

Emergency Management Act

CHAPTER 32. EMERGENCY MANAGEMENT ACT¹

SMTC 32.1 Title

This Chapter shall be known and cited as the “San Manuel Emergency Management Act” (hereinafter this “Act”).

SMTC 32.2 Statement of Purpose

The purpose of this Act is to ensure the efficient and effective use of Tribal resources during incidents, conditions, emergencies, and disasters on or affecting the San Manuel Reservation that threaten life, health, property, the environment, or the normal and safe operation of Tribal governmental, business and other activities and programs, and to authorize the coordination of those resources and efforts with Tribal and non-Tribal public agencies and affected private persons, businesses and organizations to the extent necessary.

The Tribe has adopted the National Incident Management System (NIMS) using the Incident Command System (ICS) and established a Standardized Emergency Management System (SEMS) which will be used to manage all emergencies on the Reservation based upon the Incident Command System (ICS) developed by Firefighting Resources of California Organized for Potential Emergencies (FIRESCOPE). The NIMS and SEMS will be used in accordance with this Act.

SMTC 32.3 Definitions

32.3.1 “**Articles of Association**” means the Articles of Association of the San Manuel Band of Mission Indians, as amended.

32.3.2 “**Business Committee**” means the seven-member San Manuel Business Committee, as established pursuant to and further defined in the Articles of Association.

32.3.3 “**Controlled**” means an incident, emergency, or disaster has been substantially abated and is no longer an active threat to life, health, property, or the environment. Substantial mitigation or recovery efforts may remain after achieving Controlled status, however, the normal administrative and operational procedures of the Tribe are sufficient to manage and fully restore normalcy.

32.3.4 “**Cost Apportionment Agreement**” means a document developed and executed under exigent conditions that defines responsibilities for costs incurred in mitigating the emergency incident.

32.3.5 “**Crisis Management Team**” means the group of persons convened to provide policy advice to the Tribal Chairperson or their Successor and the Business Committee in event of a State of Emergency.

¹ Adopted by the General Council on February 10, 2015. Amended by the General Council on June 9, 2015, and November 9, 2021.

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32.3.6 **“Delegation of Authority and Letter of Instruction”** means documents developed and executed under exigent conditions that grant authority to specified personnel for purposes of mitigating an Incident.

32.3.7 **“Emergency Operations Plan”** or **“EOP”** means that certain emergency operations plan developed by the Tribes’ TERC, as may be amended from time to time.

32.3.8 **“Emergency Relief Activity”** means the response to an actual, impending, or simulated disaster or emergency.

32.3.9 **“Emergency Relief Worker”** means a person who is authorized under this Act, or directed by a Business Committee member or their Successor or a Tribal Emergency Official to respond to an Emergency Relief Activity.

32.3.10 **“Executive Leadership Cabinet”** means the cabinet of senior executive leaders as designated by the Tribe's Chief Executive Officer.

32.3.11 **“General Council”** means the governing body of Tribe, as established pursuant to and further defined in the Articles of Association.

32.3.12 **“Incident”** means an occurrence or event caused by human or natural phenomena that causes or has the potential to cause loss of life or damage to property or natural or cultural resources.

32.3.13 **“Incident Commander”** means the individual emergency responder responsible for all aspects of an emergency response, as such duties are set forth in this Act. Persons must be qualified in this role according to NIMS and/or the California Incident Command Certification System (CICCS) for the incident type and complexity to which they are assigned.

32.3.14 **“Public Health Emergency”** means an imminent threat or occurrence of an illness or condition that puts the lives, livelihood, or health of persons in peril and is beyond the normal capacity of the Tribal government to resolve.

32.3.15 **“Public Health Official”** means the Director of the San Manuel Public Health Department or equivalent thereof, or any other Tribal employee or contractor qualified in medicine or public health who is formally appointed by the Business Committee to serve as the Public Health Official.

32.3.16 **“San Manuel Reservation”** or **“Reservation”** means the federally designated trust lands of the San Manuel Band of Mission Indians.

32.3.17 **“State of Emergency”** means the existence of conditions of peril to the safety of persons and property within the Reservation caused by such conditions as air pollution, fire, flood, storm, civil disturbances, hazardous materials release, epidemic, drought, sudden and severe energy shortage, plant or animal infestations or disease, earthquake, or volcanic eruption, war-caused emergencies, acts of terrorism, acts of god, or other conditions which by reason of their magnitude are or are likely to be beyond the control of the services, personnel, equipment, and facilities of the Tribe.

32.3.18 **“Successor”** means a person who has assumed a position or been appointed to act in the inaccessibility of the Tribal Chairperson or a Business Committee member in accordance with section 32.9 of this Act.

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32.3.19 **“TERC”** means Tribal Emergency Response Commission.

32.3.20 **“TERT”** means Tribal Emergency Response Team.

32.3.21 **“TERT Training”** means the TERT program administered by the San Manuel Fire Department using the Federal Emergency Management Agency’s (FEMA) Community Emergency Response Team training curriculum.

32.3.22 **“Tribal”** means of or belonging to the Tribe.

32.3.23 **“Tribal Citizen”** means an enrolled member of the San Manuel Band of Mission Indians.

32.3.24 **“Tribal Community Member”** means a person who is not a Tribal Citizen, but is a member of the Tribal Citizen’s immediate family or is a resident of a Tribal Citizen’s household on the Reservation. Identification of a person as a Tribal Community Member for the purposes of this Act shall not entitle any person to membership in the Tribe or to any benefits or privileges thereof. The Business Committee shall have final, unappealable discretion to identify or decline to identify a person as a Tribal Community Member for the purposes of this Act.

32.3.25 **“Tribe”** means the San Manuel Band of Mission Indians, a federally recognized Indian tribe.

32.3.26 **“Tribal Emergency Official”** means a Business Committee member or Successor, Incident Commander, Public Health Official, or a NIMS qualified employee of the Office of the Chief Physical Security Officer, Fire Department, Office of Emergency Management, Public Safety, Public Works, Public Health, or Environmental Services.

32.3.27 **“Unified Command”** means an agreement between multiple jurisdictions to perform as a consolidated command structure so as to better coordinate response and mitigation efforts.

32.3.28 **“Volunteers”** means those individuals who are not employees of the Tribe or a Tribal entity and who do not request compensation for any assistance rendered during an Incident or State of Emergency.

SMTC 32.4 Tribal Emergency Response Commission (TERC)

32.4.1 **Formation.** The TERC was formed by a resolution dated June 11, 2002, in accordance with and in fulfillment of requirements of Title III of the Superfund Amendments and Reauthorization Act (SARA), 42 U.S.C. §§ 1101-11050 to protect the lives, environment, cultural heritage, and property of the Tribe and to coordinate, enhance, and develop interdepartmental communications, resources, and expertise to plan for effective responses to any and all emergencies and disasters.

32.4.2 **Membership.** The General Council shall appoint members to the TERC by Tribal resolution, who shall serve at the pleasure of the General Council. The Committee shall consist of the following members:

- a. Vice President, Emergency Services;
- b. Vice President, Department of Public Safety;

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- c. Fire Chief;
- d. Environmental Manager;
- e. Vice President of Enterprise Risk Management;
- f. Public Works Division Director;
- g. Director of Tribal Security and Emergency Services;
- h. Disaster Services Manager;
- i. Public Health Official;
- j. Vice President of Cultural and Natural Resources;
- k. At least one Tribal Citizen; and
- l. Any other Tribal Citizen, Tribal Community Member, Tribal official, or Tribal employee appointed at the discretion of the General Council.

32.4.3 Organization.

- a. The TERC shall be chaired by the Vice President of Emergency Services, with the Vice President of the Department of Public Safety serving as the Vice Chairperson. The Disaster Services Manager will serve as the TERC Secretary.
- b. At least five TERC members must be in attendance for a quorum of the TERC to exist.
- c. TERC members may designate a delegate to represent them at the meeting, such delegate will count towards establishing a quorum and may cast proxy votes for the member that they are representing.

32.4.4 Authorizations and Responsibilities.

- a. The TERC shall be authorized to approve, revise and amend Tribal emergency planning documents relating to the continuation of Tribal cultural, business, and government operations in response to various threats to human life or property. Upon approval by the TERC, such plans shall be sent to the Business Committee or during a State of Emergency in the absence of a quorum of the Business Committee, the Tribal Chairperson or their Successor for approval.
- b. The TERC shall develop and maintain a Crisis Management Team Plan, which details the membership of the Crisis Management Team, crisis communications, team assembly, and Crisis Management Team organization. Upon approval by the TERC, such plan shall be sent to the Business Committee or during a State of

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Emergency in the absence of a quorum of the Business Committee, the Tribal Chairperson or their Successor for approval.

SMTC 32.5 Tribal Emergency Response Teams (TERT)

32.5.1 Membership. Membership in the Tribe's TERT(s) shall be open to Tribal Citizens, Tribal Community Members, Tribal employees, and Tribal authorized Volunteers.

- a. Prospective members must enroll as TERT members through the Fire Department, and complete TERT Training prior to being accepted to the team and deploying to an Incident or State of Emergency.
- b. TERC shall prescribe in the Tribe's written EOP the number of authorized TERT members.

32.5.2 Activation. A TERT or TERTs may be activated by the Fire Chief, or their successor, or an Incident Commander when needed to support and event or activity or to mitigate an Incident and will be under the management of the Fire Chief, Disaster Services Manager, the Incident Commander that activated the TERT, or their delegate.

SMTC 32.6 Crisis Management Team (CMT)

32.6.1 Formation. A Crisis Management Team shall be convened by the Chief Executive Officer, or designee, acting in the capacity of Crisis Management Team Coordinator ad hoc during a State of Emergency and may be convened as needed during an Incident for purposes of providing policy guidance to the Tribal Emergency Officials managing the incident, Tribal leadership, the Tribal membership, and Tribal enterprises.

32.6.2 Membership. The Crisis Management Team will consist of the Tribal Chairperson or their Successor and the following:

- a. Tribal Vice Chairperson or their Successor;
- b. Business Committee Members or their Successors;
- c. Chief Executive Officer;
- d. Chief Operating Officer;
- e. Chief Legal & Compliance Officer;
- f. Chief Financial Officer;
- g. Chief Physical Security Officer;
- h. Chief People & Infrastructure Officer;
- i. Casino General Manager;

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- j. Senior Vice President of Tribal Community Services;
- k. Chief Gaming Regulator;
- l. Fire Chief;
- m. Vice President of Strategic Communications;
- n. Chief Intergovernmental Affairs Officer; and
- o. Other such subject matter experts as the Chairperson or Chief Executive Officer deem necessary.

32.6.3 Authorizations and Responsibilities. Activities of the Crisis Management Team shall include, but are not limited to, the following:

- a. Confirming or replacing the appointment of the Tribe's Incident Commander;
- b. Establishing a media policy for communicating information related to the State of Emergency;
- c. Determining the priority of Emergency Relief Activities;
- d. Approving Cost Apportionment Agreements;
- e. Authorizing the enlistment of Volunteers and policies related to their use; and
- f. Providing technical or legal advice.

SMTC 32.7 Responding to an Incident

32.7.1 Establishment of Incident Command.

- a. The position of Incident Commander will be initially assumed by the first arriving qualified emergency official to the scene of the Incident and will subsequently transfer to a qualified Tribal Emergency Official from the appropriate department with primary mitigation responsibility over the Incident or State of Emergency as described in this section.
 - 1. The Fire Department shall have primary mitigation responsibility for Incidents involving fires, earthquakes, hazardous materials spills and releases, rescues, and medical emergencies.
 - 2. Unless relieved by local law enforcement in accordance with Public Law 280, the Department of Public Safety shall have primary mitigation responsibility for Incidents involving explosives, acts of violence, criminal or suspected criminal activity, and civil unrest.

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3. The Environmental Department shall have primary mitigation responsibility for Incidents involving environmental clean-up and restoration efforts.
 4. The Public Works Department shall have primary mitigation responsibility for Incidents involving floods and damage to or debris obstructing roadways and infrastructure.
 5. Public Health Emergencies and Incidents involving public health including preventing the spread of communicable disease and protecting against environmental health hazards shall be managed by the “Public Health Official” pursuant to section 32.10 of this Act. A Public Health Official may request that an Incident Commander from the Fire Department be assigned if emergency actions are needed which require the initiation of an Incident Command structure.
- b. The initial Incident Commander will provide the qualified Tribal Emergency Official from the appropriate department with primary mitigation responsibility a transfer of command briefing. The transfer of command should, when possible, take place face-to-face. The briefing should include the current conditions of the incident, the actions taken to mitigate the incident and any outstanding needs of the incident.
 - c. The Incident Commander shall be under the direction of the Tribal Emergency Official who is the next up-line manager (Director or above) of the San Manuel department which has primary mitigation responsibility for the incident.
 - d. When the primary mitigation responsibility for an Incident or State of Emergency is unclear, transfer of Incident Commander responsibility is disputed, or primary mitigation responsibility rests with several Tribal departments, the selection of the Incident Commander, or subsequent transfer of Incident Commander responsibility shall be determined by the highest ranking officer of the San Manuel Fire Department responding to the Incident.
 - e. The transfer of responsibility for Incident Commander shall be communicated to emergency resources assigned to the Incident or State of Emergency.

32.7.2 Authorities.

- a. During an Incident, the Incident Commander shall have the authority to:
 1. Activate any individual component(s) of the Emergency Operations Plan (EOP) or the EOP in its entirety;
 2. Activate a TERT or TERTs;
 3. Activate the EOC and assign Tribal employees to staff specific functions to help manage the incident based on their specific skill set or training;

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4. Direct and compel the evacuation, for a designated area and time period, of all or part of the population from a stricken or threatened area within the Reservation if necessary for the preservation of life or other mitigation, response, or recovery activities;
 5. Prescribe routes, modes, and destinations of transportation, and control ingress and egress of a Reservation area, the movement of persons within the area, and the occupancy of premises therein if necessary for the preservation of life or other mitigation, response, or recovery activities;
 6. Order persons to shelter in place until such time as an Incident is abated, or they can be safely evacuated;
 7. Command and issue direction to any Tribal employee, contractor or mutual aid cooperater, member of the public, or press as may be necessary for the purposes of mitigating an Incident;
 8. Designate buildings, occupancies, and areas as areas of exclusion based on the determination of an unsafe condition of occupancy until such time as the hazard is abated, or a comprehensive structural or hazard review can be conducted;
 9. Set priorities, objectives, and define the organization of the Incident response teams and the overall Incident action plan; and
 10. Assign individuals, who may be from the same agency or from assisting agencies, to subordinate or specific positions for the duration of the Incident.
- b. During an Incident, a Tribal Emergency Official acting in the role of Incident Commander shall have all of the authorities of an Incident Commander above and shall have the authority to:
1. Direct Tribal building or safety inspectors to enter onto private property on the Reservation for purposes of assessing the conditions and ensuring the safety of occupants and responders of the area or property;
 2. Enter into Unified Command agreement(s) specific to the Incident;
 3. Execute Cost Apportionment Agreements on behalf of the Tribe, subject to the prior approval of the Business Committee, or in the absence of a quorum of the Business Committee, by the Tribal Chairperson or their Successor;
 4. Sign Delegation of Authority and Letter of Instruction documents on behalf of the Tribe, subject to the prior approval of the Business Committee, or in the absence of a quorum of the Business Committee, by the Tribal Chairperson or their Successor;

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5. Issue emergency notifications to protect and preserve life, health and safety for events that are immediately dangerous to life or health;
6. Approve the release and distribution of information and press releases, provided, however, such information shall be pursuant to any media plan and approved for release by the Business Committee, or in the absence of a quorum of the Business Committee, the Tribal Chairperson or their Successor;
7. Develop a plan for access of the press, the public, employees, other responders, and Tribal Citizens to information regarding an Incident on or affecting the Reservation;
8. Command the movement of any vehicle for exigent needs or access to mitigate an Incident;
9. Authorize the use of equipment or vehicles owned and operated by the Tribal government or an entity wholly owned and operated by the Tribe; and
10. Authorize the use of water in swimming pools or water tanks, tools, construction equipment and commercial passenger vehicles stored on private property on the Reservation necessary to mitigate the Incident; however, nothing herein shall be construed to authorize a Tribal Emergency Official to enter into private residential structures to search for items or use any privately owned non-commercial vehicles.

32.7.3 Finance and Administration.

- a. A Tribal Emergency Official with the rank of Fire Department Battalion Chief or Department of Public Safety Lieutenant and above shall be authorized to expend, obligate, or encumber future expenditure(s) up to \$250,000.00 per Incident with approval of the Incident Commander to mitigate an Incident on or affecting the Reservation regardless of whether the spending is accounted for in the annual budget.
- b. Spending authority shall not include staffing and manpower costs of Tribal employees. Staffing is ordered on an “as needed” basis by the Incident Commander and is not subject to the fiduciary controls described herein.
- c. The Incident Commander shall document each such expenditure and send notification to the Tribal Chief Financial Officer.

SMTC 32.8 State of Emergency

32.8.1 Declaration of a State of Emergency. When the Business Committee, or in the absence of a quorum of the Business Committee, the Tribal Chairperson or their Successor determines a State of Emergency exists, they shall declare a State of Emergency. Such declaration shall be proclaimed in written form within seventy-two

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(72) hours of declaration, provided that the time for such written declaration may be extended by the Business Committee or Tribal Chairperson or their Successor in the event that conditions warrant such extension.

32.8.2 Authorities.

- a. Upon a declaration of a State of Emergency, the Incident Commander may:
 1. Command Tribal resources, services and equipment and as many Reservation residents as considered necessary in light of the State of Emergency; provided, that persons so commanded shall be entitled during the period of such service to all privileges, benefits and immunities as are provided by Tribal and applicable federal law for emergency personnel, as set forth in this Act;
 2. Authorize the deployment and use of personnel to which the EOP apply, and the use or distribution of Tribal supplies, equipment, materials, or facilities assembled or stockpiled as set forth in this Act;
 3. Transfer the direction, personnel, or functions of Tribal departments, agencies, or units thereof for the purpose of performing or facilitating emergency management;
 4. Authorize the use of equipment or vehicles owned and operated by the Tribal government or an entity wholly owned and operated by the Tribe;
 5. Authorize the use of water in swimming pools or water tanks, tools, construction equipment and commercial passenger vehicles stored on private property on the Reservation necessary to mitigate the Incident or State of Emergency; provided, however, nothing herein shall be construed to authorize a Tribal Emergency Official to enter into private residential structures to search for items or use any privately owned non-commercial vehicles;
 6. Direct and compel the evacuation, for a designated area and time period, of all or part of the population from a stricken or threatened area within the Reservation if necessary for the preservation of life or other mitigation, response, or recovery activities;
 7. Provide temporary emergency housing for individuals evacuated from the Reservation; and
 8. Direct all other actions which are necessary and appropriate under the circumstances.
- b. Upon a declaration of a State of Emergency, the Business Committee, or in the absence of a quorum of the Business Committee, the Tribal Chairperson may:

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1. Exempt contracts from the Tribe's contract approval and execution policies and procedures;
2. Suspend a regulatory or procedural Tribal law, order, regulation, resolution, policy, or rule prescribing the procedures for the conduct of Tribal business, when strict compliance thereof would prevent, hinder, or delay necessary action required to address the State of Emergency;
3. Suspend or limit the sale, dispensing, or transportation of alcoholic beverages, explosives, and combustibles;
4. Impose a curfew that prohibits, in certain specified areas and during certain specified time periods, the appearance in public of any person, provided, however, the Business Committee, or in the absence of a quorum of the Business Committee, the Tribal Chairperson or their Successor may exempt necessary personnel or activities from some or all of the curfew restrictions. Such curfew order shall apply during the specified period each day until modified or withdrawn;
5. Suspend normal working conditions, subject to any collective bargaining agreements, during the period of the State of Emergency;
6. Call emergency meetings of the Business Committee on a minimum of one hour notice or of the General Council on a minimum of two hours' notice. Such notice of an emergency Business Committee or General Council meeting shall be via individual Tribal Citizen contact, either in person or via electronic or telephonic means. When so noticed, the quorum requirement shall be suspended and actions shall be approved by a vote of the majority of those participating in the meeting. Items considered in such meetings shall be limited to items directly related to the mitigation of the State of Emergency; and
7. Issue, amend, and rescind temporary emergency rules, regulations, and directives on matters reasonably related to the protection of life and property as affected by such State of Emergency.

32.8.3 Finance and Administration.

- a. Once a State of Emergency has been declared, the Incident Commander is authorized to expend, obligate, or encumber to a future expenditure up to \$250,000.00 per occurrence, with total allowable costs of \$2.5 million, to meet the immediate financial needs to mitigate the Incident(s) giving rise to the State of Emergency until the Incident is declared Controlled with the concurrence and approval of any one of the following, provided, however, that the concurring official and the Incident Commander may not be the same person:
 1. A member of the Business Committee or their Successor;

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2. Fire Chief;
 3. Chief Physical Security Officer;
 4. Vice President of Public Safety;
 5. Vice President of Emergency Services;
 6. Chief Executive Officer;
 7. Chief Financial Officer;
 8. Chief Operating Officer; or
 9. Any member of the Executive Leadership Cabinet.
- b. The Incident Commander is further authorized to expend, obligate, or encumber to a future expenditure above the \$250,000 limit or the \$2.5 million aggregate with the concurrence and approval of any two of the following, providing, however, that the concurring official and the Incident Commander may not be the same person:
1. Tribal Chairperson or their Successor;
 2. Chief Executive Officer or their Successor; or
 3. Chief Financial Officer or their Successor.
- c. The Incident Commander is authorized to approve expenditures and services not to exceed \$250,000.00, or \$2.5 million with a concurring official as defined in the above section, without obtaining any bids routinely required under non-emergency procedures for executing an expense or purchase.
- d. Spending Authority shall not include staffing and manpower costs of Tribal employees. Staffing is ordered on an “as needed” basis by the Incident Commander and is not subject to the fiduciary controls described herein.
- e. The Incident Commander shall document each such expenditure and send notification to the Tribal Chief Financial Officer.

32.8.4 Ratification of State of Emergency Declaration by General Council.

If the State of Emergency continues to exist and there is a general meeting of the Tribe’s General Council, the General Council may decide to either confirm or vacate any State of Emergency declaration.

32.8.5 Termination of State of Emergency. When the Business Committee, or in the absence of a quorum of the Business Committee, the Tribal Chairperson or their Successor is satisfied that a State of Emergency no longer exists, a written declaration

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terminating the State of Emergency shall be issued terminating the authority of the Incident Commander, the Crisis Management Team and the emergency authorities or restrictions provided for in the State of Emergency declaration.

SMTC 32.9 Succession during a State of Emergency

32.9.1 Determination of Inaccessibility. To determine “inaccessibility” under any provision of this Act, the following procedures shall be used:

- a. The Incident Commander shall initiate a request for declaration of a State of Emergency to all members of the Business Committee via electronic or telephonic media using the contact information for such individuals listed in the EOP and on file with the Office of the Secretary.
- b. Business Committee members receiving this request must promptly respond to the Incident Commander and include information on how they may be contacted going forward.
- c. Business Committee members not responding to the request within sixty minutes are deemed to be inaccessible.
- d. Notwithstanding the foregoing, once a person reports to the Incident Commander, they shall no longer be deemed to be inaccessible and will assume their position in the line of succession, unseating any individuals that may have held positions as interim Successors.

32.9.2 Inaccessibility or Incapacity of the Tribal Chairperson. In the inaccessibility or incapacity of the Tribal Chairperson as it relates to authorities solely under this Act, the following succession applies to the exercise of executive authority of the Tribe:

- a. Tribal Vice Chairperson;
- b. Secretary of the Business Committee;
- c. Treasurer of the Business Committee;
- d. Members-at-large of the Business Committee (in order of seniority on the Business Committee);
- e. Past Tribal Chairpersons² (in reverse chronological order of service dates);
- f. Past Tribal Vice Chairpersons² (in reverse chronological order of service dates);
- g. Past Business Committee Members² (in reverse chronological order of service dates);

² These designated past officials of the Tribe are included in the succession only insofar as they individually opt to be included, and have attended an emergency operations training within the past three (3) years.

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- h. Chief Executive Officer;
- i. Chief Operating Officer;
- j. Chief Financial Officer;
- k. Chief Legal and Compliance Officer;
- l. Chief People and Infrastructure Officer;
- m. Chief Intergovernmental Affairs Officer;
- n. Casino General Manager; and
- o. Present Chairperson of the TERC.

32.9.3 Inability to Hold General Council Meeting. In the absence of clear direction from the General Council solely as it relates to this Act during a State of Emergency, the Business Committee can exercise the full authority of the General Council for all operational and financial matters directly related to the Incident or State of Emergency provided that the calling of a meeting of the General Council is determined by the Tribal Chairperson or their Successor to be impractical due to the Incident or State of Emergency. Upon a meeting of the General Council, the General Council shall determine whether any actions or directions of the Business Committee should continue in full force and effect, be modified, or be discontinued on a going forward basis.

32.9.4 Appointment of Emergency Interim Successors. In the event of a State of Emergency, the Business Committee, or in the absence of a quorum of the Business Committee, the Tribal Chairperson or their Successor may appoint emergency interim successors to exercise the powers and discharge the duties of any Tribal official or employee of the Tribe; provided, however, that such appointments shall only be invoked if the incumbent Tribal Official or employee is incapacitated or inaccessible and any appointment requiring certain professional licenses (excluding gaming licenses) shall be limited to those potential successors already possessing such licenses.

- a. When called upon to exercise the powers and discharge the duties of an office, an emergency interim successor shall be accorded the same privileges, immunities and other perquisites accorded to the regular incumbent, but the emergency interim successor shall receive no additional compensation except his or her necessary and actual expenses in exercising the powers and discharging the duties of the office. Nothing in this section shall affect in any way the privileges, immunities, compensation, allowances and other perquisites of the regular incumbent.
- b. The Business Committee, or in the absence of a quorum of the Business Committee, the Tribal Chairperson or their Successor may terminate at any time

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the authority of the emergency interim successors to exercise the powers and discharge the duties of any Tribal official or employee of the Tribe as herein provided.

- c. The following department heads shall submit a succession plan for their department annually by January 1st of each year to the Business Committee to be placed in the EOP and automatically invoked in the event of inaccessibility of the listed official:
 1. Chief Executive Officer;
 2. Fire Department;
 3. Department of Public Safety;
 4. Environmental Department;
 5. Water Department;
 6. Public Works Department;
 7. Tribal Finance Department;
 8. Public Health Department;
 9. Human Resources Department;
 10. Gaming Commission;
 11. Casino General Management;
 12. Casino Facilities Department;
 13. Intergovernmental Affairs Department;
 14. Office of the Chief Physical Security Officer;
 15. Enterprise Risk Management Department;
 16. Office of Emergency Management;
 17. Information Security Department;
 18. Information Technology Department; and
 19. Tribal Community Services Department.

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SMTC 32.10 Public Health Official Authority

32.10.1 Primary Responsibilities. The Public Health Official shall have authority to:

- a. Develop and propose for Business Committee and General Council approval Tribal laws involving public health or other related subject matter areas;
- b. Provide public health advice and recommendations to the Tribal community and Tribal departments, instrumentalities, entities, and agencies, including without limitation the San Manuel Casino and the San Manuel Tribal Gaming Commission, as appropriate;
- c. Develop, promulgate, and enforce regulations, policies, and procedures pertaining to public health and related subject matter areas, consistent with applicable law and subject to the approval of the Business Committee;
- d. Issue a temporary emergency medical exclusion of specific individuals who may pose an imminent public health risk to others, from Tribal facilities, properties, or events, provided that the prior approval of the Tribal Chairperson or their Successor must be obtained for an emergency medical exclusion of any Tribal Citizen or Tribal Community Member; and
- e. Exercise any other authority that may be delegated to the Public Health Official by the Business Committee or General Council, consistent with the terms of such delegation and applicable law.

32.10.2 Public Health Emergency.

- a. Declaration of Public Health Emergency. The Public Health Official shall have authority to declare a Public Health Emergency on the Reservation upon a finding that:
 1. there exists an imminent threat or occurrence of an illness or condition that puts the lives, livelihood, or health of persons on the Reservation in peril; and
 2. such imminent threat or occurrence is beyond the normal capacity of the Tribal government to resolve or address without the benefit of additional emergency assistance, resources, or direction.
- b. Termination of Public Health Emergency.
 1. The Public Health Official shall terminate a Public Health Emergency upon a finding that an imminent threat or occurrence of an illness or condition as set forth in 31.10.2(a) above no longer exists or can be resolved or addressed by the Tribal government without the need for additional emergency assistance, resources, or direction.
 2. The Business Committee or General Council may terminate a Public Health Emergency by official action at any time upon a reasonable belief that such

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termination is warranted by existing public health conditions on the Reservation.

- c. Authority During a Public Health Emergency. During a Public Health Emergency, the Public Health Official shall have authority, consistent with applicable law and subject to the ratification, direction, veto, or repeal of the Business Committee or General Council, to:
1. Require and direct the implementation of reasonable preventative measures that are necessary to protect and preserve public health on the Reservation, upon consultation with the Tribe's Human Resources, Risk, and Legal Departments;
 2. Issue emergency notifications to the Tribal community and Tribal departments and employees to protect and preserve life, health, and safety in light of Public Health Emergency conditions, in consultation with the Tribe's Human Resources, Risk, and Legal Departments; and
 3. Take any other actions necessary to protect persons on the Reservation from imminent death or injury from public health threats.
 4. Notwithstanding the foregoing, the Public Health Official shall not have authority to close or suspend the operations of the San Manuel Casino, but may provide such recommendations to the San Manuel Entertainment Authority or San Manuel Tribal Gaming Commission or, in the event a State of Emergency has been declared pursuant to this Act, the Business Committee.

SMTC 32.11 Mutual and Automatic Aid and Cost Apportionment

32.11.1 Cost Sharing or Apportionment Agreements. When jurisdictional or fiduciary responsibility for the mitigation of an Incident rests with multiple agencies, a Tribal Emergency Official acting as the Incident Commander is authorized to negotiate and enter into cost sharing or Cost Apportionment Agreements subject to the dollar limits and approval mechanisms described in section 32.7.3 and 32.8.3 above.

SMTC 32.12 Liability

32.12.1 Compliance with Act. This Act is an exercise by the Tribe of its governmental functions for the protection of the public peace, health and safety of the Reservation and its occupants, and neither the Tribe nor agents and representatives of same, or any individual, receiver, firm, partnership, corporation, association or trustee, or any of the agents thereof in good faith carrying out, complying with or attempting to comply with any order, rule or regulation promulgated pursuant to the provisions of this Act, shall be liable for any damage sustained to persons or property as the result of said activity.

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32.12.2 Real Estate. Any person owning or controlling real estate or other premises who voluntarily and without compensation grants the Tribe the right to inspect, designate and use the whole or any part or parts of such real estate or premises for the purpose of sheltering persons during an Incident shall not be civilly liable for the death of or injury to any person on or about such real estate or premises under such license, privilege or other permission or for loss of or damage to the property of such person, except for those resulting from the owner's gross negligence or willful misconduct.

32.12.3 Good Samaritan Protection. Any person who, in good faith, renders emergency care or assistance to an injured or ill person during an Incident without the expectation of receiving or intending to receive compensation for such service shall not be liable in civil damages for any act or omission, not constituting gross negligence or willful misconduct, in the course of such care or assistance.

32.12.4 Emergency Personnel and Volunteers. Emergency Relief Workers or Volunteers directed by a Tribal entity and engaged in Emergency Relief Activities are entitled to the same immunities as provided by law for the employees of the Tribe.

SMTC 32.13 Violations

32.13.1 Obstruction. It shall be a civil violation for any person to willfully obstruct, hinder or delay any Tribal Emergency Official in the enforcement of the provisions of this Act or an EOP issued thereunder.

32.13.2 Disobedience. A person shall not knowingly or willfully disobey or interfere with the implementation of a rule, order, or directive lawfully issued by a Tribal Emergency Official under this Act.

32.13.3 Civil Action. The Tribe may bring a civil action for damages or equitable relief to enforce the provisions of this Act and the orders, rules, or regulations made in conformity with this Act. Such actions may be filed in the San Manuel Tribal Court or any court of competent jurisdiction. The San Manuel Tribal Court is hereby authorized to issue emergency orders to bring any violations into immediate compliance. Nothing herein should be construed to authorize a private cause of action for individuals injured during an Incident, Public Health Emergency, or State of Emergency.

32.13.4 Tribal Citizens. A Tribal Citizen who fails to follow an order issued pursuant to this Act by a Tribal Emergency Official, interferes with a Tribal Emergency Official acting in their lawful capacity pursuant to this Act, or otherwise violates any section of or lawful order arising from this Act, shall be subject to a fine not to exceed \$1,000.00 per violation and other such sanctions deemed appropriate by the San Manuel Tribal Court to correct the violation and may also be subject to the Tribe's Disorderly Conduct Ordinance.

32.13.5 Employees. Any employee who fails to follow a lawful direction issued by a Tribal Emergency Official pursuant to this Act, or who otherwise violates any section of this Act, shall be subject to civil or disciplinary action up to and including termination of employment.

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SMTC 32.14 Severability

If any provision of this Act is found to be invalid by a court of competent jurisdiction, such invalidity shall not affect the remaining provisions that can be implemented without the invalid provision and to this end, the provisions of this Act are declared to be severable.

SMTC 32.15 Amendment

This Act may be amended only by a majority vote of the General Council. The Business Committee shall review this Act at least once every five (5) years and propose amendments as may be necessary or desirable.

SMTC 32.16 Sovereign Immunity

Nothing contained in this Act shall be deemed to constitute a waiver or diminution of any type whatsoever of the Tribe's sovereign immunity from unconsented suit, which sovereign immunity is hereby expressly reaffirmed.