

## **Gaming Facilities Standards**

### **CHAPTER 13. SAN MANUEL GAMING FACILITIES STANDARDS ACT<sup>1</sup>**

#### **SMTC 13.1 Title**

This Chapter shall be known and cited as the "San Manuel Gaming Facilities Standards Act" (hereinafter the "Act").

#### **SMTC 13.2 Policy Statement and Adoption of Act**

This Act is adopted in compliance with Sections 12.3(a)-(k) and 12.4 of the Compact, as that term is defined herein. It is the Tribe's intent, and this Act shall be so construed, to provide for the adoption and/or compliance by the Tribe with certain State and/or federal health and safety standards applicable to the Tribe's Gaming Facilities as set forth in the aforementioned sections of the Compact, provided that nothing herein shall be construed as subjecting the Tribe to the jurisdiction of the State.

#### **SMTC 13.3 Definitions**

a. **"Business Committee"** means the seven member committee established under the Tribe's Articles of Association.

b. **"Compact"** means the Class III Tribal-State Gaming Compact between the Tribe and the State of California executed on or about August 15, 2016, with an effective date of April 10, 2017, which supersedes the prior Tribal-State Gaming Compact executed September 10, 1999 as amended on August 28, 2006, further amended by letter of agreement dated September 25, 2007.

c. **"County"** means the County of San Bernardino, California, a political subdivision of the State of California.

d. **"Gaming Activities"** means the Class III Gaming activities authorized under the Compact.

e. **"Gaming Facilities"** means any building in which Gaming Activities or any Gaming Operations occur, or in which business records, receipts, or funds of the Gaming Operation are maintained (excluding offsite facilities primarily dedicated to storage of those records and financial institutions), and all rooms, buildings, and areas, including hotels, parking lots, and walkways, a principal purpose of which is to serve the activities of the Gaming Operation and Facility rather than providing them with an incidental benefit.

f. **"Gaming Operation"** means the business enterprise that offers and operates Gaming Activities, whether exclusively or otherwise.

g. **"Shall"** means mandatory.

h. **"State"** means the State of California, or an authorized official or agency thereof designated by the Compact or the State's Governor.

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<sup>1</sup> Adopted by the General Council on June 13, 2000; amended April 11, 2017.

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- i. **“State Gaming Agency”** means the entities authorized to investigate, approve, regulate and license gaming pursuant to the State’s Gambling Control Act, or any successor statutory scheme, and any entity or entities in which that authority may hereafter be vested.
- j. **“Tribal”** means of or belonging to the Tribe.
- k. **“Tribal Gaming Agency”** means the San Manuel Gaming Commission.
- l. **“Tribe”** means the San Manuel Band of Mission Indians, a federally recognized Indian tribe.

### **SMTC 13.4 Adoption of and Compliance with Public Health Standards**

13.4.1 **Food and Beverage Handling Standards.** The Tribe hereby adopts, incorporates by this reference and makes applicable to its Gaming Facilities the State’s public health standards for food and beverage handling. The Tribe delegates to the Business Committee and the San Manuel Gaming Commission all necessary authority to adopt appropriate regulations and enforce said standards. The Business Committee may by official action further delegate its authority under this subsection 13.4.1 to any agency, instrumentality, department, or official of the Tribe.

13.4.2 **Food and Beverage Service Inspections.** The Tribe shall permit, during normal hours of operation, inspection of food and beverage services in the Gaming Facilities by State or County health inspectors, whichever inspector would have jurisdiction but for the Gaming Facilities being on Indian lands, to assess compliance with the standards adopted pursuant to SMTC 13.4.1, unless such inspections are routinely made by an agency of the United States government to ensure compliance with equivalent standards of the United States Public Health Service. Any report subsequent to an inspection or visit by the State, County, or federal health inspectors shall be transmitted within seventy-two (72) hours to the State Gaming Agency and the Tribal Gaming Agency. Nothing herein shall be construed as submission of the Tribe to the jurisdiction of State or County health inspectors.

13.4.3 **Water Quality and Safe Drinking Water Standards.** The Tribe hereby adopts, incorporates by this reference and makes applicable to its Gaming Facilities federal water quality and safe drinking water standards applicable in California. The Tribe delegates to the Business Committee all necessary authority to adopt appropriate regulations and enforce those standards. The Business Committee may by official action further delegate its authority under this subsection 13.4.3 to any agency, instrumentality, department, or official of the Tribe.

13.4.4 **Water Quality and Safe Drinking Water Inspections.** The Tribe shall permit, during normal hours of operation, inspection and testing of water quality at the Gaming Facilities by State or County health inspectors, whichever inspector would have jurisdiction but for the Gaming Facility being on Indian lands, to assess compliance with the standards adopted pursuant to SMTC 13.4.3, unless such inspections and testing are routinely made by an agency of the United States government pursuant to federal law to ensure compliance with federal water quality and safe drinking water standards. Any report or other writings by the State, County, or federal health inspectors shall be transmitted within seventy-two (72) hours to the State Gaming Agency and the Tribal Gaming Agency. Nothing herein shall be construed as submission of the Tribe to the jurisdiction of State or County health inspectors.

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13.4.5 Other Applicable Federal Health & Safety Standards. The Tribe shall adopt and comply with standards consistent with applicable federal laws regarding public health and safety. The Tribe delegates to the Business Committee all necessary authority to adopt appropriate regulations and enforce those standards. The Business Committee may by official action further delegate its authority under this subsection 13.4.5 to any agency, instrumentality, department, or official of the Tribe.

### **SMTC 13.5 Workplace and Occupational Health and Safety Standards**

13.5.1 Workplace and Occupational Health and Safety Standards. The Tribe hereby adopts, incorporates by this reference and makes applicable to its Gaming Facilities federal workplace and occupational health and safety standards. The Tribe delegates to the San Manuel Gaming Commission and the Business Committee, as appropriate, all necessary authority to adopt appropriate regulations and enforce those standards. The Business Committee may by official action further delegate its authority under this subsection 13.5.1 to any agency, instrumentality, department, or official of the Tribe.

13.5.2 Workplace Inspections. The Tribe shall permit State inspectors to inspect Gaming Facility workplaces, during normal hours of operation, to assess compliance with such standards; provided that there is no right to inspection by State inspectors where an inspection has been conducted by an agency of the United States pursuant to federal law during the previous calendar quarter and the Tribe has provided a copy of the federal agency's report to the State Gaming Agency within ten (10) days of the federal inspection. Nothing herein shall be construed as submission of the Tribe to the jurisdiction of such State inspectors.

### **SMTC 13.6 Adoption of Other Laws and Standards**

13.6.1 The Tribe shall comply with Section 12.3(f) of the Compact pursuant to Chapter 36 of the San Manuel Tribal Code, the San Manuel Gaming Operation Employment Claims Act.

13.6.2 The Tribe shall adopt and comply with check cashing standards pursuant to the terms of Section 12.3(g) of the Compact. The Tribe delegates to the Business Committee and the San Manuel Gaming Commission all necessary authority to adopt appropriate regulations and enforce those standards. The Business Committee may by official action further delegate its authority under this subsection 13.6.2 to any agency, instrumentality, department, or official of the Tribe.

13.6.3 The Tribe shall adopt and comply with standards that are no less stringent than State laws, if any, prohibiting a gambling or other gaming enterprise from providing, allowing, contracting to provide, or arranging to provide alcoholic beverages, or food or lodging, for no charge or at reduced prices at a gambling establishment or lodging facility as an incentive or enticement. The Tribe delegates to the Business Committee and the San Manuel Gaming Commission all necessary authority to adopt appropriate regulations and enforce those standards. The Business Committee may by official action further delegate its authority under this subsection 13.6.3 to any agency, instrumentality, department, or official of the Tribe.

13.6.4 The Tribe shall adopt and comply with standards that are no less stringent than State laws, if any, prohibiting extensions of credit. The Tribe delegates to the Business Committee and the San Manuel Gaming Commission all necessary authority to adopt appropriate regulations and enforce those standards.

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13.6.5 The Tribe shall comply with provisions of the Bank Secrecy Act, P.L. 91-508, October 26, 1970, 31 U.S.C. §§ 5311-5314, as amended, and all reporting requirements of the Internal Revenue Service, insofar as such provisions and reporting requirements are applicable to gambling establishments.

13.6.6 In accordance with the Tribe's sovereignty and reflecting its commitment to ensuring fair wages for its employees, the Tribe agrees to adopt standards no less stringent than the minimum wage, maximum hour, child labor, overtime, and working condition standards set forth in the Fair Labor Standards Act, 29 U.S.C. § 201 et seq., and the United States Department of Labor regulations implementing the Fair Labor Standards Act, 29 C.F.R. § 500 et seq. The Gaming Operation has adopted its own wage scales for the Gaming Facility consistent with the state minimum wage law enacted pursuant to California Labor Code section 1182.12 and the State Department of Industrial Relations regulations implementing the state minimum wage law, title 8 of the California Code of Regulations, § 11000 et seq., and will maintain wage scales consistent with any future wage changes in these state minimum wage laws. Notwithstanding the foregoing, only the federal minimum wage laws set forth in the Fair Labor Standards Act, 29 U.S.C. § 201 et seq., and its implementing regulations, shall apply to tipped employees. Nothing herein shall make applicable state law concerning overtime or any other wage and hour matters.

13.6.7 The Tribe shall comply with the building and safety standards set forth in Section 6.4.2 of the Compact pursuant to Chapter 14 of the San Manuel Tribal Code, the San Manuel Gaming Facility Building and Safety Act.

### **SMTC 13.7 Sovereign Immunity**

Nothing herein shall be deemed to constitute a waiver of the Tribe's sovereign immunity from unconsented suit, which is hereby expressly reserved.