



Soboba Band of Luiseño Indians
Allocation of Gaming Net Revenue Ordinance
No. GR96-GRO-05
Implementing Regulations

Prohibiting Illegal Hazardous Waste and
Disposal on the Soboba Reservation

Adopted September 13, 2018

Soboba Band of Luiseño Indians
Allocation of Gaming Net Revenue Ordinance No. GR96-GRO-05
Implementing Regulations

Prohibiting Illegal Hazardous Waste and Disposal on the Soboba Reservation

**Pursuant to the Soboba Tribal Constitution, enacted October 2, 1993,
Ordinance NO. GR96-GRO-05 and Resolution No. GR09-DATCSRPCD-10**

Section 1. Authority

Pursuant to the inherent governmental powers of the Soboba Band of Luiseño Indians (“Soboba Band” or “Soboba”), its Tribal Constitution, enacted October 2, 1993, and other applicable tribal and federal law, the Soboba Band, through its duly elected Tribal Council, exercises jurisdiction over all persons entering the lands of the Soboba Band, including all reservation, trust, fee, and other land held in the name of the Soboba Band.

Pursuant to Ordinance NO. GR96-GRO-05 and Resolution No. GR09-DATCSRPCD-10, these documents provide authority and discretion to the Tribal Council to implement and enforce provisions of such Ordinance and Resolution, including Article IV, Section 1 (b) of Ordinance GR96-GRO-05 that allow for the suspension or forfeiture of per capita payments if a Tribal Member has endangered the health or safety of Tribal Members or reservation residents.

Section 2. Purpose

The purpose of these Regulations is to establish a process regarding prohibiting the open disposal, dumping, depositing, burying (other than small, residential compost piles of non-hazardous, organic materials produced on the premises and being tended for use as fertilizer), or unpermitted burning of any waste materials’ whatsoever on any lands or in any waters of the Soboba Reservation, in order to end the public health hazard being perpetuated by numerous individuals: known and unknown to the Soboba Band: and, by bringing about the cessation of the illegal dumping, to hereby stop the resultant pollution of the soils, streams, and groundwater, which in turn has endangered the natural environment and resources belonging to all of the Soboba Band.

Section 3. Definitions

Constitution: The Constitution of the Soboba Band of Luiseño Indians, as ratified on October 2, 1993.

Soboba Tribal Council: The duly elected five-member governing body.

Waste Materials: Any items or materials being disposed of, including (but not limited to) solid waste, human waste, trash, or garbage (defined as easily decomposable or illegally dumped putrefactive animal and vegetable matter), rubbish (defined as non-putrefactive, non-organic materials and plant matter such as yard trimmings), glass, metals, plastics, papers, asbestos, construction waste materials, cardboard, batteries, chemicals, tires, used vehicles or appliances, furniture, etc.

Dumping: The open disposal, depositing, burying, or non-permitted burning of any waste materials, other than at-home organic compost piles (as defined in Section 2 above).

Transport: To move a quantity of solid waste from one location to another.

Dispose: To dump, deposit, discharge, or unload solid waste at the location it was generated or at another location, not including temporary storage at the place it was generated.

Section 4. Responsibility for Storage and Disposal of Solid Waste

Any person generating, producing, storing, transporting, disposing, or receiving any solid waste shall be responsible for the proper disposal, removal, transport, and disposal of solid waste. Solid waste while being transported shall be covered, tied, or otherwise secured so waste will not be blown or dropped from the transport vehicle. In addition to other persons who may be responsible as set forth in this section, a person generating solid waste is responsible for the lawful storage, removal transport, and disposal of said solid waste until it is legally deposited on an approved site. Any person who by contract, agreement, or otherwise arranges for the recovery, transport, disposal, or dumping of solid waste shall comply with these Regulations.

Solid waste shall be stored in durable, rust-resistant, non-absorbent, water tight, rodent-proof, and easily cleanable containers with a close-fitting, insect-tight cover with adequate handles or other types of containers that are acceptable in standard practice to waste collection agencies and conform to the intent of this section. Every person, occupant, or owner shall have the duty of maintaining the premises under his/her supervision, including containers, other stored items or disposal areas in compliance with the requirements of these Regulations.

Section 5. Unlawful Storage and Disposal

It is a violation of these Regulations to store or accumulate solid waste in a manner that is hazardous to public health and safety as determined by the Soboba Tribal Environmental Department and continues to be stored or accumulated in such a manner for more than thirty (30) days after receipt of written notice of the hazardous condition.

It is unlawful for a person to burn solid waste with the exception of dry, uncoated paper and cardboard, unpainted wood, and yard wastes including leaves, tree and brush trimmings, grass clipping, and other vegetable matter. Burning shall only be permitted in an approved container placed in such a manner as to minimize risk of fire to nearby property. Burning of permitted waste shall only be allowed after notification to and clearance from the Soboba Fire Department, until such time as Soboba has enacted a permitting process, which shall then require application to the Soboba Fire Department and the obtaining of a permit. Members shall be provided written proof of clearance upon request. These regulations are not intended to apply to the traditional/ceremonial practices of the Soboba Band.

Section 6. Effect of Policies and Procedures

Any person responsible for illegal dumping on the Soboba Reservation or violating any portion of these Regulations may be subject to penalties before the Soboba Tribal Council, or its designee, pursuant to the stipulations set forth in Sections 7, 8, and 9 of these Regulations. A County Landfill is located in Lambs Canyon approximately 12 miles away to receive and appropriately handle the waste materials and recyclables brought there for proper permitted disposal. There is also weekly curbside pickup of garbage on the Reservation for residents along with a semi-monthly large bin pickup for bulk items. Tribal members and other Soboba Reservation residents are given the alternative to dispose of their waste either through the on Reservation services or other legally-permitted disposal site of their choice. Twenty-four hour video surveillance is in effect at the bulk items location on the Soboba Reservation.

Section 7. Application

- (a) All persons over the age of 18 years (eighteen) shall be treated as adults in the official action of a violation of these Regulations.
- (b) The parents or guardians of minors under the age of 18 years shall be held accountable for any illegal dumping committed by any minors for whom they are legally responsible.

- (c) Tribal members who grant permission for another Tribal Member or non-Tribal Member to access any Tribal lands for the purpose of residing, visiting or utilizing in any way or who specifically encourage or allow storage or disposal of illegal waste will also be held accountable for violations and subject to enforcement under these Regulations

Section 8. Enforcement

- (a) Official Action: Any person(s) who violate these Regulations (or their legal guardians, in the case of a minor, per Section 7 above) may be subject to official action before the Soboba Tribal Council, or other authorized forum for dispute resolution, including any future tribal court.
- (b) Citations: The Soboba Department of Public Safety (“DPS”) Public Safety Officers may issue citations to any person(s) suspected of having violated these Regulations.
 - (1) The retrieval of one (1) piece of addressed mail or other name-labeled property from illegally dumped trash shall constitute sufficient prima facie evidence for the issuance of a citation;
 - (2) In instances where dumping has been witnessed and reported, even without the retrieval of prima facie evidence, a Public Safety Officer is authorized to issue a citation to the violator;
 - (3) When these Regulations are applied to unlawful accumulation of wastes upon an individual’s privately owned property or individually held assignment, no prima facie evidence is required for assignment of culpability. However, in the first instance of a purported violation under this Section 3, the member/resident will be issued a warning that may include a thirty (30) day notice to clean up, subject to one thirty (30) day extension. If member/resident fails to clean up the property after all timeframes have been exhausted, a citation may be issued.
- (c) Warnings: In the case where an officer finds it appropriate to issue a warning to a violator or suspected violator, the officer may require a receipt from an appropriate transfer station or dump for the proper disposal of the refuse within a specified time. If the Officer does not receive receipt, the officer may issue a citation and proceed with the provisions in Section 9.

Citations shall include the following information:

- (a) The offense for which the person is being cited (illegal dumping, burning, or unlawful storage or disposal per these Regulations);
- (b) The specific location of the waste materials (with approximate road mileage from the nearest major intersection given or other identifying geographic information);
- (c) The date(s) and time(s) of the suspected offense(s) (if witnessed) or
- (d) The date discovered by the Public Safety Officer (with prima facie evidence as detailed above);

- (e) The date, time, and location where the cited person is to appear before the Tribal Council. (In the case of a warning citation, the address where the suspected violator may respond to the officer who wrote the citation); and
- (f) The name and legible signature of the officer issuing the citation.

Section 9. Penalties

Any person found guilty of violating these Regulations before the Soboba Tribal Council shall be subject to the following fines and cleanup costs;

- (a) First Violation: \$250.00 (two hundred fifty dollars) fine, plus the cost of any cleanup.
- (b) Second Violation: \$500.00 (five hundred dollars) fine, plus the cost of any cleanup. A second violation is considered a repeated offense and will result in revocation of Good Standing status with the Tribe.
- (c) Repeated violations: \$1000.00 (one thousand dollars) fine, plus any cost of cleanup.
- (d) Severity of the violation may result in revocation of Good Standing status with the Tribe.
- (e) Collection from Tribal Members: Collection of fines under this part shall be as follows:
 - i. Tribal Members shall be provided a thirty (30) day time period to pay their fines to the Tribal Administration; and may request in writing one thirty (30) day extension;
 - ii. Tribal Members may appeal their citations to the Tribal Council by contacting Tribal Administration; and
 - iii. Tribal Members who do not pay their fines as required will be subject to collection action in accordance with GR09-DATCRPCD-10.
- (f) Collection from Non-Tribal Members: Collection of fines under this part shall be as follows:
 - i. Non- Tribal Members shall be provided a specific time period to pay their fines to the Tribal Administration.
 - ii. Non-Tribal Members may appeal their citations to the Tribal Council by contacting Tribal Administration; and
 - iii. Non-Tribal Members that do not pay their fines as required will be subject to exclusion from the Soboba Reservation and applicable collection action.

Section 10. Sovereign Immunity

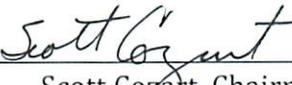
Nothing in these Regulations shall be deemed a waiver of the sovereign immunity of the Soboba Band of Luiseño Indians.

Section 11. Effective Date and Amendments

These Regulations shall become effective on the date approved by the Soboba Tribal Council. These Regulations, once approved, may be amended by the Soboba Tribal Council per the procedures set forth in Section 1.

CERTIFICATION

We, the elected members of the Soboba Tribal Council of the Soboba Band of Luiseño Indians do hereby certify that the foregoing Regulations were reviewed and approved by the Soboba General Council at a duly held meeting convened on the Soboba Indian Reservation on August 11, 2018 and such Regulations were approved in final form by the Soboba Tribal Council at a duly held meeting convened on the Soboba Indian Reservation on September 18, 2018 by a vote of 4 FOR, 0 AGAINST, and 0 ABSTAINING and such Resolution has not been rescinded or amended in any way.



Scott Cozart, Chairman



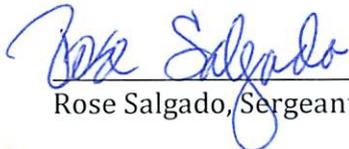
Isaiah Vivanco, Vice-Chairperson



Monica Herrera, Secretary



Kelli Hurtado, Treasurer



Rose Salgado, Sergeant-At-Arms

