

NATIONAL
INDIAN
GAMING
COMMISSION

SEP 16 1994

Mr. Robert P. Isaac, Jr.
Assistant Attorney General
Seneca Nation of Indians
Department of Justice
Post Office Box 231, Salamanca
Seneca Nation, New York 14779

Dear Mr. Isaac:

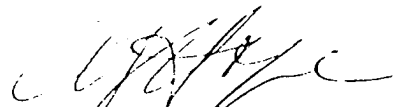
This letter responds to your request to review and approve the tribal gaming ordinance adopted by the Seneca Nation of Indians (the Tribe) on June 21, 1994. This letter constitutes such approval under the Indian Gaming Regulatory Act (IGRA).

Under the IGRA and the regulations of the National Indian Gaming Commission (NIGC), the Chairman is directed to review ordinances with respect to the requirements of the IGRA and the implementing regulations. Thus, the scope of the Chairman's review and approval is limited to the requirements of the IGRA and the NIGC regulations. Provisions other than those required under the IGRA or the NIGC regulations that may be included in a tribal ordinance are not subject to review and approval. Such approval does not constitute approval of specific games. Also, the gaming ordinance is approved for gaming only on Indian lands as defined in the IGRA.

With the Chairman's approval of the Tribe's gaming ordinance, the Tribe is now required to conduct background investigations on its key employees and primary management officials. The NIGC expects to receive a completed application for each key employee and primary management official pursuant to 25 C.F.R. § 556.5(a) and an investigative report on each background investigation before issuing a license to a key employee or primary management official pursuant to 25 C.F.R. § 556.5(b).

Thank you for submitting the ordinance of the Seneca Nation of Indians for review and approval. The NIGC staff and I look forward to working with you and the Tribe in implementing the IGRA.

Sincerely yours,



Anthony J. Hope
Chairman

Seneca Nation of Indians

President - Barry E. Snyder, Sr.
Clerk - Barbara A. Hemlock

Treasurer - Rae L. Snyder

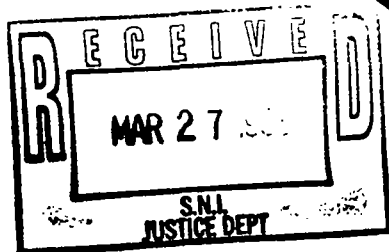
1490 ROUTE 438
IRVING, NEW YORK 14081

Tel. (716) 532-4900
Tel. (716) 532-4907
FAX (716) 532-9132



P.O. BOX 231
SALAMANCA, NEW YORK 14779

Tel. (716) 945-1790
FAX (716) 945-3917



At the Regular Session of Council of the Seneca Nation of Indians, held on March 19, 1994, at the G.R. Plummer Building on the Allegany Indian Reservation, Salamanca, NY 14779

EXECUTIVES PRESENT:

PRESIDENT - BARRY E. SNYDER, SR.
CLERK - BARBARA A. HEMLOCK
TREASURER - RAE L. SNYDER

GAMING LAW ENACTMENT/CLASS II

MOTION: by Ross John, seconded by Charles Ballagh, that Tribal Council adopts the Gaming Law Resolution as follows:

WHEREAS, pursuant to the Indian Gaming Regulatory Act (IGRA), the National Indian Gaming Commission Chairman has officially notified the Seneca Nation on December 10, 1993 that the Nation must adopt a tribal gaming ordinance for Class II gaming. Such ordinance must be submitted within sixty (60) days and reviewed and approved by the Chairman of the National Gaming Commission (25 USC Section 2712, 25 CFR Part 523); and,

WHEREAS, federal law requires the Nation to inform the National Indian Gaming Commission of a description of the procedures for conducting background investigations, for resolving disputes between the customers and the gaming operation, and financial statements for the previous fiscal year and the most recent audit and management letter (25 CFR Sections 522.2 and 523.2); and,

WHEREAS, the Seneca Nation operates various Class II gaming facilities and the revenues from such facilities enables the Nation to provide vital services to its people; and,

WHEREAS, the Nation deems it appropriate and necessary to comply with federal law by enacting a law governing Class II gaming;

GAMING LAW ENACTMENT/CLASS II
REGULAR COUNCIL SESSION
MARCH 19, 1994
PAGE 2

NOW, THEREFORE, BE IT RESOLVED, that the Council hereby adopts and enacts the attached law to be known as the Seneca Nation Class II Gaming Law.

BE IT FURTHER RESOLVED, that _____ is designatee of Council to oversee the implementation of this law and report to Council every thirty (30) days until fully implemented or otherwise directed by Council.

BE IT FURTHER RESOLVED, that gaming license fees as established in Section 10 of the Gaming Law are as follows:

Primary management official & key employees \$_____.00
All other employees \$_____.00

ROLL CALL VOTE: 13-YES; 1-NO; 2-ABSENT.

MOTION CARRIED

CERTIFICATION

I hereby certify that the foregoing extract is a true and correct copy from the Minutes of the Regular Session of Council of the Seneca Nation of Indians held on March 19, 1994, original of which is on file in the Clerk's Office of the Seneca Nation of Indians.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and cause the seal to be affixed at the William Seneca Administration Building on the Cattaraugus Indian Reservation, Irving, New York, on the 21st day of March, 1994.

ATTEST:

Barbara A. Hemlock
BARBARA A. HEMLOCK, CLERK
THE SENECA NATION OF INDIANS

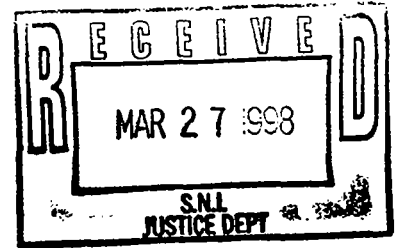
(S E A L)

SENECA NATION OF INDIANS

CLASS II GAMING LAW

OF

1994



SENECA NATION GAMING LAW

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**SENECA NATION
GAMING LAW
TRIBAL LANDS**

GENERAL PROVISIONS

SECTION 1 - SHORT TITLE

This Law may be cited as the "Seneca Nation Tribal Gaming Law".

SECTION 2 - DECLARATION OF TRIBAL POLICY

§2-1 It is the policy of the Seneca Nation, hereinafter referred to as "Nation" or "Tribe":

- (a) That the Nation shall have the sole proprietary interest in any gaming operation;**
- (b) That all gaming operations on tribal lands shall be conducted by the Nation, through employees of the Tribal Council or its management contractors only;**
- (c) That it is the objective of this Law to provide revenue to promote (i) Tribal economic development and self-sufficiency and (ii) the health, education, and welfare of Tribal members; and**
- (d) That the gaming activities provided for by this Law within lands of the Nation shall be conducted in conformance with the requirements of this Law, the Indian Gaming Regulatory Act, 102 Stat. 2467, 25 U.S.C. § 2701, et seq., as implemented by the regulations promulgated by the National Indian Gaming Commission.**

SECTION 3 - FINDINGS

§3-1 The Tribal Council finds that -

- (a) Class II gaming may be conducted on Tribal lands of the Nation by reason of the fact that the State of New York permits bingo.**

SECTION 4 - DEFINITIONS

§4-1 For the purpose of this Law, the following definitions shall apply:

- (a) "Act" means the Indian Gaming Regulatory Act, Public Law 100-497, 102 Stat. 2466, codified as 25 U.S.C. §§ 2701, et seq.
- (b) "Applicant" means any person who completes an application with the Nation for a gaming license.
- (c) "Assessable gross revenues" means the annual total amount of money wagered and admission fees, less any amounts paid out as prizes or paid for prizes awarded, and less an allowance for amortization of capital expenditures for structures.
- (d) "Bingo" means that game of chance (whether or not electronic, computer, or other technologic aids are used in connection therewith):
 - (i) which is played for prizes, including monetary prizes, with cards bearing numbers or other designations;
 - (ii) in which the holder of the cards covers such numbers or designations when objects, similarly numbered or designated, are drawn or electronically determined; and
 - (iii) in which the game is won by the first person covering a previously designated arrangement of numbers or designations on such cards.
- (e) "Chairman" means Chairman of the National Indian Gaming Commission or his or her designee.
- (f) "Cheating" means operating or playing in a game in a manner in violation of the written or commonly understood rules of the game, with the intent to create for himself/herself or someone in privity with him/her an advantage over and above the chance of the game.
- (g) "Class II gaming" means that gaming defined in 25 C.F.R. § 502.3.
- (h) "Collateral agreement" means any contract, whether or not in writing, that is related, either directly or indirectly, to a management contract, or to any rights, duties, or obligations created between the Nation (or any of its members, entities, or organizations) and a management contractor or subcontractor (or any person or entity related to a management contractor or subcontractor).

- (i) "Commission" means the National Indian Gaming Commission.
- (j) "Council" means the Tribal Council as described in Section 1 of the Constitution of the Seneca Nation of Indians or its delegated committee, agency, office or tribal corporation.
- (k) "Employee manager" is a manager other than a "management contractor" employed by the Nation to manage a tribal gaming establishment.
- (l) "Gaming" means risking any money or other thing of value for gain, contingent, wholly or partially, upon lot, chance, the operation of gaming apparatus, or the happening or outcome of an event over which the person taking the risk has no control.
- (m) "Gaming establishment" means any location or structure, wherein gaming is licensed, promoted, performed, conducted, or operated.
- (n) "Gaming License" means the permit granted by the Nation to an applicant for employment with a gaming operation.
- (o) "Gaming operation" means each economic entity that is licensed by the Nation, operates the games, receives the revenues, issues the prizes, and pays the expenses. A gaming operation may be operated by the Nation directly or by a management contractor.
- (p) "Gross gaming revenues" means the annual total amount of money wagered and admission fees.
- (q) "In privity with" means one who acts jointly with another or as an accessory before the fact to an act committed by the other or as a co-conspirator with the other.
- (r) "Key employee" means:
 - (i) A person who performs one or more of the following functions:
 - (1) Bingo caller;
 - (2) Counting room supervisor;
 - (3) Chief of security;
 - (4) Custodian of gaming supplies or cash;
 - (5) Floor manager;
 - (6) Approver of credit;
 - (7) Custodian of gambling devices including persons with access to cash and accounting records within such devices; or
 - (8) Croupier

- (ii) If not otherwise included, any other person whose total cash compensation is in excess of Fifty Thousand \$50,000 Dollars per year; or
- (iii) If not otherwise included, the four most highly compensated persons in the gaming operation.
- (s) "Management contract" means any contract, subcontract, or collateral agreement between the Nation and a contractor or between a contractor and a subcontractor if such contract or agreement provides for the management of all or part of a gaming operation.
- (t) "Management contractor" means the person or entity holding a contract entered into pursuant to 25 U.S.C. § 2711.
- (u) "Minor" means a person less than eighteen (18) years of age.
- (v) "Net revenues" means gross gaming revenues of a Tribal gaming operation less -
 - (1) Amounts paid out as, or paid for, prizes; and
 - (2) Total gaming-related operating expenses, excluding management fees.
- (w) "Operating expenses" means total gaming-related expenses excluding management fees.
- (x) "Person" means any individual, firm, partnership, corporation, company, or association.
- (y) "Person having a direct or indirect financial interest in a management contract" means:
 - (1) When a person who is a party to a management contract, any person having a direct financial interest in such management contract;
 - (2) When a trust is a party to a management contract, any beneficiary or trustee;
 - (3) When a partnership is a party to a management contract, any partner;
 - (4) When a corporation is a party to a management contract, any person who is a director or who holds at least ten

percent (10%) of the issued and outstanding stock alone or in combination with another stockholder who is a spouse, parent, child or sibling; or

- (5) When an entity other than a natural person has an interest in a trust, partnership, or corporation that has an interest in a management contract, all parties of that entity are deemed to be persons having a direct financial interest in a management contract.
- (aa) "Person having management responsibility for a management contract" means the person designated in the management contract as having engagement responsibility for the gaming operation, or a portion thereof.
- (bb) "Player" means a person participating in a game with the hope of winning money or other benefit, but does not include a licensee, any assistant of a licensee, or their immediate family.
- (cc) "President" means the President of the Seneca as provided for in Section III of the Constitution of the Seneca Nation of Indians.
- (dd) "Primary management official" means:
- (1) The person having management responsibility for a management contract;
 - (2) Any person who has authority;
 - (A) To hire and fire employees; or
 - (B) To set up working policy for the gaming operation; or
 - (3) The chief financial officer or other person who has financial management responsibility.
- (ee) "Secretary" means the Secretary of the Interior.
- (ff) "Tribal lands" means all lands which are held in trust by the United States of America for the Nation and all lands owned by the Nation which are subject to restriction against alienation imposed by the United States.
- (gg) "Nation" means the Seneca Nation.

SECTION 5 - AUTHORITY OF TRIBAL COUNCIL

§5-1 The Council shall have the power and responsibility to:

- (a)** enforce and administer the provisions of this Law;
- (b)** issue and renew gaming licenses as provided in this Law and in any regulation which may be promulgated by the Council;
- (c)** revoke, suspend, or condition a gaming license or deny an application for a license for violation of applicable law or Law regulating gaming, or conviction of any offense involving a gaming related crime or moral turpitude;
- (d)** collect fees and interest as provided for in this Law;
- (e)** assess and collect penalties provided for in this Law;
- (f)** adjust the respective amounts of the annual license fees, provided that such fees shall not be increased retroactively;
- (g)** audit or cause to be audited expenditures, receipts, and reports of a licensee responsible for managing a Tribal gaming enterprise;
- (h)** review, on demand, such books and records and inspect the premises and operations of licensees as it deems necessary for the enforcement of this Law;
- (i)** draw up such forms as it deems necessary;
- (j)** institute such legal proceedings in the name of the Nation in a court of competent jurisdiction as it deems necessary for the enforcement of this Law;
- (k)** conduct hearings provided for in this Law;
- (l)** deposit all fees, penalties, and interest collected under authority of this Law into an account to the credit of the Nation;
- (m)** maintain a correct and full accounting of all fees, penalties, and interest received under authority of this Law, and provide a monthly record of that accounting; and
- (n)** take such other actions and issue such orders and promulgate such regulations as the Council may deem necessary to properly and fully perform its duties and responsibilities under this Law.

§5-2 The Council may delegate to an appropriate committee, agency, office, or tribal corporation any or all of the powers and responsibilities set forth in § 5-1 above.

SECTION 6 - GAMES AUTHORIZED

§6-1 The Nation shall have the sole proprietary interest in and responsibility for the conduct of any gaming operation.

§6-2 Class II games as follows may be licensed for conduct on Tribal lands:

- (a) bingo, pull-tabs, lotto, punch boards, tip jars, instant bingo, and other games similar to bingo as defined under 25 C.F.R. § 502.9.
- (b) non-banking card games defined as class II gaming under 25 C.F.R. § 502.3(c).
- (c) any game determined to be a class II game by Congressional amendment of the Act, by regulation, or by decision of the Commission or the federal courts.

SECTION 7 - GAMING LICENSES REQUIRED

§7-1 A separate gaming license is required for:

- (a)
 - (1) each person having a management contract;
 - (2) each primary management official and each key employee whether employed by the management contractor or directly by the Nation; and
 - (3) all other employees
- (b) each place, facility, or location on Tribal lands at which class II gaming is conducted.

SECTION 8 - APPLICATION FOR GAMING LICENSES

§8-1 Each person having a management contract, each primary management official and each key employee whether employed by the management contractor or directly by the Nation, and all other employees shall complete an application for an initial gaming license or renewal of an existing gaming license for each gaming establishment on an application form prescribed by the Council. The application shall set forth:

- (a) the name under which the applicant transacts or intends to react business on Tribal lands; and
- (b) the location of the gaming establishment for which the gaming license is sought; and
- (c) the application shall be signed by the applicant if a natural person, or, in the case of an association or partnership, by a member or partner thereof, or in the case of a corporation, by executive officer thereof, or by some other person specifically authorized by the corporation to sign the application, in which case written evidence of the signatory's authority shall be attached. The applicant shall provide evidence of authority of the signatory or any other representative to act for and bind the applicant. If any change is made in that authority, the Council shall be immediately informed in writing and, until that information is filed with the Council, any action of the representative shall be presumed to be that of the applicant.

§8-2 Each application shall be accompanied by payment of the appropriate annual license fee, and an appropriate fee to cover the cost of the background investigation conducted pursuant to Section 11 below.

§8-3 The management contractor shall file along with the application an organizational chart of its management organization and job descriptions of the employees of the gaming operation. The chart shall identify which employees are or will be the primary management officials and the key employees of the gaming operation.

§8-4 An application for a gaming license shall include:

- (a) a description of the place, facility, or location on Tribal lands where the applicant will operate a gaming operation or where the applicant will be employed.
- (b) the following privacy notice prescribed by 25 C.F.R. § 556.2:

In compliance with the Privacy Act of 1974, the following information is provided: Solicitation of the information on this form is authorized by 25 U.S.C. § 2701, et seq. The purpose of the requested information is to determine the eligibility of individuals to be employed in a gaming operation. The information will be used by National Indian Gaming Commission members and staff who have need for the information in the performance of their official duties. The information may be disclosed to appropriate Federal, Tribal, State, local, or foreign law enforcement and regulatory agencies when relevant to civil, criminal or

regulatory investigations or prosecutions or when pursuant to a requirement by a Nation or the National Indian Gaming Commission in connection with the hiring or firing of an employee, the issuance or revocation of a gaming license, or investigations of activities while associated with a Nation or a gaming operation. Failure to consent to the disclosures indicated in this notice will result in a Nation's being unable to hire you in a primary management official or key employee position. The disclosure of your Social Security Number (SSN) is voluntary. However, failure to supply a SSN may result in errors in processing your application.

- (c) the following notice regarding false statements are prescribed by 25 C.F.R. § 556.3:

"A false statement on any part of your application may be grounds for not hiring you, or for firing you after you begin work. Also, you may be punished by fine or imprisonment [U.S. Code, Title 18, Section 1001]."

- (d) the following background investigation information from each primary management official and each key employee:

- (1) full name, other names used (oral or written), social security number(s), birth date, place of birth, citizenship, gender, all languages (spoken or written);
- (2) currently and for the previous ten (10) years: business and employment positions held, ownership interests in those businesses, business and residence addresses, and drivers license numbers;
- (3) the names and current addresses of at least five (5) personal references, including one personal reference who was acquainted with the applicant during each period of residence listed under paragraph (d) (2) of this Section;
- (4) current business and residence telephone numbers;
- (5) a description of any existing and previous business relationships with Indian tribes, including ownership interests in those businesses;
- (6) a description of any existing and previous business relationships with the gaming industry generally, including ownership interests in those businesses;

- (7) the name and address of any 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;
- (8) for each felony for which there is an ongoing prosecution or a conviction, the charge the name and address of the court involved, and the date and disposition if any;
- (9) for each misdemeanor conviction or on-going 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;
- (10) 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 (d) (8) or (d) (9) of this Section, the criminal charge, the name and address of the court involved, and the date and disposition;
- (11) the name and address of any licensing or regulatory agency with which the applicant has filed application for an occupational license or permit, whether or not such license or permit was granted;
- (12) a current photograph;
- (13) a complete history of the applicant's educational background, including the names of any colleges, universities, trade or vocational schools, and high schools attended;
- (14) fingerprints of the applicant to be taken by the Seneca Nation department of law enforcement for a criminal history check. A criminal history check will include a check of criminal history records information maintained by the Federal Bureau of Investigation pursuant to 25 C.F.R. § 522.2(h);
- (15) a statement authorizing law enforcement agencies and prior employers to release information and respond to questions relating to the applicant's records.
- (16) all applicants are required to submit to a drug screening test and, if employed, random screening tests thereafter; and
- (17) any other information the Council deems relevant.

- §8-5** Each applicant for a gaming license who has or will have a contract with the Nation to manage a Tribal gaming operation shall state whether or not he/she already has a management contract to operate any Indian or non-Indian gaming operation and, if so, a description of the location of each such operation.
- §8-6** A management contractor's application shall include information required by 25 U.S.C. § 2711 and 25 C.F.R. § 537.1.
- §8-7** Existing key employees and primary management officials shall be notified in writing that they shall either:
- (a) complete a new application form that contains the Privacy Act notice described in Section 8-4(b) above; or
 - (b) sign a statement that contains the Privacy Act notice described in Section 8-4 (b) above and consent to the routine uses described in that notice.
- §8-8** Existing key employees and primary management officials shall be notified in writing that they shall either:
- (a) complete a new application form that contains the notice regarding false statements described in Section 8-4(c) above; or
 - (b) sign a statement that contains the notice regarding false statements described in Section 8-4(c) above.
- §8-9** When a key employee or a primary management official begins work at a gaming operation the Council shall forward a copy of the person's completed application for a gaming license to the Commission.

SECTION 9 - QUALIFICATIONS FOR GAMING LICENSES

- §9-1** The Council may issue or renew a gaming license to an applicant who submits a proper and completed application and pays the appropriate annual license fee, provided that the Council determines that the applicant:
- (a) is not minor;
 - (b) is a person of good character, honesty, and integrity;
 - (c) has no prior activities, criminal record, reputation, habits, and associations which pose a threat to the public interest or the interest of the Nation or to the effective regulation and control of gaming, or create or enhance the dangers of unsuitable, unfair, or illegal practices, methods, and activities in the conduct or gaming

or the carrying on of the business and financial arrangements incidental to the conduct of gaming;

- (d) has not supplied false and/or misleading information or who has not omitted material information required under this Law, the Act, and 25 C.F.R. Chapter III;
- (e) has not had, or is not in privity with anyone who has had, a gaming license revoked for cause in any jurisdiction since the effective date of the Act;
- (f) has complied with this Law or any resolution adopted by the Council;
- (g) does not occupy a competing position in the employ of another Nation within a five hundred (500) mile radius of any Tribal gaming operation; and
- (h) does not violate any of the requirements set forth in 25 U.S.C. § 2711(a) and (e).

§9-2 Subject to the requirement of payment of annual license fees, each gaming license shall be valid for the three (3) fiscal years commencing July 1 and ending June 30 of a respective year, provided that, in the direction of the Council, a gaming license may be granted for a term to run concurrently with the term of a management contract.

§9-3 A gaming license may not be assigned or transferred and is valid only for use by the person in whose name it is issued and at the gaming establishment for which it is issued. A gaming license shall be conspicuously displayed at all times at the gaming establishment for which issued.

§9-4 The Council shall make the final decision as to whether a gaming license shall be issued, suspended, or revoked.

SECTION 10 - GAMING LICENSE FEES

§10-1 The annual fee for each gaming license issued pursuant to this Law to the holder of a valid management contract shall be one thousand dollars; and for each primary management official and key employee it shall be seventy-five dollars. The annual fee for all other employees shall be forty-five dollars. The Council may waive the annual fee on a case-by-case basis.

§10-2 The Council may annually adjust, not exceeding ten percent (10%), the amount of the annual fee, provided that any increase shall take effect only

on the ensuing July 1.

- §10-3 The initial annual license fee shall be paid with the submission of the applicant's completed application.
- §10-4 The annual license fee shall be prorated in the case of each initially issued gaming license. Licenses issued after December 31 each year shall be one half (1/2) the annual fee.
- §10-5 All moneys collected or received at a gaming establishment, except any individual winnings or prizes of Ten Thousand (\$10,000) dollars or less paid in cash immediately, shall be deposited by the licensee in bank accounts approved by the Council, which accounts shall contain only such moneys. Other cash prizes, the purchase prices of non-cash prizes, and all expenses for such gaming activities shall be withdrawn from such accounts approved by the Council by consecutively numbered checks duly signed by a specified officer or officers of the licensee and payable to a specific person or organization. There shall also be documentation for each check designating the nature of the expense or prize for which the check is drawn. No check shall be drawn to "cash" or a fictitious payee. Wire transfers shall be allowed with proper supporting documentation.

SECTION 11 - BACKGROUND INVESTIGATIONS

- §11-1 The Council shall conduct, or cause to be conducted, a background investigation of each applicant for a position which is designated as a key employee or primary management official sufficient to make a qualification determination under Section 9 above. In conducting the investigation, the Council shall keep confidential the identity of each person interviewed in the course of the investigation.
- §11-2 Investigative Reports.
- (a) The Council shall prepare and forward to the Commission an investigative report summarizing each background investigation of a key employee or primary management official that the Council intends to employ.
 - (b) The Council shall forward an investigative report to the Commission within sixty (60) days after a key employee or primary management official begins work or within sixty (60) days of the approval of this Law by the Commission.
 - (c) Each investigative report shall include the following:
 - (1) the steps taken in conducting the background investigation;

- (2) the results obtained;
 - (3) the conclusions reached; and
 - (4) the basis for those conclusions.
- (d) The Council shall submit to the Commission, along with the investigative report, a summary of the Council's qualification determination made under Section 9 above.
 - (e) If a gaming license is not issued to an applicant, the Council:
 - (1) shall notify the Commission; and
 - (2) may forward copies of its qualification determination and investigative report (if any) to the Commission for inclusion in the Indian Gaming Individuals Records System.
 - (f) With respect to key employees and primary management officials, the Council shall retain applications for gaming licenses and reports (if any) of background investigations for inspection by the Chairman or his or her designees for no less than three (3) years from the date of termination of employment.
 - (g) A gaming operation shall not employ as a key employee or primary management official a person who does not have a gaming license ninety (90) days after a license application has been submitted.

§11-3 Granting a Gaming License.

- (a) If, within a thirty (30) day period after the Commission notifies the Council that it has no objection to the issuance of a gaming license pursuant to a license application filed by a key employee or a primary management official, the Council may issue a license to such applicant.
- (b) The Council shall respond to a request for additional information from the Chairman 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 (a) above until the Chairman receives the additional information.
- (c) If, within the thirty (30) day period described in Subsection (a) above, the Commission provides the Council with a statement itemizing objections to the issuance of a gaming license to a key employee or to a primary management official application, the Council shall reconsider the application, taking into account the

objections itemized by the Commission. The Council shall make the final decision whether to issue a gaming license to such applicant.

§11-4 Gaming License Suspension.

If, after the issuance of a gaming license, the Nation receives from the Commission reliable information indicating that a key employee or a primary management official is not eligible for employment under Section 9 of this Law, the Nation shall suspend such license and shall notify in writing the licensee of the suspension and the proposed renovation.

SECTION 12 - MAINTENANCE OF GAMING FACILITY

§12-1 The Council shall establish standards and procedures for inspection and enforcement by which a gaming facility licensed under this Law shall be constructed, maintained and operated in a manner which adequately protects the environment and public health and safety.

SECTION 13 - USE OF NET REVENUES

§13-1 Net revenues from gaming permitted under this Law shall only be expended for one or more of the following purposes:

- (a) to fund Tribal government operations or programs;
- (b) to provide for the general welfare of the Nation and its members;
- (c) to promote Tribal economic development;
- (d) to donate to charitable organization; or
- (e) to support operations of local governmental agencies.

§13-2 If the Council elects to make per capita payments to tribal members, it shall authorize such payments only upon approval of a plan submitted to the Secretary pursuant to 25 U.S.C. § 2710 (B) (3).

SECTION 14 - RECORDS AND REPORTS

§14-1 A gaming operation shall keep permanent books of account or records, including inventory records of gaming supplies, sufficient to establish the amount of gross and net income, deductions and expenses, receipts and disbursements, and other information required in any financial statement, report, or other accounting prepared pursuant to the Act or Chapter III in

Title 25 C.F.R.

§14-2 No later than the fifteenth (15th) day of each month, each gaming operator shall provide, in a report form prescribed by the Council, a statement of gross revenues, assemble gross revenue and net revenues received or collected at each gaming establishment during the immediate preceding month.

§14-3 All papers, books, and records including computer records of the gaming operation relating to licensed gaming activities shall be subject to inspection, examination, photocopying, and auditing by the Council and the Commission's authorized representatives at any time during reasonable hours. All such papers, books, and records shall be retained not less than six (6) years.

SECTION 15 - ANNUAL AUDIT

§15-1 (a) The Council shall cause to be conducted, at least annually, an independent audit of the books and records of each gaming operation.

(b) **Audit Standards.** The Nation shall engage an independent certified public accountant, licensed in New York to provide an annual audit of the financial statements of each gaming operation on Tribal lands. Such financial statements shall be prepared in accordance with generally accepted accounting principles and the audit(s) shall be conducted in accordance with generally accepted auditing standards. Audit(s) of the gaming operation required under this Section may be conducted in conjunction with any other independent audit of the Nation, provided that the requirements of Chapter III in Title 25 C.F.R. are met.

(c) **Copies of Audit Reports.** The Nation shall submit to the Commission a copy of the audit report(s) and management letter(s) setting forth the results of each annual audit within one hundred twenty (120) days after the end of each fiscal year of the gaming operation(s) resulting from the audit(s) conducted pursuant to Subsection (a) above.

(d) **Relationship of Audited Financial Statements to Fee Assessment Reports.** The Nation shall reconcile its quarterly fee assessment reports, submitted under 25 C.F.R. Part 514, with its audited financial statements and make available such reconciliation upon request by the Commission's authorized representative.

§15-2 All gaming related contracts that result in purchases of supplies, services, or concessions for more than Twenty Five Thousand (\$25,000) Dollars in

any year (except contracts for professional legal accounting services) shall be specifically included within the scope of the audit conducted pursuant to this Section.

SECTION 16 - GROSS GAMING REVENUES

§16-1 The gross gaming revenues derived from gaming operations are Tribal funds and are to be expended as authorized by Council or by Management contract, if any.

SECTION 17 - VIOLATIONS

§17-1 No person shall operate or conduct any gaming activity in a gaming operation within the exterior boundaries of Tribal lands without a gaming license issued by the Council as required by this Law.

§17-2 No person shall knowingly submit false or misleading information to the Commission or the Nation in response to any provision of the Act, Chapter III in Title 25 C.F.R., or a Tribal Law or resolution that the Chairman has approved under parts 522 or 523 in Title 25 C.F.R.

§17-3 (a) No management contractor shall fail to account fully for all moneys received or collected in connection with gaming activities or to file any report required by the management contract.

(b) A gaming operation shall not refuse to allow an authorized representative of the Commission or an authorized Tribal official to enter or inspect a gaming operation in violation of 25 C.F.R. § 571.5 or 571.6, or of Tribal Law or resolution approved by Chairman under parts 522 or 523 in Title 25 C.F.R.

§17-4 No person under the age of eighteen (18) years shall be employed by a gaming operation or shall otherwise be permitted to participate in any gaming activities.

§17-5 No person shall engage in cheating (as that term is defined in § 4-1 (f) of this Law) in any gaming activity or engage in any fraudulent conduct affecting either the nation or a customer of a gaming operation.

§17-6 No person, other than an officer of the Seneca Nation department of law enforcement, may enter or remain in a gaming establishment licensed under this Law while in the possession of a firearm or other weapon.

§17-7 any person who is in privity with a person who violates this Law shall be deemed to be in violation of this Law to the same extent as the violator, and shall be treated accordingly.

§17-8 The management contractor is responsible for ensuring that all primary management officials and key employees assisting in the operation of any gaming activity on the management contractor's behalf comply with this Law. A violation by any such officials or employees, unless otherwise provided in an approved management contract, shall be deemed a violation by the management contractor and shall subject the contractor to civil enforcement action. It shall not be a defense that the management contractor was unaware of the violation.

§17-9 No person, whether playing in or conducting any gaming activity authorized under this Law, shall:

- (a) use bogus or counterfeit cards, or substitute or use any game cards that have been tampered with;
- (b) employ or have on one's person any cheating device to facilitate cheating in any gaming activity; or
- (c) knowingly cause, aid, abet, or conspire with another person or cause any person to violate any provision of this Law or any rule adopted under this Law.

§17-10 A gaming operation's facility shall be constructed, maintained, and operated in a manner that does not threaten the environment or the public health and safety.

§17-12 If the management contractor fails to correct violations within the time permitted in a notice of violation issued by the Chairman or within fifteen (15) calendar days after the nation provides notice of a violation, such failure shall be deemed a further violation by the management contractor.

SECTION 18 - NOTICE OF VIOLATION

§18-1 The Council may issue a notice of violation to any person for violation of any provision of this Law.

§18-2 A notice of violation shall contain:

- (a) a citation to the Law provision that has been or is being violated;
- (b) a description of the circumstances surrounding the violation, set forth in common and concise language;
- (c) measures required to correct the violation;
- (d) a statement that the violation must be corrected within five (5) calendar days from the date the notice was issued;

- (e) a statement of the alleged violator's rights of appeal; and
- (f) the amount of civil fines that the alleged violator must pay pursuant to Section 19, below.

SECTION 19 - VIOLATION PENALTIES

§19-1 In issuing a notice of violation under Section 18 of this Law, the Council may:

- (a) impose a civil fine not to exceed Five Hundred (\$500) Dollars for each violation and, if such violation is a continuing one, for each day, that the violation occurs; and/or
- (b) impose a penalty of One Hundred (\$100) Dollars per day for failure to submit to the Council any report required under this Law when it is due, and One Thousand (\$1,000) Dollars per day for failure to file any such report after three-day notice and demand.

§19-2 How assessments are made.

The Council shall review each notice of violation to determine whether a civil fine will be assessed, the amount of the fine, and in the case of a continuing violation, whether such daily violation will be deemed a separate violation for purposes of the total civil fine assessed.

§19-3 Procedure for assessment of a civil fine:

- (a) within five (5) calendar days after service of a notice of violation, the alleged violator shall submit written information about the violation and any corrective measures undertaken to Council. The Council shall consider any information so submitted in determining the facts surrounding the violation and the amount of the civil fine;
- (b) the Council shall serve a copy of the proposed assessment on the alleged violator within ten (10) calendar days after the notice of violation was issued, when practicable; and
- (c) the Council may review and reassess any civil fine if necessary to consider facts that were not reasonably available on the date of issuance of the proposed assessment.

§19-4 Final assessment:

- (a) if the alleged violator fails to request a hearing as provided in § 21 of this Law, the proposed civil fine assessment shall become a final order of the Council:

- (b) civil fines assessed under this Section shall be paid by the person assessed and shall not be treated as an operating expense of the gaming operation; and
- (c) the Council shall transfer civil fines paid under this Law to the Treasurer of the Nation for deposit into the Tribal Treasury.

SECTION 20 - ENFORCEMENT

§20-1 The Council shall take any one or a combination of the following actions with respect to any person who violates any provision of this Law:

- (a) suspend or revoke any gaming license issued by Council; or
- (b) bring an action in a court of competent jurisdiction for imposition of one or more of the following sanctions:
 - (1) seizure of any gaming apparatus, proceeds, or other property of a licensee connected with the gaming activities engaged in by the licensee;
 - (2) collection of any unpaid fees, interest, penalties, and of any civil fines unpaid after thirty (30) calendar days; or
 - (3) execution on any nonexempt property of a violator located within the exterior boundaries of Tribal lands.

§20-2 Civil actions may be brought by the Council pursuant to this Law in any Court of competent jurisdiction to enforce the imposition of any and all sanctions provided for under this Law.

§20-3 Before taking any action authorized in § 19 and § 20-1 of this Law, the Council shall use its best efforts to notify the alleged violator, in person or by letter delivered to his/her last known address, of the charges against him/her, and allow the alleged violator an opportunity for a prompt hearing. If the alleged violator fails to respond, or cannot be found, the Council may proceed with a hearing notwithstanding, and take such action as it deems appropriate. Said notice of the alleged violation shall be served at least three (3) business days prior to the hearing.

§20-4 Every person who applies for a gaming license and accepts such license thereby acknowledges the civil enforcement jurisdiction and authority of the Council under this Law to order an execution on his/her nonexempt property, the suspension or termination of his/her further conduct of gaming activities and the seizure of his/her gaming equipment or proceeds

or other property, upon a proper finding of the Council or the court that the person has violated a provision of this Law, despite lack of actual notice, provided that the Council has used its best efforts to notify the person, in person or by letter delivered to his/her last known address.

SECTION 21 - HEARINGS AND APPEALS

§21-1 This Section provides procedures for appeals to the Council regarding:

- (a) a violation alleged in a notice of violation; and
- (b) civil fines assessed by the Council in this Law.

§21-2 The Council shall hold a hearing on the proposed revocation of a gaming license held by a primary management official or key employee after it has suspended such license pursuant to 25 C.F.R. § 558.5. The Licensee shall be notified by the Council of the time and place for hearing. After the hearing, the Council shall decide to revoke or reinstate the gaming license. The Nation shall notify the Commission of its decision.

§21-3 Any licensee paying a civil fine or penalty for any violation enumerated in this Law because of excusable neglect may petition the Council for a partial or full waiver of suit, fine, or penalty. The petition shall be filed within thirty (30) business days after the payment was made.

§21-4 Any person aggrieved by a decision made or action taken by the Council without notice and opportunity for hearing to the aggrieved person, may petition the Council for a hearing and reconsideration. The petition shall be filed within thirty (30) business days after the petitioner knew or should have known of the decision or action. The Council shall grant a prompt hearing upon receiving such a petition, and shall reconsider its decision or action, affirm, modify, reverse and/or vacate the Council's order in light of what is presented at a hearing.

§21-5 Any person aggrieved by a decision made or action taken by the Council after notice and opportunity for hearing may petition the Council for review. Such petition shall specifically set forth the reasons for aggrievement and be filed with the Council no later than thirty (30) business days after the Council's decision or action. The Council shall set the matter for hearing no later than thirty (30) business days and no sooner than three (3) business days after receipt of the petition, and may, upon establishing that it has jurisdiction, affirm, modify, reverse and/or vacate the Council's order.

SECTION 22 - SERVICE

§22-1 The Council shall designate by written notification to the Commission an agent for service of any official determination, order, or notice of violation.

§22-2 A management contractor or Tribal operator shall designate by written notification to the Commission an agent for service of any official determination, order, or notice of violation.

SECTION 23 - RESOLUTION OF DISPUTES BETWEEN MANAGEMENT CONTRACTOR OR TRIBE AND CUSTOMERS

§23-1 Notice of warning regarding the improper conduct set out in § 23-2 of this Law or other gaming rules established and enforced by the gaming operation shall be posted at the entrance of each gaming establishment and/or given to the customer upon entering the premises.

§23-2 the following improper conduct shall result in ejection of a customer from any gaming establishment:

- (a) cheating;
- (b) possession of weapons in the gaming establishment;
- (c) possession of alcohol that has been brought by a customer into the gaming establishment;
- (d) possession of a controlled substance in the gaming establishment;
- (e) disorderly conduct, including the willful, or wanton disregard for the rights of others; and
- (f) any other act which is disruptive to the gaming operation.

§23-3 Failure by a customer to provide proof of age when requested by gaming operation personnel shall result in ejection of the customer from the premises but the admission fee shall be refunded.

§23-4 Ejection of a customer shall be accomplished by the Seneca Nation department of law enforcement, upon request of the gaming operation.

§23-5 (a) Either the employee manager or management contractor of the gaming operation or an alternate designated by either shall be present at all times to resolve complaints by customers involving the operation of bingo and other class II games at the establishment.

- (b) If the employee manager or management contractor or their alternates are unable to resolve any dispute, as provided in (a) the matter may, upon request of the customer, be referred to the Council for resolution. Action by the Council may be initiated by making a written request to the Clerk of the Seneca Nation of Indians. The decision of the Council on any dispute so referred to it for resolution shall be final.

SECTION 24 - APPLICABLE LAW

§24-1 All controversies involving contracts relating to gaming entered into under the authority of the Council on Tribal lands shall be resolved, as appropriate, in accordance with:

- (a) the Indian Gaming Regulatory Act;
- (b) National Indian Gaming Commission Regulations;
- (c) Seneca laws and customs within the judicial system of the Seneca Nation; and
- (d) if no Tribal laws exist, the substantive contract law of the State of New York, is incorporated herein by reference, other than this statute does not waive any sovereign immunity of the Seneca Nation.

SECTION 25 - SAVINGS PROVISION

§25-1 If any provision of this Law or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of Law which can be given effect without the invalid provisions or application, and, to this end, the provisions of this Law are severable.

SECTION 26 - EFFECTIVE DATE/REPEAL

§26-1 This Law shall be effective immediately upon approval by appropriate governmental authority and, once approved, all previous gaming Laws shall be repealed.

SECTION 27 - MANAGEMENT CONTRACTOR/CONTRACT PROVISIONS

§27-1 Any or all references or procedures applicable to management contractors or contracts becomes effective upon adoption by Council of any management contract.

**SECTION 28 - PROHIBITION AGAINST INDIVIDUALLY OWNED CLASS II
AND CLASS III GAMING**

**§28-1 No license shall be issued by the Nation's Council pursuant to CFR
Section 522.10 for individually owned Class II or Class III Gaming
operations.**

March 23, 1994