on horse racing, dog racing or jai alai.
- D. Lotteries.

Collateral Agreement means any contract, whether or not in writing, that is related, either directly or indirectly, to a Management Contract or to any rights, duties or obligations created between the Tribe (or any of its members, entities or organizations) and a management contractor or subcontractor (or any person or entity related to or controlled by a management contractor or subcontractor).

Commissioners mean the members of the Gaming Commission individually appointed by the Sycuan Tribal Business Committee.

Compact means any agreement entered into between the Tribe and the State of California pursuant to 25 U.S.C. § 2710 (d) that has been approved by the Secretary of the Interior and is in effect. Provided, that such agreement shall affect the scope and regulation of Class III Gaming activities only.

Executive Director means the Executive Director of the Sycuan Tribal Gaming Commission.

Electronic, Computer, or Other Technologic Aid means any machine or device that

- A. Assists a player or the playing of a game.
- B. Is not an electronic or electromechanical facsimile.
- C. Is operated in accordance with applicable Federal communications law.

Electromechanical Facsimile means a game played in an electronic or electromechanical format that replicates a game of chance.

Fiscal Year means the twelve (12) month period for which an organization plans the use of its funds, beginning and ending on any day of a calendar month.

Game Similar to Bingo means any game that meets the requirements for bingo that is not a house banking game.

Gaming Activities means operating Class II and Class III Gaming authorized under this Ordinance.

Gaming Commission or Commission means the Sycuan Tribal Gaming Commission.

Gaming Device means any so-called "slot machine" or any other machine or mechanical device an essential part of which is a drum or reel with insignia thereon, and which when operated may deliver, as the result of the application of an element of chance, any money or property, or by the operation of which a person may become entitled to receive, as the result of the application of an element of chance, any money or property.

Gaming Employee means any natural person who (a) conducts, operates, maintains, repairs, accounts for, or assists in any Gaming Activities, or is in any way responsible for supervising such Gaming Activities or persons who conduct, maintain, repair, account for, assist, or supervise any such Gaming Activities, (b) is in a category under federal or tribal gaming law requiring licensing, (c) is an employee of the Tribal Gaming Agency with access to confidential information or (d) is a person whose employment duties require or authorize access to areas of the Gaming Facility in which Gaming Activities are conducted that are not open to the public.

Gaming Facility or Facility means any building in which Class III Gaming Activities or Gaming Operations occur, or in which the business records, receipts, or other funds of the

Gaming Operation are maintained (but excluding offsite facilities primarily dedicated to storage of those records, and financial institutions), and all rooms, buildings, and areas, including parking lots and walkways, a principal purpose of which is to serve the activities of the Gaming Operation, provided that nothing herein prevents the conduct of Class II gaming (as defined under IGRA).

Gaming Operation means any economic entity that is licensed by the Tribe, operates the games, receives the revenues, issues the prizes and pays the expenses. A Gaming Operation may be operated by the Tribe directly, by a Management Contractor or, under certain conditions, by another Person or other entity. The Gaming Operation also includes all ancillary activities which enhance or support the Gaming Operation.

Gaming Regulations or Regulations means any regulations, orders or directive of the Gaming Commission, including rules governing the conduct of games, standards and procedures for accounting and other controls of the Gaming Operations, as may be promulgated by the Gaming Commission pursuant to this Ordinance.

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

Gaming Resource Supplier means any person or entity who, directly or indirectly, does, or is deemed likely to, manufacture, distribute, supply, vend, lease, purvey, or otherwise provide to the Gaming Operation or Facility at least twenty-five thousand dollars (\$25,000) in Gaming Resources in any consecutive twelve (12)-month period, or who, directly or indirectly, receives, or is deemed likely to receive, in connection with the Gaming Operation or Facility, at least twenty-five thousand dollars (\$25,000) in any consecutive twelve (12)-month period, provided that the Tribal Gaming Agency may exclude a purveyor or equipment or furniture that is not specifically designed for, and is distributed generally for the use other than in connection with, Gaming Activity, if but for the purveyance, the purveyor is not otherwise a Gaming Resource Supplier, the compensation received by the purveyor is not grossly disproportionate to the value of the goods or services provided, and the purveyor is not otherwise a person who exercises a significant influence over the Gaming Operation.

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

IGRA means the "Indian Gaming Regulatory Act" enacted by the United States Congress on October 17, 1988.

Indian Lands means:

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

Indian Tribe means any Indian Tribe, band, nation, or other organized group or community of Indians that the Secretary recognizes as

- A. Eligible for the special programs and services provided by the United States to Indians because of their status as Indians; and
- B. Having powers of self-government.

Key Employee means:

- A. A Person who performs one or more of the following functions:
 - 1. Bingo caller, supervisor and cashier.
 - 2. Counting room supervisor, count and drop personnel.
 - 3. All security and surveillance personnel.
 - 4. Custodian of gaming supplies or cash.
 - 5. Card room supervisor or floor manager.
 - 6. Pit boss or shift supervisor.
 - 7. Dealer.
 - 8. Croupier.
 - 9. Any Cashier.

10. Approver of credit.
11. Any employee engaged in finance or accounting functions.
12. Custodian of gambling devices or cards, including persons with access to cash and accounting records within such devices.
13. If not otherwise included, any other person whose total cash compensation from employment in the Gaming Operation is in excess of \$50,000 per year.
14. If not otherwise included, the four most highly compensated persons in the gaming operation.
15. Any person who is a financial controller or who has financial management operation responsibilities for the gaming facility.
16. Any other person or employee defined as a key employee under the Tribal-State Compact.
17. Any other person or employee of the Gaming Operation that the Commission or Executive Director designates as a Key Employee.

License means any authorization granted by the Gaming Commission, pursuant to this Ordinance, to any Person which is required for such Person to perform certain acts or engage in certain activities. The issuance of a License shall not create a property or liberty interest in such License for the benefit of the Licensee.

Licensee means any Person who has been issued a valid and current License pursuant to the provisions of this Ordinance.

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 or control of all or part of a Gaming Operation. Management Contract does not include an employment contract with an individual.

MICS means the minimum internal control standards promulgated by the Gaming Commission or the NIGC.

Net Gaming Revenue means the annual total amount of gaming revenue from Class II and Class III gaming less amounts paid out as prizes or paid for prizes awarded.

Net Operating Revenue means Net Gaming Revenue less amounts paid for gaming related operating expenses, excluding management fees.

Net Win or Loss means the difference between gaming wins and losses before deducting operating costs and expenses. For slot machines, net win or loss is equal to the drop less fills, less hand-pays and less hand-paid jackpots.

NIGC means the National Indian Gaming Commission.

Non-Gaming Licensee means any person who is not a Gaming Employee, Primary Management Official or Key Employee. Non-Gaming Licensee may also require licensing by the Tribal Gaming Commission in accordance with any limitations, restrictions or regulatory requirements deemed appropriate by the Tribal Gaming Commission

Ordinance means this Second Amended Tribal Gaming Ordinance approved by the Sycuan Band of the Kumeyaay Nation, authorizing and setting forth the terms for Class II and Class III Gaming Operations on the Sycuan Tribe's land.

Patron means any individual who is physically present on any Gaming Facility premises for the purpose of participating in Gaming Activities or availing him/herself of goods, services, entertainment or other amenities of a Gaming Operation.

Person means any association, partnership, corporation, Limited Liability Company, firm, trust or other form of business association or entity, as well as a natural person.

Primary Management Official means:

- A. The Person(s) having management responsibility over all or any part of any Gaming Operation.
- B. Any Person who has authority to hire and fire employees or to establish working policy for a Gaming Operation.
- C. The Chief Financial Officer or other person who has financial management responsibilities.

Reservation means any lands within the exterior boundaries of the Sycuan Indian Reservation, and any other lands, title to which is held in trust by the United States and over which the Sycuan Band of the Kumeyaay Indians exercise governmental authority.

Sycuan Gaming Agent means any of the employees of the Sycuan Gaming Commission.

Tribe means the Sycuan Band of the Kumeyaay Nation.

CHAPTER 2

PURPOSE, PUBLIC POLICY, APPLICABILITY AND AUTHORIZATION

Section 2.01 Purpose

The Sycuan Band of the Kumeyaay Nation, a Federally recognized sovereign Indian Tribe, acting through its Articles of Association approved by the Secretary of the Interior on August 18, 1972, and subsequently amended and approved by the Secretary of the Interior on July 24, 2015, exercising its inherent sovereign power to enact ordinances and otherwise safeguard and provide for the health, safety and welfare of the Sycuan Indian Reservation and the members of the Tribe, hereby ordains and establishes this SECOND AMENDED SYCUAN GAMING ORDINANCE, herein after known by the same name, for the purpose of authorizing and comprehensively and preemptively regulating the terms and conditions under which Class II and Class III gaming may be conducted on lands within the Tribe's jurisdiction.

Section 2.02 Public Policy

All Gaming conducted within the Tribe's jurisdiction and otherwise authorized by law shall be regulated and licensed pursuant to the provisions of this Ordinance. The Tribe hereby finds and declares it to be the public policy of the Tribe, that:

- A. Regulation of licensed Gaming is essential to ensure that such Gaming is conducted honestly and that Gaming is free from criminal and corruptive elements.
- B. Public confidence and trust can only be maintained by strict regulation of all Persons, locations, practices, associations and activities related to the operation of licensed Gaming Facilities and the manufacture, distribution and operation of Gaming Devices.
- C. All Management Entities or Controlling Shareholders, Primary Management Officials, Key Employees, Gaming Facilities and Gaming Resource Suppliers must therefore be licensed and controlled to protect the public health, safety, morals, good order and general welfare of the Tribe and the public. The Sycuan Gaming Commission shall perform background investigations and issue licenses for key employees and primary management officials according to requirements that are at least as stringent as those found in 25 CFR Section 556 and 558.

Section 2.03 Gaming Authorized

- A. Class II gaming as defined in the Indian Gaming Regulatory Act.
- B. Class III gaming is hereby authorized, provided such gaming is also authorized by and conducted consistent with this Ordinance and any Compact that is in effect, applicable to lands within the Tribe's jurisdiction or procedures prescribed by the Secretary.
- C. Any form of Class II and/or Class III gaming activity conducted on land subject to the Tribe's jurisdiction must have prior approval of the Tribal Gaming Commission.

Section 2.04 Gaming Facility License Required

A separate Tribal license shall be required for each place, facility, or location on Sycuan Indian lands where Class II and/or Class III gaming is allowed under the provisions of this Ordinance. See Section 4.09 for facility license requirements.

CHAPTER 3

ESTABLISHMENT, ADMINISTRATION AND AND ENFORCEMENT

Section 3.01 Creation and Authority of the Tribal Gaming Commission

- A. There is hereby created the Sycuan Tribal Gaming Commission, which shall include at least three Commissioners, an Executive Director and staff who would themselves qualify for licensing as a Primary Management Official. At no time shall there be less than three Commissioners. If deemed necessary by the Business Committee, one or more alternate Commissioners may be appointed in accordance with this Ordinance.
- B. Commissioners shall be appointed by the Business Committee, and shall not be removed during their terms of office except for misconduct, neglect of duties or acts that would render such persons unqualified for a License hereunder. An affirmative vote of at least four members of the Business Committee shall be required to remove a Commissioner from his/her position and duties. Any removal action initiated shall be in an open meeting, after a duly noticed hearing, at which the Commissioner charged with misconduct shall have the right to hear and present evidence concerning his/her removal. At the request of the Commissioner whose removal is at issue the hearing may be held in executive session. The Business Committee also may elect to receive in executive session any evidence of public disclosure which might compromise any on-going law-enforcement investigation.
- C. The Business Committee shall designate one of the three Commissioners as the Chairperson of the Gaming Commission who shall serve a term of three years. He/she will retain the Chairperson position through consecutive reappointments, at the discretion of the Business Committee. One of the Commissioners shall be appointed for a period of two years and the third for a period of one year. All subsequent appointments will be for three-year terms, with the exception of an alternate, which is an annual appointment. There will not be a limit to the number of times a member of the Commission may be reappointed. The Business Committee shall determine and authorize the compensation to be paid to the Commissioners based on the Business Committee's determination of the time required to be expended upon Commission duties, and a comparison of the Commissioner's duties and responsibilities with those of other tribal appointive bodies.
- D. The Gaming Commission shall promulgate detailed and comprehensive rules and regulations for the implementation and enforcement of this Ordinance, which shall include the operation of any Gaming Facility conducting Class II and/or Class III gaming.
- E. The Gaming Commission shall be independent of the Business Committee in the promulgation of rules and regulations, conduct of investigations, licensing and other decision-making processes, and shall have full authority and power to monitor and enforce compliance with this Ordinance and rules or regulations promulgated by the Gaming Commission. The Gaming Commission shall also have the authority and power to enforce compliance with applicable Federal, State and Tribal laws and regulations, and

Compact requirements. The Gaming Commission shall hear and resolve all disputes regarding any provisions of this Ordinance or the Commissioner's rules and regulations.

- F. The Gaming Commission shall establish its own budget for operations, and acquire such furnishings, equipments, supplies, stationery, books, motor vehicles and other things as it may deem necessary or desirable in carrying out its functions, and incur such other expenses within the limit of funds available to it, as it may deem necessary. The Gaming Commission budget will be reviewed and approved by the Business Committee and within those limits the Gaming Commission shall employ and fix salaries of or contract for the services of such professional, technical and operational personnel and consultants as the execution of its duties and the operation of the Gaming Commission may require. At the Business Committee's discretion, the Gaming Commission budget may be reviewed and modified yearly.
- G. The Gaming Commission shall possess the authority and discretion to grant or deny any Application; to limit, condition, suspend, or restrict any License; make a finding of suitability or approval of a License; or find suitable the imposition of a fine upon any person or entity licensed, for any violation of this Ordinance, any Compact to which the Tribe is or may become a party, rules and regulations, or any cause deemed reasonable by the Commission. In all decisions, the Commission shall act to promote and ensure the integrity, security, honesty, and fairness of the Gaming Operation and administration of Gaming and ancillary activities of the Gaming Facility.
- H. Subject to the appropriation of funds by the Business Committee, the Gaming Commission shall be authorized to employ such staff as reasonably may be required to fulfill its responsibilities under this Ordinance. The staffing shall include but not be limited to an Executive Director who shall be responsible for the administration and day to day operation of the Gaming Commission as well as overseeing the establishment and operation of all Gaming Activities for compliance with all Federal, State, and Tribal gaming laws and regulations. Compensation of Gaming Commission employees shall be limited to that which is comparable to compensation paid to persons performing similar duties in other governmental gaming regulatory agencies.

Section 3.02 Powers of the Commissioners

- A. The Commissioners are authorized and responsible for conducting hearings and making decisions on matters dealing with gaming issues including but not limited to violations of Ordinances, rules and regulations, employee actions, patron disputes and barring issues. In conducting these hearings, Commissioners are authorized to request, receive and examine gaming facility and Tribal documents, review surveillance videos, obtain testimony and take any other action deemed necessary to their review.

- B. A quorum for the conduct of hearings by the Commission shall consist of at least three members, one of which can be an alternate Commissioner. A quorum for the conduct of Commissioners business and meetings shall consist of at least two members, one which can be an alternate Commissioner. Meetings of Commissioners shall be open to invited guests, unless the Commissioners convene in closed or confidential sessions for the purpose of considering any of the following matters:
1. Considering applications for licensing when discussing the background investigations or personal information.
 2. Meeting with gaming officials of other jurisdictions, the State Attorney General and District Attorney of San Diego County or law enforcement officials relating to possible criminal violations.
 3. Considering or discussing with legal counsel, Tribal officials, Commission and/or Tribal staff or others in confidential relationships with the Tribe or the Commission pending or contemplated litigation to which the Commission or the Tribe is or may become a party, or in which the Tribe or the Commission may have an interest.
 4. Consulting with the Executive Director, employee and agents of the Commission concerning possible criminal or regulatory violations.
 5. Deliberations necessary to reach a decision after hearing evidence, whether formally or informally, on a contested case.
 6. Discussing business strategies, marketing or pricing strategies of a Licensee or an Applicant for a License if public discussion may be harmful to the competitive position of the Licensee or Applicant for a License or discussions with a Licensee or an Applicant for a License for the purposes of overseeing and defining gaming contracts.
- C. Except those involving Patron Disputes, decisions on matters brought before the Commissioners are final and not subject to further appeal. The Commissioners will inform the subject and the Executive Director of their decision in writing.

Section 3.03 Powers of Executive Director

The Executive Director shall perform all duties, exercise all powers, assume and discharge all responsibilities, and carry out and affect all purposes of this Ordinance relating to the regulation of all Gaming Activity. In all decisions, the Executive Director shall act to promote and ensure integrity, security, honesty, and fairness of the operation and administration of all Gaming Activity. The Executive Director's duties shall include but not be limited to the following:

- A. Negotiating contract payments by the Tribe for the provision of the Gaming Commission, and outside independent auditing services. Such contracts must be approved by the Commissioners and shall not constitute a waiver of jurisdiction by the Tribe.
- B. Will correspond with the NIGC and do whatever is necessary to ensure compliance with the rules and regulations of that agency. Specifically, the Executive Director, with the approval of the Commissioners, shall arrange for an annual outside audit of authorized gaming and all gaming related contracts for purchases for more than \$25,000 a year, excluding those contracts for legal and accounting services and provide a copy of the results of that audit to the NIGC.
- C. Will correspond with the California Gambling Control Commission and/or other authorized State agency recognized under the Compact to ensure compliance with the Compact and rules and regulations promulgated thereunder.
- D. The Executive Director will assure that all Gaming Activity is conducted in a manner which adequately protects the environment and the public's health and safety.
- E. The Executive Director will ensure that background investigations are conducted pursuant to this Ordinance on all Primary Management Officials, Key Employees, and employees of any Gaming Facility and that oversight of such officials and their management is conducted on an ongoing basis. The Executive Director will make suitability determinations on the granting of a Gaming License for all Gaming Operation employees. The Executive Director shall immediately notify the NIGC of the issuance of such Licenses for Primary Management Officials and Key Employees. The Executive Director and/or/his/her designee will review all License applications and background investigations to ensure that no person shall be eligible for employment if that person's prior activities, criminal record (if any), or reputation, habits and associations pose a threat to the public interest or to the effective regulation of gaming or create or enhance the dangers of unsuitable, unfair, or illegal practices and methods and activities in the conduct of gaming or jeopardize the integrity or reputation of the Tribe or its Gaming Operation. The Executive Director shall notify the NIGC of the results of such background checks before the issuance of a permanent license to Primary Management Officials and Key Employees.
- F. Hiring, pursuant to the approval of Commissioners, professional, clerical, technical and administrative personnel as may be necessary to carry out the provisions of this Ordinance.
- G. Inspect, review and copy all records, documents, equipment and facilities, or anything else necessary and pertinent to enforcement of any provisions of this Ordinance.

- H. Make decisions and execute any sanctions on any person subject to the jurisdiction of this Ordinance as deemed necessary, appropriate and lawful, with the approval and review by the Commissioners.
- I. The Commissioners via the Executive Director will ensure that on a quarterly basis a financial quarterly statement along with an updated report of Gaming Commission activities is presented to the Business Committee.

Section 3.04 Termination of Executive Director

The Executive Director may be terminated immediately by the Commissioners, via a majority vote, upon the Executive Director's conviction in a Federal or State court of competent jurisdiction for a felony, or for a misdemeanor related to gambling or moral turpitude, or upon conviction of any charge that the Commissioners find relates to the Executive Director's honesty or ability to fulfill his/her duties. If the Executive Director is convicted of violating any part of this Ordinance, he/she may be immediately terminated. Additionally, the Executive Director may be terminated for associations or conduct that would tend to bring the Executive Director's integrity or the gaming operation into disrepute. The Chairperson of the Gaming Commission has the authority to immediately suspend the Executive Director for any alleged infractions, as outlined previously, until such time as the Commissioners convene and make a final decision on the allegation(s).

Section 3.05 Right of Inspection

The Commissioners, Executive Director and his/her compliance officers, investigators, inspectors, auditors, and employees have the authority, within Sycuan's Reservation:

- A. To inspect and examine all premises wherein gaming is conducted or gambling devices or equipment are used, manufactured, sold or distributed.
- B. To inspect all equipment and supplies in, upon or about a Gaming Facility or inspect any equipment or supplies wherever located, which may, or have been used in the Gaming Facility.
- C. Summarily to seize and remove from a Gaming Facility (or wherever located) and impound such equipment or supplies for the purpose of examination, inspection, evidence, or forfeiture:
- D. To demand immediate access to and inspect, examine and audit all papers, books, and records of Applicants and Licensees, business records, income documents, expense documents, income and expense verification and all other matters affecting the enforcement of the policy of or any provision of this Ordinance.

- E. To seize and impound any patron's winnings which the Gaming Commission has reason to believe may have been won or obtained in violation of this Ordinance, pending a civil forfeiture hearing on such seizure.
- F. The Gaming Commission and the Executive Director shall each have full power and authority to compel the attendance of witnesses for hearing at any place within Sycuan's Reservation, to administer oaths and to require testimony under oath. Any process or notice may be served in a manner provided for service of process and notices in civil actions. The Gaming Commission and the Executive Director may pay such transportation and other expenses of witnesses, as it may deem reasonable and proper. Any Licensee failing to attend a hearing, after having been given notice, shall be subject to immediate revocation of their Gaming License.

Section 3.06 Confidentiality of Information

Each Commissioner and employee of the Gaming Commission shall be required to sign a confidentiality agreement and will be responsible for ensuring the strictest standards of confidentiality with respect to all information. All information provided to the Gaming Commission and all information obtained by the Gaming Commission in the performance of its duties shall be kept confidential and shall not be disclosed to any person or organization without the written consent of the Commissioners. The Commissioners may refuse to reveal, in any court proceedings the identity of any informant, or the information obtained from the informant, or both the identity and the information. Records considered confidential and not to be disclosed except pursuant to a court order or executed release include:

- A. Tax returns of individual Licensees.
- B. Applications, credits, medical and security reports of Applicants for Licenses and other persons seeking or doing business with the Gaming Commission.
- C. Marketing, financial or sales data, the disclosure of which may be harmful to the competitive position of the Tribe's Gaming Operations, its Licensees or persons seeking or doing business with the Gaming Commission.
- D. Audit work papers, worksheets and auditing procedures used by the Commission, its agents or employees.

3.07 Powers of Delegation

Commissioners may delegate to Gaming Commission staff as deemed necessary. The Executive Director may delegate duties to subordinate staff as deemed necessary.

3.08 Sanctions

Any Person, be it an employee, Patron, vendor, or Licensed Gaming Facility, who engages in activities that are in violation of this Ordinance and/or promulgated Gaming Regulations shall be in violation of said Ordinance or Regulations and be subject to sanctions in accordance with the provisions of Section 3.09.

3.09 Violations of Ordinance – Punishment

A violation of this Ordinance or promulgated Gaming Regulations may be punished by a fine for each separate count or violation. The amount of the fine is to be determined by the Gaming Commission. Each day of violation shall constitute a separate count or violation under this Ordinance. A violator may also be required to pay costs, storage fees, and auction or sales fees. All property used or which may be used in activities in each and every separate violation of this Ordinance may become property of the Tribe. Persons may be barred or prohibited from trespassing on premises licensed under this Ordinance and/or surrounding Tribal land, licenses may be suspended, revoked, or limited and Gaming Facilities may be closed. Violators may be subject to prosecution by local or federal law enforcement. All such action shall be taken at the discretion of the Gaming Commission, subject to right of appeal to the Gaming Commissioners. Winnings determined to have been received in violation of this Ordinance shall be forfeited and become the property of the Tribe.

3.10 Due Process Regarding Enforcement Actions

The Tribal Gaming Commission shall promulgate Regulations protecting due process rights of all individuals subject to the enforcement of this Ordinance. Such Regulations shall, at a minimum, include the following:

- A. Provide standards for emergency or summary suspension of Licenses.
- B. Provide fair notice and opportunity for a hearing before the Gaming Commission regarding any revocation or suspension of a Gaming License, and regarding any enforcement action taken pursuant to this Ordinance.
- C. Provide the right to appeal, de novo, any disciplinary or enforcement action to the Gaming Commission.

3.11 Patron Disputes

The Gaming Commission shall promulgate regulations governing Patron disputes over the operation of any game, including any refusal to pay a Patron any alleged winnings from any Gaming Activities, which regulations must meet the following standards:

- A. A Patron who makes an oral or written complaint to personnel of the Gaming Operation over the play or operation of any game within three (3) days of the play or operation at

issue shall be notified in writing of the Patron's right to request in writing within fifteen (15) days of the Gaming Operation's written notification to the Patron of that right, resolution of the dispute by the Gaming Commission, and if dissatisfied with the resolution, to seek resolution in the Sycuan Tribal Court. If the Patron is not provided with notification within thirty (30) days of the Patron's complaint, the deadlines shall be removed, leaving only the relevant statutes of limitations under California law that would otherwise apply. The Gaming Facility will notify the Gaming Commission of all Patron disputes via a written report on a timely basis, whether resolved or not.

- B. Upon receipt of the Patron's written request for a resolution of the Patron's complaint, pursuant to Subdivision (A), the Gaming Commission shall conduct an appropriate investigation, shall provide to the Patron a copy of its regulations concerning Patron complaints, and shall render a decision in accordance with industry practice. The decision shall be issued within sixty (60) days of the Patron's request, shall be in writing, shall be based on the facts surrounding the dispute, and shall set forth the reasons for the decision.
- C. If the Patron is dissatisfied with the decision of the Gaming Commission, or no decision is issued within the sixty (60) day period, the Patron may request that the dispute be settled in the Sycuan Tribal Court.
- D. The effective date of the decision of the Gaming Commission is on the date it is received by the aggrieved party as reflected on the return receipt.

3.12 Unlicensed Gaming

Any person who commits any act of unlicensed gaming on the Sycuan Reservation may be in violation of this Ordinance and shall be prosecuted in the appropriate court of competent jurisdiction. Prosecution for such a violation in other than Federal court is not meant to be exclusive; a finding of guilt or innocence shall not deprive the Federal government from jurisdiction.

3.13 Compensation, Gratuities, Gifts

All Commissioners, Gaming Commission managers, staff and immediate family shall receive no personal compensation, gratuities or gifts from any Person doing or wishing to do business with the Tribe relating to gaming, nor with any Person wishing to obtain an unfair advantage in any authorized wager on gaming. Any property received in violation of this provision, including cash payments, shall be immediately forfeited to the Tribe and the offending persons shall be prosecuted to the fullest extent possible. The only exception to the above will be in relation to the exchange or receiving of an occasional promotional gift and/or meal whose fair market value does not exceed \$100.00 and whose intention is not to obtain an unfair advantage in any authorized wagering on gaming.

3.14 Financial Interest

All Commissioners, Gaming Commission managers, staff and immediate family shall have no direct or indirect financial interest in any Gaming Operation or a business wishing to do business with the Tribe or the Gaming Facility. The exception is Sycuan Tribal members and immediate family whose gaming interests are with the Tribe. For the purpose of this section, indirect financial interest shall not include ownership in mutual funds holding interest in publicly traded companies, but shall include direct ownership in stock.

3.15 Ownership-Revenues to Benefit Tribe

- A. The Tribe shall have sole proprietary interest and sole responsibility for the conduct of the Gaming Operation. Such provision does not, however, limit the Tribe's ability to enter into a management contract wherein net profits are divided between the Tribe and other parties to the contract.
- B. Except as specifically authorized pursuant to Subsection C of this Section, net revenues from Class II and Class III gaming on the Sycuan Indian Reservation shall be used only for the following purposes:
 - 1. To fund Tribal government operations or programs.
 - 2. To provide for the general welfare of the Tribe and its members.
 - 3. To promote Tribal economic development.
 - 4. To donate to charitable organizations.
 - 5. To help fund operations of local government agencies.
- C. If the Tribe elects to make per capita payments to Tribal members, it shall authorize such payments only in conformity with a plan submitted to and approved by the Secretary of Interior pursuant to 25 U.S.C. Section 2710(b)(3).

CHAPTER 4

LICENSING

Section 4.01 Issuance of Tribal Gaming License

The Gaming Commission is authorized to issue gaming Licenses to any Person and/or entity required by this Ordinance to possess such a License or permit and if after issuance of a gaming License reliable information is received that a Licensed individual or Vendor does not meet the standards established under Section 4.04 of this Ordinance, the Gaming Commission shall suspend such license.

Section 4.02 Non-Transferability of License

Any License issued pursuant to the provisions of this Ordinance is valid only for the Person or entity at the place of business shown on the face thereof. It is not assignable or otherwise transferable to any other Person or entity for any other location without the prior written approval of the Gaming Commission. A Gaming License is a revocable privilege, and the issuance of a License shall not create any vested right.

Section 4.03 Granting a License

The Gaming Commission, upon completion of appropriate background investigations and suitability determination, shall either grant or deny a License. A License may be issued only if:

- A. A completed License Application has been received.
- B. All applicable licensing fees have been paid.
- C. The Applicant has been determined to be suitable for licensure.

Section 4.04 Suitability Determination, License Denial

The Executive Director may deny a License to any Applicant (employee or vendor), or may suspend or revoke the License of any employee or vendor who:

- A. Has knowingly and willfully provided materially false statements or information or omitted material information on his/her/its License Application or background questionnaire.
- B. Is determined to be a person whose prior activities, criminal record if any, or reputation, habits, and associations pose a threat to the public interest or to the effective regulation and control of Gaming Activities, or create or enhance the dangers of unsuitable, unfair, or illegal practices and methods, and activities in the conduct of gaming or the carrying on of the business and financial arrangements incidental thereto, or jeopardizes the integrity or reputation of the Tribe or its Gaming Operation.

- C. Has violated, failed or refused to comply with the provisions, requirements, conditions, limitations or duties imposed by any provision of this Ordinance, the Compact or any provisions of Federal, State, or Tribal laws or Regulations.
- D. Knowingly causes or caused, aids or aided, abets or abetted, or conspires or conspired with another to cause any person or entity to violate any of the laws or gaming regulations of any state or tribe or the provisions of the Compact, provided that gaming activities engaged in prior to the effective date of the Compact that were authorized by a Tribe shall not constitute grounds for a determination of unsuitability.
- E. Has obtained a State Gaming License or certification or Tribal License by fraud, misrepresentation, concealment or through inadvertence or mistake.
- F. Has been convicted of, or forfeited bond upon a charge of, or pleaded guilty to, forgery, larceny, extortion, conspiracy to defraud, or of bribing or otherwise unlawfully influencing a public official whether as a felony or misdemeanor, involving any gaming activity, misappropriation of funds, physical harm to any individual or any act of moral turpitude.
- G. Makes a misrepresentation of, or fails to disclose a material fact to Federal or State authorities, the Gaming Commission and/or other Tribal authority.
- H. Is subject to current prosecution or pending charges, or a conviction that is under appeal, for any of the offenses included under Subsection F of this Section, provided that the Gaming Commission may defer decision upon the application during the pendency of such prosecution or appeal.
- I. Has had a gaming license issued by any state of the United States, any foreign state, any tribe, the Gaming Commission or the Tribe, revoked or denied.
- J. Has demonstrated a willful disregard for compliance with gaming regulatory authority in any jurisdiction, including suspension, revocation, denial of application or forfeiture of license.
- K. Has pursued or is pursuing economic gain in an occupational manner or context which is in violation of the criminal laws of any state, if such pursuit creates probable cause to believe that the participation of such person in gaming or related activities would be detrimental to the proper operation of said authorized gaming or related state activity. For purposes of this paragraph, occupation manner or context shall be defined as the systematic planning, administration, management or execution of an activity for financial gain.
- L. Is a career offender or a member of a organized criminal organization or is associated with career offender or an organized criminal organization in such a manner which

creates probable cause to believe that the association is of such nature as to be detrimental to the proper operation of the authorized gaming or related activities in any state of the United States, any foreign state or an Indian tribe. For purposes of this paragraph, "career offender" shall be defined as any person whose behavior is pursued in an occupational manner or context for the purpose of economic gain utilizing such methods as are deemed criminal violations of Tribal law, Federal law or the laws and the public policy of the State. An "organized criminal organization" shall be defined as any group of persons who operate together as career offenders.

M. Is a person whose prior activities, criminal record, if any, reputation, habits and associations pose a threat to the public interest of the Tribe or to the effective regulation and control of Gaming Activities, or creates or enhances the dangers of unsuitable, unfair or illegal practices, methods, and activities in the conduct of Gaming Activities, or the carrying on of the business and financial arrangement incidental thereto.

N. Fails to provide information requested by the Gaming Commission.

Section 4.05 Temporary Licenses

The Gaming Commission may issue a temporary license to any person or entity applying for a License to work in or do business with a licensed Gaming Establishment, which temporary license shall be valid for ninety (90) days pending the completion of a background investigation of the applicant including an FBI fingerprint check through the NIGC or the California Department of Justice. No person shall be employed by the Gaming Operation who does not have a license after ninety (90) days.

Section 4.06 Licensing of Employees and Primary Management Officials Employed in Class II or III Gaming and Licensing of Vendors, and Suppliers

All Employees and Primary Management Officials must apply for and obtain a Tribal gaming license prior to employment in the Gaming Operation on lands subject to the Tribe's jurisdiction. The Commission shall include with these license requirements Vendors and Suppliers. Banks, savings and loans, or other financial institutions regulated by an agency of the United States or the State of California, and any agency of the United States, the State of California or any political subdivision thereof, hereby are exempted from the licensing requirements of this Ordinance.

The Commission shall ensure that the policies and procedures set out in this section are implemented and enforced.

The Gaming Commission may authorize, require, and issue such licenses as the Commission may, by regulation, prescribe or require to any person or entity engaged in the selling, distributing, or supplying of gambling equipment or paraphernalia including gaming-related

services and any equipment, supplies and/or materials, used in connection with operation of a licensed Gaming Facility or Gaming Operation, whether the gaming conducted is Class II or Class III.

A. Application Forms:

1. The following notices shall be included on the application form for any License or Permit under this Ordinance:
 - (a) "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, the National Indian Gaming Commission ("NIGC") and/or the State Gaming Agency 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 NIGC in connection with the issuance, denial, or revocation of a gaming license, or investigation of activities while associated with a tribe or a gaming operation. Failure to consent to the disclosures indicated in this notice will result in a tribe's being unable to license you for a primary management official or key employee position."
 - (b) "The disclosure of your Social Security Number (SSN) is voluntary. However, failure to supply a SSN may result in errors in processing your application."
 - (c) "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)."
2. Existing Key Employees and Primary Management Officials shall be notified in writing that they shall either:
 - (a) Complete a new application form that contains Privacy Act and false statement notices if the previous one they completed did not contain the Privacy Act or false statement notices, or

- (b) Sign a statement acknowledging receipt of Privacy Act and false statement notices.
- B. Background investigations: No License shall be granted to an Applicant who has been determined to be a person or entity whose prior activities, criminal record, if any, or reputation, habits, and/or associations pose a threat to the public interest or to the effective regulation and control of gaming, or create or enhance the danger of unsuitable, unfair, or illegal practices, methods, and activities in the conduct of gaming or the carrying on of the business and financial arrangements incidental thereto.
 - 1. License Application Minimum Requirements: The Commission shall request from each License Applicant all of the following information:
 - (a) Full name, other names used (oral or written, including nicknames), Social Security number(s), birth date, place of birth, citizenship, gender, and all languages spoken or written.
 - (b) Currently and for the previous ten years, all business and employments positions held, ownership interests in those businesses, business and residence addresses, and drivers license numbers (including state).
 - (c) The names and current addresses and, if available, telephone numbers of at least three personal references, including one personal reference who was acquainted with the applicant at the residences listed under paragraph (1)(b) of this Subsection.
 - (d) Current business and residence telephone numbers.
 - (e) A description of any existing and previous business relationships with any Indian Tribe, including ownership interest in those businesses.
 - (f) A description of any existing and previous business relationships with the gaming industry generally, including ownership interests in those businesses.
 - (g) The name and address of every 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, withdrawn, revoked or suspended.
 - (h) For each public offense (excluding infractions) for which there is an ongoing prosecution or a conviction, the charge, the name and address of the court involved, the case number and the date and disposition if any.

- (i) For each misdemeanor conviction or ongoing misdemeanor prosecution (excluding minor traffic charges) for which the applicant is being prosecuted, was found guilty or pleaded no contest, the name and address of the court involved, the case number and the date and disposition.
 - (ii) For each public offense (excluding infractions), whether or not there is a conviction, if such charge was filed within ten (10) years of the date of the application and is not otherwise listed pursuant to paragraph (1) (h) of this Subsection, the nature of the charge, the name and address of the court involved, the case number and the date and disposition.
 - (iii) The name and address of each licensing or regulatory agency with which the person has filed an application for any occupational license or permit unrelated to gaming, whether or not such license or permit was granted, denied, withdrawn, suspended, or revoked.
 - (iv) A current color photograph of sufficient quality to readily identify and accurately depicts the Applicant.
 - (v) Fingerprints shall be required for all Employees and Primary Management Officials. Fingerprints are submitted to NIGC pursuant to our Memorandum of Understanding, entered into by the NIGC and the Sycuan Gaming Commission. The fingerprint information is sent to the FBI by NIGC. FBI utilizes the fingerprint records to conduct a criminal history check.
 - (vi) Any other information the Commission may deem appropriate under the circumstances
- (i) If, in the course of a background investigation, the Tribe discovers that the Applicant has a notice of results on file with the NIGC from a prior investigation and the Tribe has access to the earlier investigative materials (either through the NIGC or the previous tribal investigative body), the Tribe may rely on such materials and update the investigation and investigative report completed pursuant to 25 CFR §556.6 (b)(1).
2. Minimum Background Investigation: The Commission shall conduct and document an investigation sufficient to make the determination required by Subsection E of this Subsection. In conducting a background investigation, the Commission shall promise to keep confidential the identity of each person

interviewed in the course of the investigation. The minimum procedures for conducting a background investigation on all license applicants are:

- (a) Criminal history check through the California Department of Justice, including Municipal and Superior courts in California, in all known or disclosed places of residence or employment.
- (b) Submit fingerprints to FBI for a national criminal record check.
- (c) Verify business residence and history check.

In addition to the above background procedures, the Commission shall conduct the following for all Management Official and key employee applicants, and may, in its discretion, conduct the following for other applicants:

- (a) Civil judgment history check.
- (b) Financial and credit history check.
- (c) Reference check.
- (d) Business and personal associates check.
- (e) Education verification.
- (f) Any other investigation deemed necessary by the Commission.

- 3. The Commission is primarily responsible for the conduct of the background investigation and suitability determinations, subject to the requirements of IGRA and any Compact to which the Tribe is or may become a party.
- 4. The Executive Director or his/her designee shall be responsible for conducting, reviewing and either approving or disapproving the results of all background investigations.
- 5. The Executive Director or his/her designee shall report the results of the background investigations to the NIGC and the State Gaming Agency for Key Employees and Primary Management Official license applicants.

- C. Investigative Report: The investigative reports shall describe the steps taken in conducting the background investigation, results obtained, conclusions, basis for those conclusions, and suitability determination.

- D. **Application Fee:** The Commission shall set fees for applications, background investigations and licenses sufficient to cover the costs of investigations, processing and issuing licenses. Vendor or Primary Management Official license fees shall be non-discriminatory but may be based upon or limited to a percentage of the value of any contract or compensation.
- E. **Eligibility Determination:** The Commission shall review each Applicant's prior activities, criminal record, if any, and reputation, habits and associations to make a finding concerning the Applicant's eligibility for a Gaming License. If the Commission determines that licensing of the Applicant would pose a threat to the public interest or to the effective regulation of gaming, or create or enhance danger of unsuitable, unfair, or illegal practices and methods and activities in the conduct of gaming, or jeopardize the integrity or reputation of the Tribe or its Gaming Operation, a License shall not be granted.
- F. **Granting a Temporary License:** If after conducting a preliminary background investigation consisting of a criminal records check, verification of current residence and eligibility for lawful employment in the United States, the Commission determines that an Applicant is likely to meet the eligibility requirements under Subsection E of this Section, the Commission may issue a provisional gaming license to the Applicant. No person shall be employed at the Gaming Operation without at least a valid provisional license. A provisional license shall be effective pending completion of the full background investigation unless the Commission sooner receives credible information from either the NIGC or the State Gaming Agency that the Applicant is unsuitable for licensure.
- G. **Notification of Results and Eligibility Determination**
1. Pursuant to the procedures set out in Subsection C of this Section, the Gaming Commission shall prepare an investigative report on each background investigation to be filed in the Applicant's folder.
 2. The Gaming Commission shall submit a Notification of Results and the eligibility determination made under Subsection E of this Section to the NIGC within sixty (60) days after a Primary Management Official or Key Employee begins work.
 3. The Gaming Commission shall submit a copy of the investigative report and notification of results to the State Gaming Agency.
 4. If a License is not issued to applicant, the Commission:
 - (a) Shall forward to the NIGC a notification of non-issuance; and
 - (b) Shall forward copies of its eligibility determination and notice of results to NIGC for inclusion in the Indian Gaming Individuals Record System.

5. With respect to License Applicants, the Commission shall retain applications for licensing, employment investigative reports and eligibility determinations (if any) of background investigations for inspection by the Chairman of the NIGC or State Gaming Agency or their respective designees for no less than three (3) years from the date of termination, denial or revocation of a License or termination of employment, whichever is later.

H. Granting a Permanent Gaming License:

1. If, within a thirty (30) day period after the NIGC receives a Notification of Results, the NIGC notifies the Commission it has no objection to the issuance of a License pursuant to a License Application filed by a Key Employee or Primary Management Official for whom the Commission has provided an application and investigative report to the NIGC, the Commission may issue a permanent License to such applicant and shall notify the NIGC within thirty (30) days of such issuance.
2. The Commission shall respond to a request for additional information from the Chairman of the NIGC concerning a Key Employee or a Primary Management Official who is the subject of a report. Such a request shall suspend the thirty (30) day period under Subsection H(1) of this Section until the Chairman of the NIGC receives the additional information.
3. If, within the thirty (30) day period described above, the NIGC provides the Gaming Commission with a statement itemizing its objection(s) to the issuance of a permanent license to a Key Employee or to a Primary Management Official for whom the Commission has provided a Notification of Results to the NIGC, the Commission shall reconsider the application, taking into account the objection(s) itemized by NIGC. The Commission shall make the final decision whether to issue a permanent license to such Applicant.
4. If, after issuing a gaming license, the NIGC notifies the Sycuan Gaming Commission of reliable information indicating that a Key Employee or Primary Management Official is not eligible for employment, upon receipt of such notification, the Gaming Commission shall immediately suspend the Gaming License.
 - (a) Upon suspending the Gaming License, the Gaming Commission shall provide the Licensee with written notice of suspension and proposed revocation of the Gaming License.
 - (b) The Gaming Commission shall notify the Licensee of a time and place for a hearing on the proposed revocation of a License.

- (c) A right to a hearing under this Section shall vest only upon receipt of a License granted under a Tribal Gaming Ordinance approved by the Chair of the NIGC.
 - (d) After a revocation hearing, the Gaming Commission shall decide to revoke or to reinstate a Gaming License. The Commission shall notify the NIGC of its decision within forty-five (45) days or receiving notification from the NIGC pursuant to subsection 4.
 - (e) All notices to the NIGC shall be provided to NIGC's Sacramento Regional Office, and the Gaming Commission may submit notices electronically after receiving guidance from the Sacramento Regional Office on acceptable document formats and means of transmission.
- I. Class III Gaming: In addition to the above, any Tribal-State licensing and/or certification requirements and procedures for Tribal licensing and/or State certification or licensing in a Compact between the Tribe and the State of California are adopted and incorporated herein by reference.
- J. Applicability of Ordinance: Unless specifically indicated otherwise, all provisions of this Ordinance shall apply to both Class II and Class III Gaming including, but not limited to, all licensing and background investigative procedures.

Section 4.07 Waiver of Licensing for Certain Entertainers

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

Section 4.08 Violation of Terms of License

Violation of any material provision of this Ordinance or any of the Gaming Commission's Regulations by a Licensee, its agent, or employee shall be deemed contrary to the public health, safety, morals, good order and general welfare of the Tribe and the inhabitants of the Sycuan Reservation, and shall constitute grounds for refusing to grant or renew a License, suspension or revocation of a License, or for the imposition of sanctions by the Gaming Commission or its staff. Acceptance of a License or renewal on the part of the Licensee shall constitute the Licensee's agreement to be bound by all regulations and requirements of the Gaming Commission. It is the responsibility of the Licensee to keep informed of the contents of such Regulations, amendments, provisions, and conditions and ignorance thereof will not excuse the violations. All Licenses shall have not more than one-year duration and will require renewal thereafter in accordance with procedures set forth by the Gaming Commission.

Section 4.09 Licensing of Gaming Facility

The Gaming Commission shall license each Tribal Gaming Facility, which license shall be renewed annually. Prior to the issuance of a facility license, the Executive Director shall determine the following:

- A. That the Gaming Facility is constructed in conformance with all applicable building codes, and otherwise does not pose a threat to the health or safety of Patrons, employees or other occupants.
- B. That surveillance systems are in place to adequately provide for the safety and security of employees and patrons and for the protection of Tribal assets.
- C. That all employees are properly licensed and that the facility is otherwise in compliance with all applicable laws and regulations.

Section 4.10 License Fees

The Gaming Commission shall establish licensing fees for the Gaming Facility, employees and vendors that, at a minimum, recoup the actual costs of processing applications and related investigation. Any Gaming Facility licensing fee shall require the approval of the Business Committee.

Section 4.11 Commissioners, Executive Director and Commission Employees

Commissioners, Gaming Commission Executive Director and employees shall not be required to obtain gaming licenses, but Commissioners shall meet the same suitability standards as apply to a Primary Management Official under the regulations of the NIGC, including full background checks.

CHAPTER 5

AUDITING, FISCAL OVERSIGHT, AND INTERNAL CONTROLS

Section 5.01 Minimum Procedures for Control of Internal Financial Affairs

The Tribal Gaming Commission shall promulgate regulations for internal controls and financial audits of all gaming operations. At a minimum, those regulations shall:

- A. Prescribe minimum procedures for safeguarding the Gaming Operation's assets and revenues, including recording of cash and evidences of indebtedness and mandatory count procedures. Such procedures shall establish a control environment, accounting system and control procedures that safeguard the assets of the organization, assure that operating transactions are properly recorded and encourage adherence to prescribed policies.
- B. Prescribe minimum reporting requirements to the Gaming Commission and the NIGC.
- C. Provide for the adoption and use of internal audits by Tribal Gaming Commission auditors and Certified Public Accountants licensed to practice accounting in the State of California.
- D. Ensure that a uniform code of accounts and accounting classifications are formulated to assure consistency, comparability and effective disclosure of financial information. Such code shall require that records be retained that reflect statistical drop (amount of cash wagered by Patrons), statistical win (amount of cash won by the gaming operation) and the percentage of statistical win to statistical drop, or provide similar information for each type of game or each gaming device.
- E. Prescribe the intervals at which financial and other information shall be furnished to the Gaming Commission.
- F. Provide for the maintenance of documentation (i.e., checklist, transaction forms, programs, reports, etc) to evidence all internal work performed as it relates to the requirements of this Section.
- G. Provide that all financial statements and supporting documentation relating to the Gaming Operation be maintained for a minimum of five (5) years.

Section 5.02 Oversight of Internal Financial Affairs

The Gaming Commission shall, by regulation, require and ensure that audits are conducted of all Gaming Operation financial statements and gaming related contracts as defined in 25 CFR §522.4(b)(4), at least annually. Such audits must:

- A. Be made by outside independent Certified Public Accountants licensed to practice public accounting. Such accountants shall be selected and contracted by the Gaming Commission.

- B. Include an opinion that the financial statement fairly and accurately presents the financial condition of the gaming operation in accordance with Generally Accepted Accounting Principles (GAAP) and in accordance with the Government standards of accounting and the gaming auditing standards established by the American Institute of Certified Public Accounts.
- C. Disclose whether the accounts, records and control procedures maintained by the gaming operation are as required by the Regulations promulgated by the Gaming Commission.
- D. Provide for preliminary review of the internal control structure upon adoption of the policies and procedures by the Gaming Facility, provide an opinion regarding the adequacy of controls, to disclose any deviation from prescribed rules and regulations, and report such finding to the Gaming Commission and Gaming Facility management.

Section 5.03 Sycuan Tribal Gaming Commission's Right to Conduct Audits

The Gaming Commission is authorized to retain its own staff auditors and accountants, or contract with an accountant(s), to conduct its own audits of any Gaming Operation, separate and apart from the annual audit of the Gaming Operation's financial statements and internal control compliance

Section 5.04 Prohibition Against Embezzlement

Any delay, maneuver or action of any kind which, in the opinion of the Executive Director of the Gaming Commission or Commissioners, is effectuated or attempted by any Licensee to unlawfully divert gaming or other proceeds properly belonging to the Tribe, shall constitute grounds for imposing sanctions upon that Licensee. If the Tribal Gaming Commission finds that an unlawful diversion was conducted or attempted, it shall sanction the Licensee. Sanctions may include fining, revoking, suspending, limiting or refusing to renew the License, or referring the matter for criminal prosecution and/or a civil action to recover funds and other property and enforcement of fines.

CHAPTER 6

AUTHORIZATION OF GAMING

Section 6.01 Authorization of Gaming

The Gaming Commission may authorize the playing of any Class II or Class III game that lawfully may be played on the Tribe's Indian lands under applicable state or federal law. The Commission shall promulgate regulations for rules governing all authorized games, including the equipment (chips, dice, cards, tiles, devices etc.) used in such games. The Commission shall comply with the procedural requirements, if any, of the Compact before authorizing any game. A game that the Commission determines is Class II shall be authorized to be conducted as a Class II, unless or until the NIGC or a court of competent jurisdiction has entered a final judgment to the contrary and appeals have been exhausted or time for appeal has expired without an appeal being taken.

Section 6.02 Approval of Gaming Equipment

The Gaming Commission shall have the discretion to review all gaming equipment and other devices used in the Gaming Operation as to quality, design, integrity, fairness, honesty, and suitability. In addition, the Commission may:

- A. Require a prototype or sample of any model of gaming equipment or other device used in the Gaming Operation to be placed in the custody of the Executive Director and/or his/her representative and retained as a control for comparison or testing purposes.
- B. Contract with independent Gaming Test Laboratory or other professional expertise it deems necessary or appropriate to test and ensure the integrity of gaming devices, equipment, supplies, etc.

Section 6.03 Posting of Rules

The rules of authorized table games shall be posted in a conspicuous location and shall be clearly legible. The rules of all games shall be available for inspection by Patrons upon request. Any evidence that game rules have been violated or that gaming equipment or other devices used in the Gaming Operation have been tampered with or altered in any way shall be immediately reported to the Gaming Commission.

Section 6.04 Gaming Related Activity of the Tribe

The Gaming Commission shall have full jurisdiction to apply and enforce its regulations over all gaming and gaming related activity on the lands of the Sycuan Indian Reservation. The Commission shall promulgate such regulations as it deems necessary to ensure the integrity of such activity and to ensure compliance with all applicable Tribal, Federal and state laws and regulations. Gaming Commission approval shall be required for any contracts related to any such gaming or gaming related activities. For purpose of this section, such gaming related activities include but are not limited to:

- A. The manufacturing, development, assembly, sales or distribution of any gaming machines, devices, equipments, software, or components thereof.
- B. Joint ventures with other tribes, entities, persons, etc., related to gaming activity.
- C. Management or service contracts with other tribes, entities and/or persons related to gaming activities.
- D. Any financial loans, grants or other relationship with any tribe, entity and/or persons, related to gaming activity.

CHAPTER 7

EXCLUSION OR EJECTION OF INDIVIDUALS

Section 7.01 List of Undesirables

The Gaming Commission shall, by regulation establish a procedure for the listing of persons whose presence on the premises be excluded or ejected from any licensed Gaming Facility. The list may include any person whose presence in the Gaming Facility is determined by the Commission to pose a threat to the interest of the Tribe, the gaming public, or to licensed gaming.

Section 7.02 Prohibition Against Listed Individuals

It shall be a violation of this Ordinance for any licensed employee to knowingly fail to exclude or eject from the Gaming Facility any person(s) placed on the list referred to in Section 7.01 of this Section. It shall be a violation of this Ordinance for any person whose name appears on the list referred to in Section 7.01 of this Section, to enter into or engage in any game at a duly licensed Gaming Facility, and any such presence shall be considered trespassing. "Ejection" from the Gaming Facility may, in the discretion of the Gaming Commission or Gaming Facility management, include removal of a non-member of the Sycuan Tribe from the Sycuan Indian Reservation.

Section 7.03 Prohibition Against Underage Gaming

It shall be a violation of this Ordinance for any Licensee to knowingly fail to exclude or eject from the Gaming Facility any individual who is under the age of eighteen years, except as such minors may be permitted in restaurants and other areas in which gaming is not being conducted, including walkways to such areas when accompanied by an adult and in transit to and from such non-gaming areas.

CHAPTER 8

UNLAWFUL ACTS

Section 8.01 Unlawful Acts

It shall be unlawful for any individual, entity or group of individuals to commit or conspire to commit any of the following acts:

- A. To alter or misrepresent the outcome of a game or other event on which wagers have been made after the outcome has been determined but before it has been revealed to the players.
- B. To place, increase or decrease a bet or to determine the course of play after acquiring knowledge, not available to all players, of the outcome of the game or knowledge or any event that may affect the outcome of the game or knowledge that is the subject of the bet or wager.
- C. To aid anyone in acquiring such knowledge as set forth in Subparagraph B for the purpose of increasing or decreasing a bet or wager, or for the purpose of determining the course of play contingent upon that event or outcome.
- D. To claim, collect or take, or attempt to claim collect or take money or anything of value in or from a gambling game with intent to defraud, without having made a wager contingent thereon, or to claim, collect or take an amount greater than the amount won.
- E. To knowingly entice or induce another to go to any place where a gambling game is being conducted or operated in violation of the provisions of this chapter, with the intent that the other person play or participate in the a gambling game.
- F. To place or increase a bet or wager, after acquiring knowledge of the outcome of the game or event, which is the subject of the bet or wager, including past-posting and pressing bets.
- G. To reduce the amount wagered or cancel the bet after acquiring knowledge of the outcome of the game or other event, which is the subject of the bet or wager, including pinching bets.
- H. To manipulate with intent to cheat any component of a gaming device in a manner contrary to the designed and normal operational purpose for the component, with knowledge or hope that the manipulation affects the outcome of the game or prize or with knowledge not commonly available to game participants of any event that affects the outcome of the game or prize.
- I. To solicit funds or anything of value from any patron or employee, except for solicitations authorized by the Gaming Commission as to time, place, manner or purpose.

- J. To take or attempt to take by theft or trick, any chip(s), coin(s), token(s), machine credits, tokens, currency, or anything of value from any Patron or employee.
- K. To refuse to leave the Gaming Facility when requested.
- L. To deliberately or negligently damage or attempt to damage, any real or personal property, belonging to the Sycuan Tribe, or any Patron, employee, or Tribal Corporation on the Sycuan Indian Reservation.
- M. For an individual under 18 years of age to make any wager either directly or indirectly in any Class II or Class III gaming activity.
- N. To either intentionally or recklessly cause or threaten to cause injury or harm to the person of any Patron, employee, management officials, or Gaming Commission members or staff.
- O. To possess any chips, tokens, tickets, cards, device, paraphernalia, etc. that could reasonably be conducted to be useful in cheating, defrauding, manipulating, or altering any game gaming device, gaming equipment, machine, computer, or gaming supplies.
- P. For any employee to aid, conspire, collude or assist in any way any Person to win or have any unfair advantage to win any game, or otherwise to acquire anything of value unfairly, or to fail to report any such information to the Gaming Commission.
- Q. To offer or attempt to offer anything of value to a Licensee in an attempt to induce the Licensee to act in a manner contrary to the duties, or refrain from acting in a manner required by such duties, under applicable law or this Ordinance.
- R. To take any action, or fail to take any action, which intentionally delays, interferes with, or prevents the Gaming Commission from fulfilling its duties and responsibilities under this Ordinance or other applicable law or Regulation.
- S. To intentionally make any false, misleading, or untruthful statement to a Gaming Commission representative during the course of an official inquiry interview, investigation, hearing or proceeding that is conducted by, or on the behalf of, the Gaming Commission or the Sycuan Band of the Kumeyaay Nation.

Section 8.02 Prohibition Against Electronic Aids – Card Games

Except as specifically permitted by the Gaming Commission, no person shall possess with the intent to use, or actually use, at any table, either alone or in concert with others, any calculator, computer or other electronic, electrical or electromechanical device to assist in projecting the outcome of any table game, to keep track of or analyze the cards dealt, to change the probabilities of any table game or the playing strategies to be utilized. The Gaming Commission

shall be authorized, in its discretion, to direct the exclusion and removal of persons known to be skilled practitioners of “card counting” in blackjack.

Section 8.03 Prohibition Against Electronic Devices – Gaming Machines

Except as specifically permitted by the Gaming Commission, no person shall possess with the intent to use, or actually use, at a gaming machine, either alone, or in concert with others, any calculator, computer or other electronic, electrical or electromechanical device to assist or change the outcome of any game played on a gaming machine or device.

Section 8.04 Violations and Sanctions

Any violation of this Section shall subject the violator to imposition of sanctions by the Gaming Commission. Such sanctions may include, but shall not be limited to, denial, suspension or revocation of a gaming license, civil fines, seizure and forfeiture of money or property and/or money damages, referral for criminal prosecution, or a combination of such sanctions.

CHAPTER 9

NIGC AND TRIBAL – STATE COMPACT

Section 9.01 National Indian Gaming Commission - Regulations

Notwithstanding any provision in this Gaming Ordinance or any regulation promulgated hereunder, the Gaming Commission is fully empowered to comply and secure compliance hereunder, the Commission is fully empowered to comply and secure compliance with all applicable regulations promulgated by the NIGC, including but not limited to, all requirements to report contracts, license applications, background checks, and other information to the NIGC as required by federal law.

Section 9.02 National Indian Gaming Commission – Assessment

Notwithstanding any provision in the Ordinance or any regulations promulgated hereunder, the Gaming Commission is fully empowered to ensure compliance with all assessments validly authorized by the NIGC pursuant to federal law. The Gaming Operation as directed by the Gaming Commission shall pay such assessment.

Section 9.03 Compact with the State of California

Notwithstanding any provision in this Ordinance or any regulation promulgated hereunder, the Gaming Commission is fully empowered to comply and secure compliance with the provisions of any Compact between the Tribe and the State of California.

CHAPTER 10

MISCELLANEOUS

Section 10.01 Security

Each licensed Gaming Facility must provide a security force adequate to reasonably assure the safety of patrons, employees, assets and property. The Gaming Commission shall license all security personnel.

Section 10.02 Surveillance

The Surveillance Department and all surveillance staff shall be employees of and report only to the Gaming Commission. All surveillance systems, equipments, rooms, etc., shall be under the exclusive control and jurisdiction of the Commission.

Section 10.03 Gaming Facility Management Contracts

If the Tribe and/or its Tribal Business Committee at any time decide to enter into a Management Contract for the licensed Gaming Facility on Indian land, said contract will be executed and enforced in accordance with 25 U.S.C. Section 2711 and the management of entity and personnel shall be subject to licensure by the Gaming Commission.

Section 10.04 Environment, Public Health and Safety

The construction, maintenance and operation of any facility in which Gaming Activities are to take place shall be in a manner which adequately protects the environment, public health and safety and shall comply with any otherwise applicable Tribal Ordinances, Ordinances or Regulations and Federal laws relating to environmental protection and public health and safety. The Gaming Commission shall be authorized and responsible to oversee and enforce all applicable environmental, public health and safety laws, regulations and standards.

Section 10.05 Designated Agent

The designated agent for notice of any official determination, order, or notice of violation by NIGC, as required by 25 C.F.R. 516.1, or of any Compact is the Executive Director of the Sycuan Tribal Gaming Commission.

Section 10.06 Severability

If a court of competent jurisdiction holds any provision of this Ordinance, or its application to any person or circumstance, invalid, the full remainder of the provision or application of the provision to another person or circumstances shall not be affected and shall remain valid. If any provision of this Ordinance is determined to be in conflict with any applicable Federal or State

gaming laws or regulations, or a current and future Compact, the applicable Federal or State laws and regulations or Compact provisions shall prevail as applicable to that conflicting provision of this Ordinance only. The remainder of this Ordinance shall remain valid and in effect.

Section 10.07 Amendments

This Second Amended Tribal Gaming Ordinance may be amended by the Business Committee. All regulations promulgated by the Gaming Commission may be revised, repealed or amended by the Gaming Commissioners.

Section 10.08 Effective Date and Supercedure

This Second Amended Tribal Gaming Ordinance shall take effect when it has been approved or deemed approved by the Chairman of the National Indian Gaming Commission. Upon receipt of such approval, this Second Amended Tribal Gaming Ordinance shall replace any and all other Sycuan Tribal Gaming Ordinances.