

# Ione Band of Miwok Indians Gaming Facility Standards Statute

## CHAPTER ONE INTRODUCTION

### SECTION:

**1.1 Authority.** This Statute is enacted by the Tribal Council pursuant to the powers vested to it under Article VII, Section 1, of the Constitution of the Ione Band of Miwok Indians of California, adopted on August 8, 2002, and approved by the Secretary of the Interior on September 6, 2002.

**1.2 Scope.** The scope of application of this Statute shall be limited to the Gaming Facility owned and operated by the Tribe pursuant to the Compact and IGRA.

**1.3 Purpose.** The purpose of this Statute is to address various standards, laws, and regulations related to public and workplace health and safety and fair employment practices as required under the Compact and IGRA. A further purpose of this Statute is to serve as the tribal gaming facility standards ordinance referenced in section 12.4 of the Compact.

**1.4 Reservation of Rights.** The Tribe reserves its right to promulgate standards that meet or exceed the applicable federal or state laws and standards set forth in this Statute. Notwithstanding the Tribe's sovereignty to enact specific rules and regulations, until or unless the Tribe promulgates such regulations or policies, applicable federal or state laws and standards shall apply. The provision in this Section 1.4 regarding federal or state laws and standards applies exclusively to laws and standards in the Compact, and notwithstanding the foregoing, the Tribe does not consent to the jurisdiction by county, state, or federal agencies, absent specific agreement.

**1.5 Short Title.** This Statute shall be known and cited as the "Ione Band Gaming Facility Standards Statute."

## CHAPTER TWO DEFINITIONS

### SECTION:

**2.1 Definitions.** Throughout this Statute, the following words and phrases shall have the following meanings:

*"Applicable Codes"* means the California Building Code and the California Public Safety Code applicable to the County, as set forth in titles 19 and 24 of the California Code of Regulations, as those regulations may be amended, including, but not limited to, codes for building, electrical, mechanical, plumbing, energy, fire and safety.

*“Class II gaming”* means those gaming activities as defined as class II gaming in IGRA at 25 U.S.C. § 2703(7) and the NIGC’s regulations at 25 C.F.R. § 502.3.

*“Class III gaming”* means those gaming activities as defined as class III gaming in IGRA at 25 U.S.C. § 2703(8) and the NIGC’s regulations at 25 C.F.R. § 502.4.

*“Compact”* means the Tribal-State Compact Between the State of California and the Ione Band of Miwok Indians executed on August 3, 2020, and made effective as of December 11, 2020 (85 Fed.Reg. 80142), for the conduct of class III gaming pursuant to IGRA, as such may be amended from time to time.

*“County”* means the County of Amador, California, a political subdivision of the State, and its departments, agencies and subdivisions.

*“Ione Band Economic Development Authority”* means the unincorporated governmental instrumentality of the Tribe established by the Tribal Council pursuant to the Ione Band Economic Development Authority Statute with the exclusive right to conduct the Gaming Operation on behalf of the Tribe.

*“Gaming Activities”* means the class III gaming activities authorized under the Compact.

*“Gaming Facility”* means any building owned by the Tribe in which Gaming Activities or any Gaming Operations occur and as otherwise defined under Section 2.13 of the Compact.

*“Gaming Operation”* means the business enterprise owned and operated by the Ione Band Economic Development Authority that offers and operates Gaming Activities, whether exclusively or otherwise.

*“IGRA”* means the Indian Gaming Regulatory Act, 25 U.S.C. §§ 2701 *et seq.*, and any and all regulations promulgated pursuant thereto.

*“Indian lands”* means all lands within the limits of an Indian reservation and any lands held in trust by the United States for the benefit of an Indian tribe or individual and over which an Indian tribe exercises governmental power as defined pursuant to IGRA.

*“State”* means the State of California.

*“State Gaming Agency”* refers to the entities authorized to investigate, approve, regulate and license gaming in the State as further defined under Section 2.29 of the Compact.

*“Tribal Council”* means the duly elected governing body of the Tribe pursuant to the Constitution of the Ione Band of Miwok Indians of California, adopted on August 8, 2002, and approved by the Secretary of the Interior on September 6, 2002.

*“Tribal Gaming Commission”* means the gaming regulatory body of the Tribe established pursuant to the Amended and Restated Tribal Gaming Ordinance of the Ione Band of Miwok Indians.

*“Tribe”* means the Ione Band of Miwok Indians of California, a federally recognized Indian tribe.

## **CHAPTER THREE FOOD AND BEVERAGE HANDLING**

### **SECTION:**

**3.1 Food and Beverage Safety Standards.** The Tribe hereby adopts, and the Gaming Operation shall comply with, public health standards for food and beverage handling that are no less stringent as those of the State.

**3.2 Inspections.** The Gaming Operation shall allow inspection of food and beverage services in the Gaming Facility by State or County health inspectors, during normal hours of operation, to assess the Gaming Operation’s compliance with the applicable standards under this Chapter, unless inspections are routinely made by a federal agency to ensure compliance with equivalent standards of the United State Public Health Service, or made by a tribally engaged independent food inspector certified or licensed under federal or state public health standards for food and beverage handling and qualified to inspect under the tribal public health standards pursuant to this Chapter (Qualified Food Inspector). The Tribe may utilize either (i) a Qualified Food Inspector from a nationally recognized food service inspection company or (ii) a Qualified Food Inspector who is employed or contracted under the regulatory authority of the Tribe. Any report or other writing by such health inspectors shall be transmitted within twenty-four (24) hours to the Tribal Gaming Commission.

**3.3 Delegation.** The Tribal Council hereby delegates to the Tribal Gaming Commission the authority to promulgate appropriate regulations or policies necessary to effectuate the purposes of this Chapter.

**3.4 No Jurisdiction.** Nothing herein shall be construed as submission of the Tribe to the jurisdiction of any non-tribal governmental health inspectors, except an agency of the United States pursuant to federal law.

**CHAPTER FOUR  
WATER QUALITY AND SAFE DRINKING WATER**

**SECTION:**

**4.1 Water Quality and Safe Drinking Water Standards.** The Tribe hereby adopts, and the Gaming Operation shall comply with, standards that are no less stringent than federal water quality and safe drinking water standards applicable in California.

**4.2 Inspections.** The Gaming Operation shall allow for inspection and testing of water quality by State or County health inspectors, as applicable, during normal hours of operation, to assess compliance with the applicable water quality standards under this Chapter, unless inspections and testing are made by a federal agency pursuant to, or by the Tribe under express authorization of, federal law, to ensure compliance with federal water quality and safe drinking water standards. Any report or other writing by such health inspectors shall be transmitted within twenty-four (24) hours to the Tribal Gaming Commission.

**4.3 Delegation.** The Tribal Council hereby delegates to the Tribal Gaming Commission the authority to promulgate appropriate regulations or policies necessary to effectuate the purposes of this Chapter.

**4.4 No Jurisdiction.** Nothing herein shall be construed as submission of the Tribe to the jurisdiction of any non-tribal governmental health inspectors, except an agency of the United States pursuant to federal law.

**CHAPTER FIVE  
BUILDING AND SAFETY**

**SECTION:**

**5.1 Building and Safety Standards.** The Tribe hereby adopts, and the Gaming Operation shall comply with, building and safety standards for any Gaming Facility construction, expansion, or modification that meet or exceed the Applicable Codes and comply with the Americans with Disabilities Act, P.L. 101-336, as amended, 42 U.S.C. §§ 12101 *et seq.*

**5.2 Inspections.**

(a) The Gaming Operation shall allow inspection by qualified project inspectors, plan checkers, and review firms authorized by the Tribe during construction to assess compliance with the applicable building and safety standards under this Chapter pursuant to Section 6.4.2 of the Compact.

(b) The Gaming Operation shall allow access by the independent fire inspector hired by the Tribe to certify that the Gaming Facility meets a reasonable standard of fire safety and life safety pursuant to Section 6.4.2 of the Compact.

(c) Any report or other writing prepared in connection with the inspections in subdivision (a) and (b) above shall be transmitted within twenty-four (24) hours to the Tribal Gaming Commission and, if required, to the State Gaming Agency in accordance with Section 6.4.2 of the Compact.

**5.3 Delegation.** The Tribal Council hereby delegates to the Tribal Gaming Commission the authority to promulgate appropriate regulations or policies necessary to effectuate the purposes of this Chapter.

**5.4 No Jurisdiction.** Nothing herein shall be construed as submission of the Tribe to the jurisdiction of the State or County, but any circumstance that poses a serious or significant risk to the health or safety of any occupant are grounds for the State to seek a court order pursuant to the Compact to prohibit occupancy of the affected portion of the Gaming Facility until the deficiency is corrected.

## **CHAPTER SIX WORKPLACE AND OCCUPATIONAL HEALTH AND SAFETY**

### **SECTION:**

**6.1 Workplace and Occupational Health & Safety Standards.** The Tribe hereby adopts, and the Gaming Operation shall comply, with federal workplace and occupational health and safety standards.

**6.2 Inspections.** The Gaming Operation shall allow inspection of the Gaming Facility workplaces by the Federal Occupational Safety and Health Administration or other federal agency pursuant to federal law to assess compliance with the applicable workplace and occupational health and safety standards under this Chapter. The Tribal Gaming Commission shall provide a copy of the inspector's report of other documentation of the inspection to the State Gaming Agency with ten (10) days of receipt of the report or other documentation of the inspection pursuant to Section 12.3(d) of the Compact.

**6.3 Delegation.** The Tribal Council hereby delegates to the Tribal Gaming Commission the authority to promulgate appropriate regulations or policies necessary to effectuate the purposes of this Chapter.

## **CHAPTER SEVEN PUBLIC HEALTH AND SAFETY**

### **SECTION:**

**7.1 Public Health and Safety Requirements.** The Tribe hereby adopts, and the Gaming Operation shall comply, with those provisions of the Compact and other applicable federal law regarding public health and safety.

**7.2 Delegation.** The Tribal Council hereby delegates to the Tribal Gaming Commission the authority to promulgate regulations or policies to effectuate the purposes of this Chapter.

## CHAPTER EIGHT

### PROHIBITION AGAINST HARASSMENT, DISCRIMINATION, AND RETALIATION SECTION:

**8.1 Prohibition Against Harassment, Discrimination, and Retaliation.** The Tribe hereby adopts, and the Gaming Operation shall comply, with standards no less stringent than federal laws forbidding harassment, including sexual harassment, in the workplace, forbidding employers from discrimination in connection with the employment of persons to work or working for the Gaming Operation or in the Gaming Facility on the basis of race, color, religion, ancestry, national origin, gender, marital status, medical condition, sexual orientation, age, or disability, and any other protected groups under federal or California law, and forbidding employers from retaliation against persons who oppose discrimination or participate in employment discrimination proceedings.

**8.2 Enforcement.** The standards set forth in this Chapter prohibiting unlawful harassment, retaliation, or employment discrimination in the workplace at the Gaming Facility or Gaming Operation shall be enforced pursuant to an employment discrimination complaint ordinance or statute enacted by the Tribe pursuant to the Compact.

**8.3 Indian Preference.** Nothing under this Chapter or this Statute shall preclude the Tribe from giving a preference in employment to members and descendants of federally recognized Indian tribes pursuant to a duly adopted Tribal ordinance or statute.

**8.4 No Jurisdiction.** Nothing herein shall be construed as submission of the Tribe to the jurisdiction of the California Department of Fair Employment and Housing or the California Fair Employment and Housing Commission, or any other State or local agency with respect to the prohibition against discrimination, harassment, and retaliation.

## CHAPTER NINE CHECK CASHING

### SECTION:

**9.1 Check Cashing Standards.** The Tribe hereby adopts, and the Gaming Operation shall comply with, standards that are no less stringent than California Business and Profession Codes section 12388 and other applicable State law prohibiting a gaming enterprise from cashing certain non-employee checks drawn against a federal, state, county, or city fund, including but not limited to, Social Security, unemployment insurance, disability payments, or public assistance payments.

**CHAPTER TEN  
EXTENSION OF CREDIT TO PATRONS**

**SECTION:**

**10.1 Extension of Credit Standards.** The Tribe hereby adopts, and the Gaming Operation shall comply, with standards no less stringent than state laws, if any, governing the terms of extension of credit to patrons by gambling enterprises. The extension of credit by the Gaming Operation shall be prohibited except in compliance with this Chapter and any Tribal credit extension policy promulgated by the Tribal Gaming Commission.

**CHAPTER ELEVEN  
BANK SECRECY ACT**

**SECTION:**

**11.1 Bank Secrecy Act.** The Gaming Operation shall comply with provisions of the Bank Secrecy Act, P.L. 91-508, 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 gaming establishments.

**CHAPTER TWELVE  
FAIR LABOR STANDARDS ACT**

**SECTION:**

**12.1 Fair Labor Standards.** The Tribe adopts and the Gaming Operation shall comply with ordinances or policies no less stringent than:

(i) the minimum wage, child labor, and overtime standards set forth in the Fair Labor Standards Act, 29 U.S.C. §§ 206, 207 and 212, subject to 29 U.S.C. §§ 213 and 214;

(ii) United States Department of Labor regulations implementing the forgoing sections of the Fair Labor Standards Act, appearing at 29 C.F.R. part 500 *et seq.*;

(iii) the State's minimum wage law set forth in California Labor Code section 1182.12; and

(iv) the State Department of Industrial Relations regulations implementing the State's minimum wage law contained at California Code of Regulations, title 8, sections 1100 to 1170.

**12.2 Limitations.** Only the federal minimum wage laws set forth in the Fair Labor Standards Act, 29 U.S.C. part 500 *et seq.*, shall apply to tipped employees, and nothing shall make applicable state law concerning overtime, or be construed as authorizing or creating any private cause of action against the Tribe or the Gaming Operation based upon an alleged

violation of any of the standards set forth in this Chapter.

**12.3 No State Jurisdiction.** Nothing under this Chapter or Statute shall be construed as a submission of the Tribe to the jurisdiction of the State Department of Labor, Division of Labor Standards, or any other State or local agency.

### CHAPTER THIRTEEN MISCELLANEOUS PROVISIONS

#### SECTION:

**13.1 Sovereign Immunity.** Nothing contained in this Statute is intended to, nor does in any way, limit, alter, restrict, or waive the sovereign immunity of the Tribe or any of its agencies, agents, officials, or employees from unconsented suit or action of any kind.

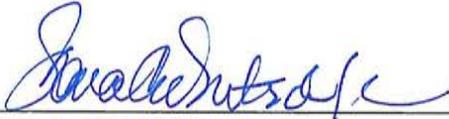
**13.2 Effective Date.** This Statute shall take effect upon its adoption by the Tribal Council.

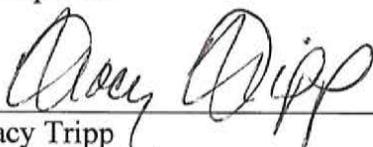
**13.3 Amendment.** This Statute shall be amended by a majority vote of the Tribal Council at a duly called Tribal Council meeting at which a quorum is present.

**13.4 Severability and Savings Clause.** If any part or provision of this Statute is held invalid, void, or unenforceable by a court of competent jurisdiction, such adjudication shall not be held to render such provisions inapplicable to other persons or circumstances. Further, the remainder of the Statute shall not be affected and shall continue to remain in full force and effect.

### CERTIFICATION

We, the undersigned duly elected officials of the Ione Band of Miwok Indians, certify that the foregoing Ione Band Gaming Facility Standards Statute was adopted pursuant to Tribal Council Resolution No. 2023-03 at a duly called meeting of the Tribal Council on this 14<sup>th</sup> day of January, 2023, at which a quorum was present, by a vote of 4 yes, 0 no, and 0 abstentions.

By:   
Sara A. Dutschke  
Chairperson

By:   
Tracy Tripp  
Acting Tribal Secretary