

SANTA YSABEL TRIBAL GAMING COMMISSION

SYGC 14-I003

Commission Regulation

Backgrounds and Licensing

Pursuant to Santa Ysabel Gaming Ordinance Section 8 Licensing, the Santa Ysabel Gaming Commission hereby adopts the following regulations:

1.0 Purpose of Regulation

- (a) The Iipay Nation of Santa Ysabel (“Nation”) has adopted the Iipay Nation of Santa Ysabel Gaming Ordinance (“Gaming Ordinance”), and, effective as of April 30, 2010, the Gaming Ordinance has been approved by the Chairman of the National Indian Gaming Commission (“NIGC”) pursuant to the federal Indian Gaming Regulatory Act of 1988 (“IGRA”), P.L. 100-497, 25 U.S.C. §2701, *et seq.*, as it may be amended from time to time, and the regulations of the NIGC promulgated thereunder.
- (b) The Santa Ysabel Gaming Commission (“Gaming Commission”) was established under Section XI, Paragraph A of the Gaming Ordinance to exercise regulatory authority over all gaming activities conducted within the jurisdiction of the Nation and, pursuant to Section XI, Paragraph G, is empowered, subject to Executive Branch and Legislative Branch review and comment, to promulgate regulations to implement the provisions of the Gaming Ordinance, including those necessary to the interpretation and application of the Gaming Ordinance by the Gaming Commission in connection with exercising its regulatory powers.
- (c) In order to describe the regulatory requirements licensing related to interactive Class II gaming conducted within the boundaries of the Santa Ysabel Indian Reservation, the Gaming Commission finds it necessary in connection with exercising its regulatory powers to promulgate a regulation governing the procedures for the issuance of gaming licenses related to interactive Class II gaming.

2.0 Interactive Gaming Licenses

An interactive gaming license is a revocable privilege and no holder of a tribal gaming license shall be deemed to have acquired any vested right or property interest as a result of the license. The burden of proving qualifications to hold any license rests at all times on the licensee or applicant. Application for a license pursuant to these regulations and acceptance of a gaming

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license or renewal constitutes an agreement on the part of a licensee to be bound by the tribal gaming laws and regulations.

3.0 Interactive Gaming Employee Licenses

- A. Employees of Class II I-Gaming. Every primary management official and every key employee of any Class II I-gaming activity subject to these regulations shall possess a current, valid interactive gaming employee license.
- B. Other Employees Required to be Licensed. Such other employees of the I-gaming operation, whom the Gaming Commission may deem as requiring a gaming license, shall be required to possess a current, valid gaming license.
- C. License Required. No employee may be employed by Santa Ysabel Interactive who does not have a license after ninety (90) days or has not been issued a temporary license pending their background investigation and license suitability determination.

4.0 Interactive Gaming Employee Application Forms

- A. Form All applicants for primary management official and key employee positions, and applicants for such other positions as deemed necessary for licensure by the Gaming Commission, shall submit an application to the Gaming Commission on such form and in such manner as the Gaming Commission may require.
- B. Privacy Notice
 - 1. The license application shall also include or be accompanied by a Privacy Act Notice in accordance with 25 C.F.R. §556.2 to be signed by persons applying for a gaming license.
 - 2. The Gaming Commission shall also require existing primary management officials, key employees, and such other employees as designated by the Gaming Commission, to either complete a new application that contains a Privacy Act Notice or sign a statement that contains the Privacy Act Notice and consent to the routine uses described in that Notice.
- C. Notice Regarding False Statements.

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1. The license application shall also include or be accompanied by a notice regarding false statements in accordance with 25 C.F.R. 556.3 to be signed by persons applying for a gaming license.

2. The Gaming Commission shall also require existing primary management officials, key employees, and such other employees as designated by the Gaming Commission, to either complete a new application that contains a Notice regarding False Statements or sign a statement that contains the Notice of False Statements.

3. License Application Fee. The Gaming Commission may require a non-refundable license application fee be submitted with any application. Such fees may be used to cover the Gaming Commission's expenses in investigating and licensing employees.

D. Background Investigations

1. The Gaming Commission shall request from each primary management official and from each key employee all of the following information:

a. Full name, other names used (oral or written), Social Security number, birth date, place of birth, citizenship, gender, all languages spoken or written;

b. Currently and for the previous five (5) years: all business and employment positions held, ownership interests in those businesses, business and residence addresses, and drivers license number(s);

c. The names and current addresses of at least three (3) personal references, including one (1) personal reference who was acquainted with the applicant during each period of residence listed under paragraph 1.b. of this Subsection;

d. Current business and residence telephone numbers;

e. A description of any existing and previous business relationships or arrangements with the Iipay Nation of Santa Ysabel, or any other

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Indian Tribe, including ownership interests in those businesses, and including the name of the tribe involved and the name and address of a person who can attest to the accuracy of the information provided;

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;

h. For each felony for which there is an ongoing prosecution, a dismissal, or a conviction, the charge, the name and address of the court involved, and the date and disposition if any;

i. For each misdemeanor conviction or ongoing misdemeanor prosecution (excluding minor traffic violations) within ten (10) years of the date of the application, the name and address of the court involved and the date and disposition;

j. For each criminal charge (excluding minor traffic charges), whether or not there is a conviction, if such criminal charge is within ten (10) years of the date of the application and is not otherwise listed pursuant to paragraph 1.h. or 1.i. of this Subsection, the criminal charge, the name and address of the court involved and the date and disposition;

k. The name and address of each licensing or regulatory agency with which the person has filed an application for an occupational license or permit, whether or not such license or permit was granted;

l. A current photograph;

m. Any other information the Gaming Commission may deem relevant under the circumstances.

2. As part of the license application procedure, each applicant for a key employee or primary management official position, and such other positions as

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deemed necessary by the Gaming Commission, shall have fingerprints taken in accordance with procedures adopted by the Gaming Commission consistent with 25 CFR §522.2(h). Fingerprints shall be taken by the San Diego County Sheriff's Department or other local police agency. The fingerprint cards shall be forwarded to the NIGC for processing through the FBI and NCIC, pursuant to a Memorandum of Understanding between the Tribe and the NIGC, to determine the applicant's criminal history, if any.

a. If the applicant lived outside the United States for more than six (6) months during the preceding ten (10) years the Gaming Commission shall also submit the applicant's vital information to INTERPOL and request an international criminal history report for the applicant.

3. The Gaming Commission shall conduct an investigation sufficient to make a determination under Subsection E. below. In conducting a background investigation, the Gaming Commission or its agent(s) shall:

a. ensure that all records and information obtained as a result of the background investigation shall remain confidential and shall not be disclosed to persons who are not directly involved in the licensing process. This restriction does not apply to request for information or records from any duly authorized tribal, federal or state law enforcement or regulatory agency, or for the use of such information or records by the Gaming Commission and staff in performance of their official duties;

b. keep confidential the identity of each person interviewed in the course of the investigation.

E. Suitability Determination The Gaming Commission shall review an applicant's prior activities, criminal record, if any, and reputation, habits and associations to make a finding concerning the suitability of a key employee, primary management official or other individual for granting of an interactive gaming license. If the Gaming Commission determines that licensing of the person poses a threat to the public interest or to the effective regulation of gaming, or creates or enhances dangers of unsuitable, unfair, or illegal practices and methods and activities in the conduct of gaming, the Gaming Commission shall not license that person in a key employee or primary management official position or such other position requiring a gaming license.

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F. Procedures for Forwarding Applications and Investigative Reports for Key Employees and Primary Management Officials to the NIGC

1. When a key employee or primary management official begins work at a tribal gaming operation, the Gaming Commission shall forward to the NIGC a completed application for employment and conduct the background investigation and make the determination referred to in Subsection E of this Section.
2. The Gaming Commission shall forward the investigative report referred to in Subsection G of this Section to the NIGC within sixty (60) days after an employee begins work.
3. The gaming operation shall not employ as a key employee or primary management official a person who does not have a license after ninety (90) days.

G. Investigative Report to the NIGC

1. Pursuant to the procedures set out in Subsection D of this Section, the Gaming Commission shall prepare and forward an investigative report on each background investigation to the NIGC. An investigative report shall include all of the following:
 - a. Steps taken in conducting the background investigation;
 - b. Results obtained;
 - c. Conclusions reached; and
 - d. The basis for those conclusions.
2. The Gaming Commission shall submit with the investigative report a copy of the suitability determination made under Subsection E of this Section.
3. If a license is not issued to an applicant, the Gaming Commission:
 - a. shall notify the NIGC; and
 - b. may forward copies of its suitability determination and investigative report (if any) to the National Indian Gaming Commission for inclusion in the Indian Gaming Individuals Records System.

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4. With respect to key employees and primary management officials, the Gaming Commission shall retain applications for employment and investigative reports (if any) of background investigations for inspection by the Chairman of the NIGC for no less than three (3) years from the date of termination or denial of employment.

H. Granting a Gaming License

1. If within thirty (30) days after the NIGC receives an investigative report, the NIGC notifies the Gaming Commission that it has no objection to the issuance of a license to the individual who is the subject of the investigative report, the Gaming Commission may issue a license to such applicant.

2. The Gaming Commission shall respond to a request for additional information from the NIGC concerning a key employee or a primary management official who is the subject of an investigative report. Such a request shall suspend the thirty (30) day period under Subsection H.1. of this Section until 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 license to a key employee or a primary management official for whom the Gaming Commission an application and investigative report, Gaming Commission shall reconsider the application taking into account the objection(s) itemized by the NIGC. The Gaming Commission shall make the final decision whether to issue a license to such applicant.

I. Conditional License

1. The Gaming Commission, in its discretion, may issue a license with conditions or impose conditions on an existing license. Such conditions shall be specific to allow proper monitoring by the Gaming Commission to ensure the licensee is complying with the conditions imposed by the Gaming Commission. Failure of the licensee to comply with the conditions may result in immediate suspension or revocation of the license, depending upon the facts surrounding the failure to comply.

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2. If the Gaming Commission issues a conditional license or imposes conditions on an existing license, the Gaming Commission shall give the licensee written notice specifying the grounds for the conditions and that the licensee's continued licensure is contingent upon compliance with the imposed conditions.

J. License Suspension

1. The Gaming Commission may suspend a gaming license for a specified period, after notice an opportunity for a hearing, upon a determination that a temporary suspension is warranted or that a licensee is unsuitable for continued licensure based on reliable information from any source, including, but not limited to the NIGC.

2. If the Gaming Commission determines that immediate temporary suspension of the gaming license is necessary based upon the facts before it, the Gaming Commission may immediately suspend the license and give notice to the licensee of the immediate suspension and an opportunity for a hearing.

3. In some instances of a serious nature, the Gaming Commission may determine that suspension is a preliminary step toward revocation and take actions toward revoking the license.

K. License Revocation

1. The Gaming Commission may revoke an interactive gaming license, after notice an opportunity for a hearing, upon a determination that a licensee is unsuitable for continued licensing based on reliable information from any source, including, but not limited to the NIGC.

2. If the Gaming Commission determines that immediate revocation of a license is necessary based upon the facts before it, the Gaming Commission may immediately revoke the license and is not required to suspend the license prior to taking any revocation action. The Gaming Commission shall provide notice of the immediate revocation to the licensee and an opportunity for a hearing.

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L. Grounds for License Suspension or Revocation

1. The Commission may suspend or revoke an Interactive Gaming License or Client Provider Authorization on one or more of the following grounds:

(a) the license holder or Authorized Client Provider no longer has, in the Commission's sole discretion, a good business reputation or sound current financial position;

(b) one or more of the persons that own, control or are key persons of license holder or Authorized Client Provider are no longer, in the Commission's sole discretion, suitable;

(c) the Authorized Client Provider is no longer the owner or licensee of a control system that is, in the Commission's sole discretion, suitable for the purpose of conducting interactive gaming;

(d) the license holder or Authorized Client Provider has breached a provision of the law or these Regulations;

(e) the license holder or Authorized Client Provider has failed or refused to pay a fine imposed by the Commission in accordance with a provision of these Regulations;

(f) the license holder or Authorized Client Provider has been convicted of an indictable offense, felony or other crime the Commission, in its sole discretion, results in the license holder or Authorized Client Provider no longer being suitable to hold an Interactive Gaming License or Client Provider Authorization;

(g) the license holder or Authorized Client Provider has contravened a term or condition of its License, authorization or permit or has failed to pay any fee that the license holder or Authorized Client Provider is required to pay under these Regulations or as directed by the Commission;

(h) the Authorized Client Provider has failed to discharge financial commitments to players or in relation to other aspects of the Authorized Client Provider's operations or the Commission has reason to believe that such failure is imminent;

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(i) the license holder or Authorized Client Provider is insolvent, has been petitioned into bankruptcy or has applied to take advantage of any bankruptcy law;

(j) the license holder or Authorized Client Provider has a trustee, receiver, manager, liquidator or administrator appointed for it under the provisions of the laws of any jurisdiction;

(k) the license holder or Authorized Client Provider applies for, or is compelled by any means or for any reason, for a discontinuance or winding-up;

(l) the License or authorization was obtained by a materially false or misleading representation or in some other improper way; or

(m) any other ground that the Commission, in its sole discretion, determines is material and sufficient for the purposes of this section.

M. Show Cause Procedures

1. Before amending, suspending, withdrawing or revoking an Interactive Gaming License or Client Provider Authorization, the Commission must give the holder a written notice (a “show cause notice”) that:

(a) states the action (the “proposed action”) the Commission proposes taking;

(b) states the grounds for the proposed action;

(c) outlines the facts and circumstances forming the basis for the grounds;

(d) if the proposed action is suspension, states the proposed suspension period; and

(e) permits the affected person or persons to show within a stated period (the “show cause period”) why the proposed action should not be taken.

2. The show cause period will be established by the Commission and will be specified in the show cause

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notice. The Commission will determine the length of the show cause period which must, in no event, be less than thirty (30) days or longer than ninety (90) days from the date on which it is issued.

3. The Commission must promptly serve a copy of the show cause notice on:

(a) each person (an “interested person”) the Commission believes has an interest in the Interactive Gaming License or Client Provider Authorization, if the Commission considers:

(i) the person’s interest may be affected adversely by the amendment, suspension or cancellation of the License or authorization; and

(ii) it is otherwise appropriate in the circumstances to give copy of the notice to the person.

4. A person upon whom a copy of the show cause notice is served may, within the show cause period, make written representations about the matters raised in the notice to the Commission.

5. The Commission will consider all written representations (the “accepted representations”) made during the show cause period by:

(a) the affected license holder or Authorized Client Provider; or

(b) any interested person upon whom a copy of the show cause notice is served.

6. Notwithstanding any other provision of these Regulations, the Commission may amend, suspend, withdraw or revoke an Interactive Gaming License or Client Provider Authorization immediately and without the necessity of a show cause period, if the Commission believes:

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(a) a sufficient ground exists to amend, suspend or revoke the license, authorization or permit, and

(b) the circumstances are so extraordinary that it is imperative to amend, suspend or revoke the license, authorization or permit immediately to ensure:

(i) the public interest is not affected in an adverse and material way; or

(ii) the integrity of the conduct of interactive games by the license holder or Authorized Client Provider is not jeopardized in a material way.

7. An immediate amendment, suspension or revocation:

(a) must be effected by written notice served on the affected holder (the “notice or immediate amendment, suspension or revocation”), and any interested person;

(b) is effective from the moment the notice is served;

(c) continues in effect until a hearing date or until the Commission otherwise directs;

(d) will specify a show cause period.

8. Notwithstanding any other provision of these Regulations, a license holder or Authorized Client Provider may voluntarily suspend or terminate his, her or its own License, authorization or permit by giving at least thirty (30) days written prior notice to the Commission.

9. A voluntary suspension of a License, authorization or permit:

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(a) is not effective unless accepted in writing by the Commission;

(b) does not suspend, interrupt or negate the requirement to pay annual fees for that License, authorization or permit; and

(c) unless the Commission otherwise directs, does not relieve the license holder or Authorized Client Provider from any other obligations under the Law or these Regulations.

10. In the event a Client Provider Authorization is revoked by the Commission or voluntarily terminated by the Authorized Client Provider, the Authorized Client Provider must not remove any equipment or data from the Reservation until it has:

(a) satisfied all of its obligations to the Commission, including the payment of fees;

(b) provided evidence, satisfactory to the Commission, that the Authorized Client Provider has satisfied its obligations to players, the license holder and Approved Agents.

11. When the requirements of section 10 have been fulfilled, the Commission will provide the Authorized Client Provider and the license holder with written notice confirming that the Authorized Client Provider may remove its equipment and data from the Reservation.

N. Hearings

1. A license holder or Authorized Client Provider who has received a show cause notice or notice of immediate amendment, suspension or revocation, may, within the show cause period, request a hearing before the Commission to respond to the matters raised in the show cause notice.

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2. Upon receiving a request for a hearing, the Commission will set a time and place for the hearing and will immediately notify the license holder or Authorized Client Provider in writing (the “hearing notice”) of time and place of the hearing.

3. At the hearing, the license holder or Authorized Client Provider, will have the opportunity to bring written and oral evidence to respond to the matters raised in the show cause notice.

4. The Commission may issue additional rules to govern the procedures to be followed at a hearing, in lieu of which, proceedings will follow accepted rules of fairness and natural justice.

5. In the event the affected license holder or Authorized Client Provider fails or refuses to attend a hearing at the time and place set out in the hearing notice, the Commission may, in its sole discretion, take one or more of the following actions:

(a) adjourn the hearing to another time and/or place;

(b) confirm and/or continue the amendment, suspension or revocation;

(c) impose a fine on the affected license holder or Authorized Client Provider of not less than One Thousand (\$1,000.00) Dollars and not more than Twenty Thousand (\$20,000.00) Dollars;

(d) issue such other directives as the Commission deems necessary.

6. If, after considering the accepted representations, or in the case of a hearing, the evidence adduced before it, if any, the Commission finds that:

(a) a ground or grounds exist to amend, suspend

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or revoke the Interactive Gaming License or Client Provider Authorization; or

(b) the act, omission or other matter constituting the ground is of a serious and fundamental nature and either:

(i) the integrity of the conduct of interactive games by the license holder or Authorized Client Provider may be jeopardized in a material way;

(ii) the public interest may be affected in an adverse or material way;

(iii) the credibility or reputation of the Commission, the Reservation of any person or entity within the Reservation is, or may be, negatively affected:

the Commission may amend or revoke the Interactive Gaming License or Client Provider Authorization or suspend the License, authorization or permit for such period of time and on such conditions of re-instatement as the Commission deems appropriate.

7. The Commission must promptly serve written notice of the decision to amend, suspend or revoke a License, authorization or permit, with reasons for the decision, on the affected holder.

8. A decision to amend, suspend or revoke a license, authorization or permit takes effect on the date and time specified by the Commission.

9. If a License, authorization or permit is under suspension, the Commission may, at the request of the license holder or Authorized Client Provider, reconsider the duration of the suspension and will promptly inform the affected holder in writing of its decision.

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5.0 Licensing of Interactive Gaming Vendors and Other Entities

A. The Gaming Commission shall require the following to be licensed in order to transact business with the gaming operation:

1. any person or entity that supplies or proposes to supply any goods or services provided or used in connection with interactive gaming activities with a value of \$25,000 or more in any twelve (12) month period;
2. any person or entity that supplies interactive gaming software or computer servers dedicated to interactive gaming and/or payment processing;
3. any person or entity doing business or proposing to do business with the interactive gaming operation that the Gaming Commission deems necessary, including a non-gaming vendor.

B. The Gaming Commission shall develop a vendor application form that shall request such information, including but not limited to financial records, sufficient to allow the Commission or its agent to conduct a background investigation and make a suitability determination for issuing a vendor license.

C. The Gaming Commission reserves the right to require non-gaming related vendors to register with the Gaming Commission.

Approved by:

April 29, 2014

Dave Vialpando, Chairman

Date

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**SANTA YSABEL TRIBAL
GAMING COMMISSION**



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