

NATIONAL
INDIAN
GAMING
COMMISSION

Ray Halbritter, Nation Representative
Oneida Indian Nation of New York
P.O. Box 1, Route 5
Vernon, New York 13476

Dear Mr. Halbritter:

This letter responds to your request to review and approve the tribal gaming ordinance submitted on October 8, 1993, for the Oneida Indian Nation of New York (the Nation). 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. Also, such approval does not constitute approval of specific games.

It is important to note that the gaming ordinance is approved for gaming only on Indian lands as defined in the IGRA.

With the Chairman's approval of the Nation's gaming ordinance, the Nation 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 Oneida Indian Nation of New York for review and approval. The NIGC staff and I look forward to working with you and the Nation in implementing the IGRA.

Sincerely yours,
Anthony J. Hope
Anthony J. Hope
Chairman

**ONEIDA INDIAN NATION OF NEW YORK
GAMING ORDINANCE
No. O-93-01**

Pursuant to the authority vested in the Oneida Indian Nation of New York (hereinafter referred to as the Nation), by virtue of its inherent powers of self-government, the Nation hereby authorizes the operation of a variety of games as a means to promote the Nation's economic development, self-sufficiency, and strong tribal government, and establishes a public body known as the Oneida Indian Nation of New York Gaming Commission (hereinafter referred to as "the Gaming Commission" or "the Commission") to regulate such gaming.

Article I - Declaration of Need

It is hereby declared that

1. There is a high level of poverty and unemployment among members of the Nation;
2. Economic development, self-sufficiency and strong tribal government improve the health, safety and welfare of the Nation, and serve to preserve its unique culture; and
3. The Nation is committed to economic development, self-sufficiency and strong tribal government.

Article II - Purposes

1. Gaming is a means of generating Nation revenue and full-employment.
2. The Federal courts and Congress have declared that Indian gaming operations are a lawful and valid means of promoting economic development, self-sufficiency, and for strengthening tribal governments.
3. Congress has established Federal regulatory authority and standards for gaming on Indian lands in order to protect such gaming from organized crime and other corrupting influences and to preserve such gaming as a means of generating Nation revenue.
4. The Nation enacts this Ordinance to provide appropriate regulation of these essential tribal activities.

Article III - Definitions

The following terms, wherever used or referred to in this Ordinance, shall have the following respective meanings, unless a different meaning clearly appears from the context:

"Act" means the Indian Gaming Regulatory Act, Pub. L. 100-497, 102 Stat. 2467, codified at 25 U.S.C. §§ 2701-21 and 18 U.S.C. §§ 1166-68.

"Class II gaming" means Class II gaming as defined by the Act. 25 U.S.C. § 2703(7)(A).

"Class III gaming" means Class III gaming as defined by the Act. 25 U.S.C. § 2703(8).

"Commission" or "Gaming Commission" means the Oneida Indian Nation of New York Gaming Commission established by this Ordinance.

"Compact" means any compact that is entered into between the Nation and the State of New York to govern Class III gaming operated by or on behalf of the Nation and that is in effect.

"Consensus" is the basis for decision-making by the Oneida Indian Nation of New York.

"Gaming employee" means any natural person employed in the operation or management of Class III gaming authorized by this Ordinance, whether employed by the Nation or by any enterprise or management contractor providing on-site services to the Nation within a Class III gaming facility.

"Gaming facility" means any place, facility or location in which Class II or III gaming is conducted on Nation land.

"Gaming operation" means any business or activity operated by or for the Nation on Nation lands for the purpose of conducting any form of Class II or III gaming in any Class II or Class III gaming facility.

"Nation lands" means the reservation lands of the Nation or lands over which the Nation exercises governmental power and which are either (i) held by the Nation or an individual member of the Nation subject to restriction by the United States against alienation; or (ii) held in trust by the United States for the benefit of the Nation or an individual member of the Nation.

"Nation Representative" means the official governmental representative of the Oneida Indian Nation of New York.

"National Indian Gaming Commission" means the National Indian Gaming Commission established pursuant to the Act. 25 U.S.C. § 2704.

"Net revenues" means gross revenues of a Class II or Class III gaming activity less amounts paid out as, or paid for, prizes and total operating expenses, excluding management fees.

"Ordinance" means this Oneida Indian Nation of New York Gaming Ordinance.

Article IV - Authorized Games

The following forms of Class II and III gaming shall be lawful if operated by the Nation as a tribal enterprise or by any other person or entity authorized by the Nation:

1. Any Class II game; and
2. Any Class III game authorized by a compact.

Article V - Nation Ownership

The Nation shall have the sole proprietary ownership of and responsibility for the conduct of any gaming activity on Nation land. This shall not preclude the Nation from entering into a management or service agreement with persons or firms to provide management or professional services to the gaming activity, including the appointment or licensing of persons or firms to act as the licensees or agents of the Nation in the conduct of a specific gaming activity.

Article VI - Revenue from Gaming

The net revenue received by the Nation for any gaming activity shall be used solely for the following purposes:

1. To fund Nation government operations or programs;
2. To provide for the general welfare of the Nation and its members;
3. To promote Nation economic development; and
4. To help fund operations of local government agencies.

Article VII - Audits

1. The Nation shall require an annual audit by a certified public accounting firm of all gaming activities, with results of each such audit to be provided to the National Indian Gaming Commission subject to terms that shall protect the confidentiality of the results.

2. All contracts for supplies, services or concession for a contract amount in excess of \$25,000 annually (except contracts for professional, legal, or accounting services) relating to such gaming shall be subject to such independent audits.

Article VIII - Public Health and Safety

The construction and maintenance of all gaming facilities and the operation of all gaming activities shall be conducted in a manner which adequately protects the environment and the public health and safety.

Article IX - Background Investigations

The Nation shall ensure that background investigations are conducted on primary management officials and key employees of the gaming operation, and oversight of such officials and their management shall be conducted on an ongoing basis. Background investigations shall be conducted in accordance with the Act and, if applicable, a compact. Any person whose prior activities, criminal record, if any, or reputation, habits or associations pose a threat to the public interest or to the effective regulation of gaming, or create or enhance the dangers of unsuitable, unfair or illegal practices and methods and activities in the conduct of gaming shall not be eligible for employment. Nor shall any person be eligible for employment who supplies materially false or misleading information in connection with a background investigation.

Article X - Licensing

The Nation shall issue a separate license to each place, facility, or location on Nation land where it elects to allow Class II or Class III gaming.

Article XI - Establishment of the Gaming Commission

1. The Gaming Commission shall be composed of three persons, each of whom shall carry the title "Gaming Commissioner."
2. The Gaming Commissioners shall be appointed, and may be reappointed, by the Nation Representative. A certificate of the Nation Representative as to the appointment or reappointment of any Gaming Commissioner shall be conclusive evidence of the due and proper appointment of the member.
3. A Gaming Commissioner may be a member or non-member of the Nation. However, no Gaming Commissioner shall be a gaming employee of any Nation gaming operation.
4. The term of office shall be four years and staggered. When the Gaming Commission is first established, one Commissioner's term shall be designated to expire in two years, another to expire in three years, and the third to expire in four years. Thereafter, all appointments shall be for four years, except that in the case of a prior vacancy, an appointment shall be only for the length of

the unexpired term. If physically able, each Commissioner shall hold office until his/her successor has been appointed.

5. The Nation Representative shall name one of the Gaming Commissioners as the First Gaming Representative of the Gaming Commission. The Gaming Commission shall select from among its Commissioners a Second Gaming Representative, a Secretary and a Treasurer; any member may hold two of these positions, except that no Gaming Commissioner may hold the positions of both First Gaming Representative and Second Gaming Representative. In absence of the First Gaming Representative, the Second Gaming Representative shall preside.

6. A Gaming Commissioner may be removed by the Nation Representative at any time with or without cause.

7. No Gaming Commissioner or employee of the Commission shall participate as a player in any gaming activity conducted by the Nation.

8. The Gaming Commissioners may receive compensation for their services and shall be entitled to compensation for their expenses, including travel expenses, incurred in the discharge of their duties. Such compensation shall be determined by the Nation Representative.

9. A majority of the full Gaming Commission (i.e., notwithstanding the existence of any vacancies) shall constitute a quorum for the transaction of business, but no Gaming Commission action shall be taken unless there is agreement by consensus.

10. The Secretary shall keep complete and accurate records of all meetings and actions taken by the Gaming Commission.

11. The Treasurer shall keep full and accurate financial records, prepare the Gaming Commission's annual budget, make periodic reports to the Nation Representative, and assist in the preparation of the annual report to the Nation Representative as required by Section 17 of Article XII of this Ordinance.

12. Meetings of the Gaming Commission shall be held at regular intervals as provided in the by-laws. Emergency meetings may be held upon 24 hours actual notice and business transacted, provided that at least a quorum exists and that there is a consensus of those Gaming Commissioners present with respect to the proposed action.

13. Any action required or permitted to be taken at a meeting of the Gaming Commission may be taken without a meeting if all of the members sign written consents setting forth the action taken or to be taken, at any time before or after the intended effective date of such action. Such consents shall be filed with the minutes

of the Commission and shall have the same effect as consent obtained at a meeting.

14. Gaming Commissioners may participate in a meeting of the Commission by means of conference telephone or similar communications equipment by means of which all persons participating in the meetings can hear each other, and participation in a meeting in such manner by any Gaming Commissioner who does not object at the beginning of such meeting to the holding thereof in such manner shall constitute presence in person of that Gaming Commissioner at such meeting.

Article XII - Powers and Duties of the Gaming Commission

The Gaming Commission shall be responsible for the regulation of any gaming authorized by this Ordinance, shall perform in place of the Nation the duties of the Nation set forth in Articles IX and X of the Ordinance, and shall have the following powers that it may exercise consistent with the purpose for which it is established:

1. To adopt written standards of operation and management to govern all authorized gaming which shall include

(a) the rules of each game of chance operated by the Nation;

(b) permissible methods of payment;

(c) procedures to license gaming employees, to conduct or cause to be conducted background investigations on employees and management officials, and to train and instruct gaming employees;

(d) internal organization and management of the gaming operations;

(e) security and surveillance methods;

(f) accounting and cash control procedures; and

(g) other record keeping requirements.

Such standards shall protect the public interest in the integrity of the gaming operations, and shall reduce the dangers of unsuitable, unfair or illegal practices and methods in the conduct of gaming.

2. To investigate any aspect of a gaming operation, and, in doing so, to require and review any records of or concerning any gaming operation and to compel any person employed by any such operation, or doing business with such operations to appear before

it and to provide such information, records or other materials as may be in their possession to assist in any investigation.

3. To license any gaming facility on Nation land where a tribe elects to allow Class II or Class III gaming and to enter and inspect at any time any such gaming facility in which games are operated pursuant to this Ordinance. Such inspections may be conducted by non-uniformed inspectors employed by and under the direction of the Gaming Commission.

4. To require an annual audit by a certified public accounting firm of all gaming activities and such other audits as it deems necessary.

5. To license any gaming employee.

6. To acknowledge the registration of gaming service enterprises by a state for purposes of contracting with the Nation and to assist the State of New York in the registration of gaming service enterprises that seek to do business with a Nation gaming operation.

7. To ensure that background investigations are conducted on primary management officials and key employees of the gaming operations in accordance with the Act and a compact, and to oversee such officials and their management on an ongoing basis.

8. To prohibit undesirable conduct from occurring in, and undesirable persons from admission to, any gaming facility.

9. To coordinate and cooperate with any legitimate law enforcement effort to protect the Nation and its gaming operations from harm.

10. To provide information to the federal and state governments in accordance with the Act and a compact.

11. To ensure that the construction and maintenance of all gaming facilities and the operation of all gaming activities is conducted in a manner that adequately protects the environment and the public health and safety.

12. To carry out each responsibility and duty of a Nation gaming agency set forth in the Act or a compact not otherwise set forth in this Ordinance.

13. To receive any complaint from an employee of any gaming operation or any member of the public who is or claims to be adversely affected by an act or omission of a gaming operation that is asserted to violate this Ordinance, the Act, a compact, or the standards of management and operation adopted pursuant to this Ordinance, and may upon consideration of such complaint recommend

to the Nation Representative such remedial action as it deems appropriate to bring the gaming operation into compliance with such provisions. The Commission may for this purpose, in its sole discretion, conduct a hearing and receive evidence with regard to such complaint if it deems an evidentiary proceeding useful in the resolution of such complaint. In addition, the Commission may receive any suggestions from any employee of any gaming operation or any member of the public regarding ways in which a gaming operation may be improved.

14. The Commission may adopt an annual operating budget which shall be subject to the approval of the Nation Representative and may in accordance with that budget employ such staff from time to time as it deems necessary to fulfill its responsibilities under this Ordinance. The Nation Representative shall appoint an individual to serve as a full-time Executive Director of the Commission to administer its responsibilities on a day to day basis and to oversee inspectors appointed by the Commission as well as such other staff as the Commission may from time to time employ. The Commission may delegate to the Executive Director those powers not expressly limited to the Commission. The Commission may also enlist with the approval of the Nation Representative the legal counsel and other professional services, including investigative services, available to the Nation, to assist the Commission with respect to any of the issues over which the Commission exercises jurisdiction.

15. To undertake and carry out studies and analyses of Nation gaming operations.

16. To adopt such by-laws as the Commission deems necessary and appropriate.

17. The Commission shall submit an annual report, in written form, signed by the First Gaming Representative of the Gaming Commission, to the Nation Representative showing (a) a summary of the year's activities, (b) the financial condition of the gaming operations, (c) any significant problems and accomplishments, (d) plans for the future, and (e) such other information as the Commission or the Nation Representative shall deem pertinent.

18. To take such further actions as are commonly engaged in by public bodies of this character as the Commission may deem necessary and desirable to effectuate its purposes.

Article XIII - Prior Ordinance Repealed

Upon execution of this Ordinance, the gaming ordinance executed on December 4, 1992 shall be repealed. Upon approval of this Ordinance by the National Indian Gaming Commission, the gaming ordinance executed on June 16, 1989 shall be repealed.

Article XIV- Interpretation

The provisions of this Ordinance, being necessary for the benefit of the Nation and its members, shall be liberally construed to effect the purposes and objectives thereof.

Article XV - Effective Date

This Ordinance is effective upon enactment.

Article XVI - Enforcement

This Ordinance shall be enforced by the Nation.

ENACTED THIS 19 DAY OF February 19923 R.#.



RAY HALBRITTER
Nation Representative