



March 1, 2021

**VIA EMAIL**

President Matthew B. Pagels  
Seneca Nation  
12837 Route 438  
Cattaraugus Territory  
Seneca Nation  
Irving, NY 14081

**Re: Seneca Nation Gaming Ordinance Amendment**

Dear President Pagels:

On behalf of the Seneca Nation, you requested that the National Indian Gaming Commission review and approve the Nation's Gaming Ordinance Amendment, adopted by Resolution No. CN: R-11-14-20-18. The Seneca Nation Council adopted this Amendment on November 18 2020.

I approve the Gaming Ordinance Amendment, as it is consistent with the Indian Gaming Regulatory Act and NIGC regulatory requirements. If you have any questions, please feel free to contact Maria Getoff, Senior Attorney, at 202-632-7003.

Sincerely,

A handwritten signature in blue ink that reads "E. Sequoyah Simermeyer".

E. Sequoyah Simermeyer  
Chairman

MAILING ADDRESS: NIGC/DEPARTMENT OF THE INTERIOR 1849 C Street NW, Mail Stop #1621 Washington, DC 20040 Tel: 202.632.7003 Fax: 202.632.7066

REGIONAL OFFICES Portland, OR; Sacramento, CA; Phoenix, AZ; St. Paul, MN; Tulsa, OK; Oklahoma City, OK; Rapid City, SD  
[WWW.NIGC.GOV](http://WWW.NIGC.GOV)

# Seneca Nation of Indians

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AT THE REGULAR SESSION OF COUNCIL OF THE  
SENECA NATION OF INDIANS HELD ON  
NOVEMBER 14, 2020 AT THE SENECA ALLEGANY  
ADMINISTRATION BUILDING ON THE  
ALLEGANY TERRITORY, SALAMANCA, NEW  
YORK, 14779.

CN: R-11-14-20-18

EXECUTIVES PRESENT:

PRESIDENT	-	MATTHEW B. PAGELS
CLERK	-	MARTA L. KETTLE
TREASURER	-	RICKEY L. ARMSTRONG, SR.

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TO APPROVE AMENDMENTS TO THE SENECA NATION CLASS III GAMING ORDINANCE OF 2002

**MOTION:** by Joshua Jimerson, seconded by William Canella, that the Nation's Council approves the following resolution:

**WHEREAS,** the Seneca Nation has entered into a Nation-State Gaming Compact with the State of New York (the "Compact") and adopted a Class III Gaming Ordinance of 2002 (the "Ordinance") (as most recently amended on January 20, 2009); and

**WHEREAS,** the Seneca Nation Council finds that it is in the best interests of the Nation and its members to amend the Ordinance to clarify the roles, authorities and responsibilities of the Nation Council, the Seneca Gaming Authority (the "SGA"), SGA Commissioners and Chairperson under the Ordinance and to correct certain oversights in the current Ordinance; and

**NOW, THEREFORE, BE IT RESOLVED,** that the Nation's Council hereby adopts the amendments to its Class III Gaming Ordinance of 2002, as set forth in the Attachment A hereto, and

**BE IT FURTHER RESOLVED,** that the Nation's Council hereby authorizes and directs President Matthew B. Pagels to submit the attached amendments to the Chairman of the Nation Indian Gaming Commission for his review and anticipated approval.

ALL IN FAVOR

MOTION CARRIED

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CERTIFICATION

TO APPROVE AMENDMENTS TO THE SENECA NATION CLASS III GAMING ORDINANCE OF 2002  
REGULAR SESSION OF COUNCIL  
NOVEMBER 14, 2020  
PAGE 2

I hereby certify 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 November 14, 2020 on the Allegany Territory, 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 caused the seal to be affixed at the Seneca Allegany Administration Building, on the Allegany Territory, on the 18th day of November, 2020.

ATTEST:



MARTA L. KETTLE, CLERK  
SENECA NATION OF INDIANS

{ SEAL }

# **SENECA NATION OF INDIANS**

## **CLASS III GAMING ORDINANCE**



Last Amended: November 14, 2020

Approved by NIGC: \_\_\_\_\_

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# **SENECA NATION CLASS III GAMING ORDINANCE**

**As Amended on November 14, 2020**

## **GENERAL PROVISIONS**

### **SECTION 1 – SHORT TITLE**

This Law may be cited as the "Seneca Nation Class III Gaming Ordinance".

### **SECTION 2 – AUTHORITY**

This Ordinance is enacted pursuant to the Council's authority under Sections I and XIII of the Constitution of the Seneca Nation of Indian as Amended. Further, this Ordinance is enacted under the inherent sovereign powers of the Seneca Nation and the Nation's recognition of the Council as the legislative arm of its government.

### **SECTION 3 – DECLARATION OF SENECA NATION POLICY**

§3.1 It is the policy of the Seneca Nation, hereinafter referred to as "Nation";

- (a) That the Nation shall have the sole proprietary interest in and responsibility for the conduct of any Nation Gaming Operation authorized by this Ordinance, except as expressly provided in this Ordinance;
- (b) That all gaming operations on Nation Lands shall be conducted by the Nation through employees of the Nation, of wholly Nation owned gaming companies, or subsidiaries, or Management Contractors of the Nation only;
- (c) That it is the objective of this Law to provide revenue to promote (i) Nation economic development and self-sufficiency and (ii) the health, education, and welfare of Nation members; and
- (d) That the gaming activities provided for by this Law on lands of the Nation shall be conducted in conformance with the requirements of this Law, the Nation-State Gaming Compact Between the Seneca Nation and the State of New York ("the Compact"), the Indian Gaming Regulatory Act of 1988, 25 U.S.C. §§2701, et seq., and National Indian Gaming Commission regulations.

### **SECTION 4 – FINDINGS**

§4.1 The Nation Council finds that-

Class III gaming may be conducted on lands of the Nation by reason of the fact that the Nation and the State of New York have entered into a gaming compact pursuant to the Indian Gaming Regulatory Act, 25 U.S.C. §§2701, et seq.

## **SECTION 5 – DEFINITIONS**

§5.1 For the purpose of this Law, the following definitions shall apply:

- (a) "Act" shall mean the Indian Gaming Regulatory Act, 25 U.S.C. §§2701, et seq.
- (b) "Appendix" shall mean an appendix to Compact. "Appendices" shall mean more than one Appendix.
- (c) "Applicant" shall mean any person who completes an application with the Nation for a gaming license.
- (d) "Chairperson" shall mean the Chairperson of SGA Commission.
- (e) "Cheating" shall mean 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.
- (f) "Class III Gaming" shall have the meaning found in 25 U.S.C. §2703(8).
- (g) "Class III Gaming Employee" means an individual employee of the Nation Gaming Operation who provides Class III gaming-related employee services in a Nation Gaming Facility.
- (h) "Class III Gaming Key Employee" shall mean those employees designated in the gaming operations pursuant to 25 C.F.R. § 502.14, and as defined in the Compact.
- (i) "Class III Gaming Primary Management Official" shall mean those employees designated in the gaming operations pursuant to 25 C.F.R. § 502.19.
- (j) "Class III Gaming Service Enterprise" means an entity or individual, other than a Class III Gaming Employee, that provides Class III Gaming Services, Class III Gaming Supplies or Class III Gaming Equipment to a Nation Gaming Operation.
- (k) "Class III Gaming Services, Supplies or Equipment" means those services, supplies or equipment which are necessary to the playing phases of a Class III game, are necessary for the playing of such game, and determine or may determine the outcome thereof.
- (l) "Collateral Agreement" shall mean 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).
- (m) "Commission" shall be the three Commissioners of the SGA prescribed regulatory duties under this Law.
- (n) "Council" shall mean the Nation's Council as described in Section I of the Constitution of the Seneca Nation.
- (o) "Directly related to the operation of gaming activities," for purposes of Non-Class III Gaming Employees and Non-Class III Gaming Service Enterprise shall mean only those services, supplies or equipment necessary for the function of the Class III gaming facility.
- (p) "Family Member" is defined as only (i) husband/wife (including common law relationships), (ii) child/grandchild, (iii) Mother/father, (iv) Brother/sister, (v)



- aunt/uncle, (vi) first cousin, (vii) Niece/nephew, (viii) grandparent, (ix) mother/father-in-law or (x) brother/sister-in-law. (Ethics Law definition)
- (q) "Gaming Facility" means those portions of a structure in which the Nation conducts Class III Gaming pursuant to this Compact. For purposes of this definition, a Gaming Facility shall be deemed to include only those areas of a structure that the Nation uses for Class III Gaming operations. Notwithstanding the foregoing, no areas of a structure exclusively used for Class I or Class II gaming or for non-gaming activities, including hotel, retail shops or restaurant amenities, shall be considered part of a Gaming Facility.
  - (r) "Gaming License" shall mean the permit granted by the Nation to an applicant for employment with a gaming operation.
  - (s) "Gross Gaming Revenues" shall mean the total amount of money wagered less amounts paid out to winners or for prizes.
  - (t) "In privity with" shall mean 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.
  - (u) "Management Contract" shall mean 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.
  - (v) "Management Contractor" shall mean the person or entity holding a contract entered into pursuant to 25 U.S.C. §2711.
  - (w) "Nation" means the Seneca Nation.
  - (x) "Nation Gaming Operation" shall mean the enterprise, business or entity operated or authorized by the Nation to operate or conduct any form of Class III gaming on Nation Lands pursuant to the Compact; provided, however, that the Compact shall apply to operations of such enterprise, business or activity only to the extent that such operations are directly related to Class III Gaming undertaken by the Nation pursuant to the Compact.
  - (y) "Nation Lands" shall have the meaning found in 25 U.S.C. §2703(4), including Settlement Act Land.
  - (z) "Net revenues" shall have the meaning set forth in 25 C.F.R. §502.16.
  - (aa) "NIGC" shall mean the National Indian Gaming Commission established pursuant to the Act.
  - (bb) "Non-Class III Gaming Employee" means an individual employee of the Nation Gaming Operation working in a Gaming Facility who is not a Class III Gaming Employee but whose work is directly related to the operation of gaming activities.
  - (cc) "Non- Class III Gaming Service Enterprise" means an entity or individual, other than a Class III Gaming Enterprise, that provides services, supplies or equipment in excess of \$75,000 in a 12 month period that are directly related to the operation of gaming activities and are not a Class III Gaming Service, Supply or Equipment. Such Enterprises do not include hotels, golf courses, conference centers, spas,

restaurants, waterparks recreational vehicle parks and marinas so long as gaming is not conducted within those structures.

- (dd) "Person" shall mean any individual, firm, partnership, corporation, company, or association.
- (ee) "Secretary" means the Secretary of the Interior.
- (ff) "Seneca Gaming Authority" or "SGA" shall mean the entity established by the Nation responsible for regulating Class III Gaming undertaken by the Nation pursuant to the Compact.
- (gg) "Settlement Act Lands" shall mean the real property that is held by, or becomes held by, the Nation in restricted fee status and subject to restrictions by the United States against alienation pursuant to the Seneca Nation Land Claims Settlement Act.
- (hh) "State Gaming Officials" or "SGO" means the officials designated by the State to fulfill the State's responsibility to ensure Nation Gaming Operation's compliance with the terms of the Compact.

## **SECTION 6 – NATION COUNCIL**

§6.1 The Council of the Nation establishes the Seneca Gaming Authority (SGA) for the purpose of regulating Class III gaming conducted on Nation Lands.

- (a) The Nation recognizes the SGA as a governmental arm of the Nation that shall perform an essential government function which is hereby designated to the SGA by the Nation Council. Commissioners and employees of the SGA shall be recognized as performing said essential governmental functions on behalf of the Nation.
- (b) The Nation Council shall appoint three (3) Commissioners to serve on the Commission, two (2) of whom shall constitute a quorum. The Commissioners shall have staggered terms, with one Commissioner appointed to a 3 year term, one Commissioner to a 2 year term and one Commissioner to a 1 year term. Subsequent appointments shall be for a 3 year term. The Commissioners shall have the experience in the gaming industry and the education that will enable them to effectively perform the required regulatory functions for the gaming operations.
- (c) Prior to appointment by the Nation Council, proposed SGA Commissioners must satisfy the suitability standards for Class III Gaming Key Employees ("Key Employee"). Background investigations shall be performed under the direction of the Nation Council or its designated official. Such background investigative reports shall be provided to the Council at its request but shall remain confidential. The designated officials to conduct the background investigation shall provide a recommendation to the Nation Council on whether the proposed Commissioner qualifies to be licensed as a Key Employee.
- (d) The funds for the operation of the SGA shall be appropriated from the general fund of the Nation subject to Nation Council's approval.

- (e) The Nation Council shall approve the SGA's Bylaws and Organization Chart and any amendments thereto.
- (f) The Nation Council shall enact such legislation governing gaming as it deems necessary and appropriate.
- (g) The Nation Council shall maintain a list of individuals who meet the requirements to obtain a Key Employee License. In the event there are less than three Commissioners available to preside over a hearing or appeal, or in order to make a valid quorum for a meeting under this Ordinance, the Compact or its appendices, the Nation President may appoint a temporary Commissioner (or Commissioners) from this list, who has (have) no conflict of interest under Nation Law to sit for hearing and appeals. Designation shall be made in writing and is effective upon the written acceptance and confirmation by the designee that the designee is, as of the designation date, eligible to serve as a Commissioner. Such a special designation shall be for the limited purpose of the hearing, appeal or time period specified by the designation. Compensation for a temporary Commissioner serving on a hearings panel shall be at the rate determined by the Nation Council

§6.2 The Nation recognizes the importance of an independent SGA in maintaining a well-regulated gaming operation.

- (a) The SGA shall be and act independently and autonomously from the Nation Council on all substantive matters within its purview such as notices of violation, civil fine assessments, background investigations and licensing and audits.
- (b) Oversight of Commissioners. The SGA Commissioners shall conduct themselves in a businesslike and professional manner at all times. SGA Commissioners are required to abide by all of the rules of conduct contained within the SGA Commission Rules of Conduct. Investigation of complaints about the activities or behavior of the SGA Commissioners for violations of the Rules shall be conducted by the Nation's Human Resources Personnel, who shall report the results of the investigation to the uninvolved Commissioners, who shall take appropriate disciplinary action. Such disciplinary action may include issuance of a verbal or written warning, up to and including recommending removal of the Commissioner to the Nation Council, depending on the severity of the policy violation. In the event that an allegation of such misconduct involves more than one (1) Commissioner, Temporary Commissioners may be appointed to review the HR investigation and make a determination as to appropriate disciplinary action to be taken.
- (c) Removal. The Nation Council may only remove SGA Commissioners from office prior to the expiration of their respective terms for neglect of duty, misconduct, malfeasance, misfeasance, or other acts that would render a member of the SGA Commission unsuitable for his or her position. In the event that allegations are made that a Commissioner has committed such acts, the Nation Council shall refer the matter to the Nation's Legal Department for further investigation. If the allegations appear founded, the Nation Council shall provide the Commissioner

with the allegations made and with an opportunity to provide evidence rebutting the grounds for their proposed removal. A vote of the Nation Council on removal shall be final and not subject to further appeal to the Courts of the Seneca Nation.

## **SECTION 7 – SENECA GAMING AUTHORITY (SGA)**

- (a) The SGA shall have responsibility for the on-site regulation of Class III Gaming undertaken by the Nation pursuant to the Compact. The SGA shall exercise that authority through the SGA Commissioners, the SGA Executive Director and the SGA staff.
- (b) The SGA shall be the exclusive regulatory body for the Nation Gaming Operations' activities and operations conducted in a Gaming Facility pursuant to the Compact. The SGA shall have unrestricted access to all aspects of the Nation Gaming Operations.
- (c) The purpose of the SGA is regulatory, not managerial. The SGA shall not interfere with the management functions of the Nation Gaming Operation. Management functions include but are not limited to matters involving business discretion and decision-making such as staffing decisions; the types of and need for employment positions; decisions regarding the hiring promotion or disciplining of employees; the setting of employee compensation and determination of incentives; the monitoring of employee performance; the selection of vendors; and the desirability of business projects, initiatives and relationships.
- (d) All staff of the SGA including the Executive Director and Legal Counsel shall be subject to the Nation's Human Resources policies, compensated consistent with the Nation's salary structure in place for Nation employees and all contracts of the SGA are subject to the Nation's Procurement policies.

## **SECTION 8 – SGA COMMISSION RESPONSIBILITIES**

### **§8.1 The Commission shall:**

- (a) recommend amendments to the SGA Bylaws and an Organization Chart, as necessary and consistent with this Law and other applicable laws, and subject to the approval of Nation Council.
- (b) choose from among themselves one Commissioner to act as the Chairperson of the Seneca Gaming Authority, one Commissioner to act as the Vice-Chairman and one Commissioner to act as the Secretary/Treasurer. The Chairperson shall preside over meetings of the SGA Commission and the Vice-Chairperson shall preside in the absence of the Chairperson. The Secretary/Treasurer shall record the minutes of all SGA Commission meetings and all official actions taken by the SGA Commission and shall record and oversee all SGA Commission fiscal matters and all official actions of the SGA Commission shall be taken by majority vote. The Chair may vote on any issue.

§8.2 The SGA Commissioners shall have the authority:

- (a) to employ Legal Counsel, responsible for providing legal advice to the Commission and SGA staff as appropriate; an Internal Auditor, responsible for auditing the internal processes and procedures of the SGA, and an Executive Director responsible for the management and administration of the day to day operations of the SGA and to terminate the Executive Director, Legal Counsel and Internal Auditor for cause by a majority vote of the SGA Commission;
- (b) to employ Independent Consultants necessary to carry out the SGA Commission's duties and responsibilities under this Law. Termination of such employment shall be as prescribed in the contract with such Independent Consultants.
- (c) to set all licensing fees, provided that such fees shall not be increased retroactively;
- (d) to promulgate and issue rules and regulations regarding the conduct of Class III gaming, including compliance with the Compact and its Appendices, this Ordinance, the Act, and any other applicable regulations;
- (e) to promulgate and issue rules and regulations on the levying of any fees associated with gaming license applications;
- (f) to promulgate and issue regulations on the levying of fines and/or suspension or revocation of gaming licenses for violations of this Law, the Compact and its Appendices, or any other applicable regulations;
- (g) to approve Nation Gaming Operation policies and procedures requiring SGA approval by the Compact, IGRA or this Ordinance;
- (h) to conduct hearings and appeals and to issue final decisions as provided for in this Law;
- (i) to approve all contracts over \$50,000 by an affirmative vote of at least two (2) commissioners, for submission to the Office of the President for Nation Council approval;
- (j) to develop regulations that establish what entities are automatically exempt from licensing requirements including objective criteria for exemptions and a written process with timelines for issuing decisions;
- (k) to establish minimum internal controls standards consistent with the Compact and such other minimum control standards as required. The Nation Gaming Operation shall establish internal controls consistent with the SGA minimum internal control standards subject to SGA approval.
- (l) to review, upon appeal, licensing determinations and the issuance of Notices of Violation by the Executive Director.
- (m) to meet at least monthly.
- (n) to assure that the Executive Director, Legal Counsel, Internal Auditor, and Independent Consultants are qualified for their positions;
- (o) to supervise the activities of the Executive Director, Legal Counsel, Internal Auditor and Independent Consultants;
- (p) to coordinate with the Executives of the Nation Gaming Operation;
- (q) to keep the Nation Council informed of SGA activities;

- (r) to recommend legislative changes for Nation action as needed;
- (s) to administer, enforce, and interpret the provisions of the Seneca Nation Class II Gaming Law of 1994 and any amendments thereto or replacements thereof;
- (t) to develop short- and long-term strategic planning and goals to meet the requirements of this Law.
- (u) to develop and promulgate regulations concerning Non-Compact vendor licensing/registration requirements.

## **SECTION 9 – ADMINISTRATIVE PROCEDURE**

The Commission shall issue rules as follows:

- (a) All rules, regulations, policies and procedures (collectively referred to as rules), except internal SGA policies and procedures that do not impact third parties, shall be in writing with notice and a minimum thirty-day comment period for all stakeholders, except in emergencies, during which temporary guidance may be issued which shall govern, until such notice and comment may be made, not to exceed 60 days.
- (b) All comments shall be addressed in the promulgation of final rules. Except in emergencies, no rules shall take effect until a minimum of thirty (30) days from the date such are issued as final.
- (c) Upon adoption, all rules, regulations, policies and procedures adopted by the SGA shall be submitted to the general counsels of the Nation and the Nation Gaming Operations.

## **SECTION 10 – INTERNAL AUDITOR**

§10.1 Internal Auditor shall audit the internal processes and procedures of the SGA. Internal audit reports shall be provided to the SGA Commission and to the Nation Council.

## **SECTION 11 – LEGAL COUNSEL**

§11.1 Legal Counsel shall advise the SGA Commission and SGA employees on interpretations of law and regulations, serve as the Ethics Officer for the SGA, oversee outside counsel.

## **SECTION 12 – EXECUTIVE DIRECTOR AND SGA STAFF**

§12.1 The Executive Director reports to the SGA Commission as a whole and must, at minimum, have at least five years of responsible administrative experience in public or business administration and gaming and possess broad management skills. The Executive Director shall be a full-time employee.

§12.2 The Executive Director shall have such authority as designated hereunder and through the SGA Bylaws, and as delegated by the SGA Commission. The Executive Director shall, subject to budget approval by the SGA Commission, and the Nation Council, employ and fix the

salaries of, or contract for the services of, subject to required approvals, such professional, technical and operational personnel and consultants as execution of the SGA's duties may require.

§12.3 The Executive Director shall oversee the SGA staff, with the exception of those employees who report to the Legal Counsel, Internal Auditor or the Commission directly.

§ 12.4 The Executive Director and all SGA staff shall be licensed pursuant to regulations adopted by the Commission.

## **SECTION 13 – CONFLICTS OF INTEREST**

§13.1 To avoid potential conflicts of interest between the operation and regulation of the Gaming Facility, the Nation hereby directs that:

- (a) No member of the Nation Council or its executives may serve on the SGA;
- (b) No person having a Family Member who is a Nation Council member or is living with any Nation Council member may serve on the SGA Commission.
- (c) No Nation Gaming Operation employees, no persons with an economic interest in any of the activities of the Nation Gaming Operation (beyond that interest the person may have as an enrolled Nation member), no contractor of the Nation Gaming Operation, and no person who does not meet the requirements for a Class III Key Employee gaming license may sit on the SGA Commission or be employed by the SGA.
- (d) SGA commissioners and employees are prohibited from gambling in Nation Gaming Operations;
- (e) SGA commissioners and employees are prohibited from accepting complimentary items from the Nation Gaming Operation; and
- (f) SGA commissioners and employees are prohibited from making decisions regarding or participating in, investigations into actions by Nation Gaming Operation and/or SGA employees or contractors to whom they are directly related or living with or with whom they have a conflict of interest.

## **SECTION 14 – GAMES AUTHORIZED**

§14.1 The Nation shall have the sole proprietary interest in and responsibility for the conduct of any gaming operation authorized by this Ordinance, except as expressly provided in this Ordinance.

§14.2 The Nation shall conduct only those Class III games that are authorized to be played under the Act and consistent with the Compact.

## **SECTION 15 – APPLICATION FOR GAMING LICENSES**

§15.1 Each person requiring a gaming license shall complete an application for an initial

gaming license or renewal of an existing gaming license for each Gaming Facility on an application form prescribed by the SGA. The application shall set forth:

- (a) the name under which the applicant transacts or intends to transact business on Nation Lands; and
- (b) the location of the Gaming Facility 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, by some other person specifically authorized by the corporation to sign the application, in which case written evidence of authority of the signatory shall be attached. The applicant shall provide evidence of authority of the signatory or any other representative to act for or bind the applicant. If any change is made in that authority, the SGA shall be immediately informed in writing and, until that information is filed with the SGA, any action of the signatory or other representative shall be presumed to be that of the applicant.

§15.2 Each application shall be accompanied by payment of the appropriate biennial license fee and an appropriate fee to cover the cost of the background investigation required for licensing.

§15.3 The Management Contractor shall file along with the application an organizational chart of its management organization and job descriptions of the employee of the Nation Gaming Operation. The chart shall identify which employees are or will be the Class III Gaming Primary Management Officials and the Class III Gaming Key Employees of the Nation Gaming Operation.

§15.4 An application for a gaming license shall include:

- (a) a description of the place, facility, or location on Nation Lands where the applicant will operate a gaming operation or provide Class III Gaming related service, Class III Gaming related supplies or Class III Gaming related equipment to the Nation 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 granted a gaming license. The information will be used by the Nation gaming regulatory authorities and by the National Indian Gaming Commission (NIGC) members and staff who have need for the information in the performance of their official duties. The information may be disclosed by the Nation or the NIGC 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 the Nation or the NIGC in



connection with the issuance, denial, or revocation of a gaming license, or investigations of activities while associated with a tribe or gaming operation. Failure to consent to the disclosures indicated in this notice will result in the Nation being unable to license you for 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 shall be placed on the application form for a key employee or a primary management official:

A false statement on any part of your application may be grounds for denying a license or the suspension or revocation of a license. Also, you may be punished by fine or imprisonment (U.S. Code, title 18, section 1001).

- (d) The following background investigation information from each employee and each Class III Gaming Key Employee and Class III Gaming Primary Management Official:

- (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 years (10) years: business and employment positions held, ownership interests in those businesses, business and residence addresses, and driver 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 an 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's department of law enforcement or a state or federal law enforcement agency, 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.Z(h) and a statement authorizing law enforcement agencies and prior employers to release information and respond to questions relating to the applicant's records;
- (15) All applicants are required to submit to a drug screening test and, if employed, random screening tests thereafter;
- (16) Any other information that is required by the Compact or its Appendices; and
- (17) Any other information the SGA deems relevant.

§15.5 Each applicant for a gaming license who has or will have a contract with the Nation to manage a Nation Gaming Operation shall state whether or not he or 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.

§15.6 A Management Contractor's application shall include information required by 25 U.S.C. §2710(d) and 25 C.F.R. §537.

§15.7 Existing employees shall be notified in writing that they shall either:

- (a) Complete a new application form that contains the Privacy Act notice described in Section 15.4(b) above; or
- (b) Sign a statement that contains the Privacy Act notice described in Section 15.4(b) above and consent to the routine uses described in that notice.

§15.8 When a Class III Gaming Key Employee or Class III Gaming Primary Management

Official begins work at a Nation Gaming Operation, the SGA shall forward a copy of the person's completed application for a gaming license to the NIGC.

## **SECTION 16 – QUALIFICATIONS FOR GAMING LICENSES**

§16.1 The SGA Executive Director may issue or renew a gaming license, or temporary license if required, to an applicant who submits a proper and completed application and pays the appropriate license fee consistent with the Compact and meets the requirements for the license applied for.

§16.2 Subject to the requirement of payment of required license fees and the requirements contained in the Compact and its Appendices, each gaming license shall be valid for two (2) years from the date of issuance, provided that, in the discretion of the SGA, a gaming license may be granted for a term to run concurrently with the term of a Management Contract.

§16.3 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 Nation Gaming Operation for which it is issued. A Nation Gaming Operation license shall be conspicuously displayed at all times at the facility for which it is issued.

§16.4 Decisions as to whether a gaming license shall be issued, denied, suspended, or revoked shall be made in accordance with the Compact.

## **SECTION 17 – GAMING LICENSE FEES**

§17.1 All fees for each gaming license issued pursuant to this Law shall be set by regulations promulgated by the SGA. In setting the license fee, the SGA shall take into consideration the following items:

- (a) Cost of the background investigation;
- (b) Administrative cost to the SGA, and
- (c) The applicant's status as Management Contractor, Class III Gaming Primary Management Official, Class III Gaming Key Employee or employee.

§17.2 The SGA Commission may waive the biennial fee on a case-by-case basis.

## **SECTION 18 – BACKGROUND INVESTIGATIONS**

§18.1 As provided in the Compact, the SGA Executive Director shall conduct or cause to be conducted, a background investigation of each applicant for a position which is designated as a Class III Gaming Key Employee or Class III Gaming Primary Management Official sufficient to make a suitability determination under this Law and the Compact. This shall include verification of information submitted by the applicant. The background investigation will also document all potential problem areas noted and any disqualifying information. In conducting the investigation, the SGA shall keep confidential the identity of each person interviewed in the

course of the investigation.

§18.2 The procedures set forth in the Compact regarding background investigations are made applicable here by reference. The SGA Executive Director shall conduct an investigation sufficient to make an eligibility determination. 25 C.F.R. 556.5. If, in the course of a background investigation, the SGA Executive Director discovers that the applicant has a notice of results on file with the NIGC from a prior investigation and the SGA Executive Director has access to the earlier investigative materials (either through the NIGC or the previous tribal investigative body) the SGA Executive Director may rely on those materials and update the investigation and investigative report required by 25 C.F.R. §556.6(b)(1). 25 C.F.R. §556.4(b).

§18.3 The SGA Executive Director shall review a person's prior activities, criminal record, if any, and reputation, habits and associations to make a finding concerning the eligibility of a Class III Gaming Key Employee or Class III Gaming Primary Management Official for employment in a Nation Gaming Operation. If the SGA determines that licensing a person poses a threat to the public interest or to the effective regulation of gaming or creates or enhances dangers of unsuitable, unfair or illegal practices or methods and activities in the conduct of gaming, the SGA Executive Director shall not license that person for a Class III Gaming Key Employee or Class III Gaming Primary Management Official position.

#### §18.4 Investigative Reports and Notice of Results

- (a) Before issuing a license to a Class III Gaming Key Employee or Class III Gaming Primary Management Official, the SGA shall create and maintain an investigative report on each background investigation containing the information required by subsection (b) hereof for each Class III Gaming Key Employee or Class III Gaming Primary Management Official the Nation Gaming Operation intends to employ.
- (b) 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.
- (c) The SGA shall submit a notice of results of the applicant's background investigation to the NIGC no later than sixty (60) days after the applicant begins work. The notice of results shall contain:
  - (1) Applicant's name, date of birth, and social security number;
  - (2) Date on which applicant began or will begin work as a Class III Gaming Key Employee or Class III Gaming Primary Management Official;
  - (3) A summary of the information presented in the investigative report, which shall at a minimum include a listing of:
    - a. Licenses that have previously been denied;
    - b. Gaming licenses that have been revoked, even if subsequently reinstated;
    - c. Every known criminal charge brought against the applicant within the

- last 10 years of the date of application; and
- d. Every felony of which the applicant has been convicted or any ongoing prosecution.
- (d) After the SGA provides a notice of results of the background check to the NIGC, the SGA may license a Class III Gaming Key Employee or Class III Gaming Primary Management Official. Within 30 days after the issuance of the license, the SGA shall notify the NIGC of its issuance. A Nation Gaming Operation shall not employ as a Class III Gaming Key Employee or Class III Gaming Primary Management Official a person who does not have a gaming license ninety (90) days after the notice of results of the background check has been submitted to the NIGC.
- (e) If a gaming license is not issued to an applicant, the SGA:
- (1) Shall notify the NIGC, and
  - (2) Shall forward copies of its eligibility determination and notice of results to the NIGC for inclusion in the Indian Gaming Individuals Records system.
- (f) With respect to Class III Gaming Key Employees or Class III Gaming Primary Management Officials, the SGA shall retain applications for gaming licenses, investigative reports and eligibility determinations by the SGA for no less than three (3) years from the date of termination of employment.

#### §18.5 Granting a Gaming License

- (a) Upon receipt of a complete notice of results, the NIGC has thirty (30) days to request additional information and to object to issuance of a gaming license. If the NIGC has no objection to issuance of a license, it shall notify the SGA within thirty (30) days of receipt of the notice of results and the SGA may issue a license to such applicant.
- (b) If, within the 30-day period described in paragraph (a) of this Section, the NIGC provides the SGA with a statement itemizing objections to the issuances of a license to a Class III Gaming Key Employee or Class III Gaming Primary Management Official, the SGA shall reconsider the application taking into account the objections itemized by the NIGC. The SGA Commission shall make the final decision whether to issue a license to such applicant consistent with the Compact and its Appendices.
- (c) If the SGA issued a license before receiving the NIGC's statement of objections, notice and hearing shall be provided as described in 25 C.F.R. §558.4.

#### §18.6 Gaming License Suspension and Revocation

- (a) If, after the issuance of a gaming license, the SGA receives from the NIGC reliable information indicating that a Class III Gaming Key Employee or Class III Gaming Primary Management Official is not eligible for employment under this Law, the SGA shall immediately suspend such license and shall provide the licensee with written notice of suspension and proposed revocation.

- (b) The SGA shall notify the licensee of a time and place for a hearing on the proposed revocation of a license. After a revocation hearing, the SGA shall decide to revoke or reinstate the gaming license. The SGA shall notify the NIGC of its decision within 45 days of receiving notification from the NIGC.

§18.7 All notices under this Section shall be provided to the NIGC through the appropriate Regional office. If the SGA submits notices electronically, it shall contact the appropriate Regional office for guidance on formats and means of transmission.

## **SECTION 19 – CONFIDENTIALITY OF RECORDS**

§19.1 All records and information obtained as a result of an employee background investigation shall remain confidential and shall not be disclosed to persons who are not directly involved in the licensing process. The information obtained during an employee background shall be disclosed to members of management, human resource personnel or others employed by the Nation Gaming Operation on a need-to-know basis for actions taken in their official capacities. This Section does not apply to requests for such information or records from any Tribal, Federal or state law enforcement or regulatory agency, or for the use of such information or records by the SGA and staff in the performance of their official duties. For purposes of this Section, any oversight body or person designated by Nation Council to evaluate or investigate SGA processes and procedures or compliance with Nation laws, Compact and its Appendices, NIGC regulations or any other applicable law shall be deemed a regulatory agency to which employee background investigation records and information may be disclosed.

## **SECTION 20 – USE OF NET REVENUES**

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

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

§20.2 If the Nation elects to make per capita payments to Nation 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 21 – RECORDS AND LICENSING**

§21.1 A Nation 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 Compacts and its Appendices, the Act and NIGC regulation.

§21.2 No later than the last day of month, each gaming operation shall provide in a report form prescribed by the SGA, a statement of gross and net revenues received or collected at each Nation Gaming Operation during the immediately preceding month.

§21.3 The Nation Gaming Operation shall maintain, in a climate-controlled place secure from theft, loss, or destruction, adequate records of its business and accounting operations. The Nation Gaming Operation shall make the records available to the SGA, the SGO and NIGC officials upon request. The Nation Gaming Operation shall retain the records for not less than seven (7) years. The records shall include, but not be limited to, the records identified in the Compact.

§21.4 The Nation Gaming Operations shall also comply with the relevant provisions of the Compact and its Appendices relating to reports and records.

## **SECTION 22 – ANNUAL AUDIT**

§22.1 The Nation shall cause to be conducted, at least annually, an independent audit of the books and records of each Nation Gaming Operation.

- (a) **Audit Standards.** The Nation Gaming Operation 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 Nation 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.
- (b) **Copies of Audit Reports.** The Nation Gaming Operation shall submit to the Nation Council, SGA and NIGC 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 operations(s) resulting from the audit(s) conducted pursuant to Subsection (a) above.
- (c) **Relationship of Audit Financial Statements to Fee Assessment Reports.** The Nation Gaming Operation 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 NIGC's authorized representative.

§22.2 All gaming related contracts that result in purchases of supplies, services, or concessions for more than twenty-five thousand dollars (\$25,000) in any year, except contracts for professional legal or accounting services) shall be specifically included within the scope of the audit conducted pursuant to this Section.

## **SECTION 23 – GROSS GAMING REVENUES**

§23.1 The Gross Gaming Revenues derived from gaming operations are Nation funds and are to be expended as authorized by the Nation.

## **SECTION 24 – VIOLATIONS**

§24.1 No person shall operate or conduct any gaming activity in a gaming operation within the exterior boundaries of Nation Lands without a gaming license issued by the SGA as required by this Law or the Compact and its Appendices.

§24.2 No person shall knowingly submit false or misleading information to the NIGC, the Nation or the SGA in response to any provision of the Act, Nation Law, NIGC or SGA rules, or resolution approved by the Chairman under parts 522 or 523 in Title 25 C.F.R.

§24.3 No Management Contractor, key employee, or primary management official or other employee responsible for accounting of monies or filing reports shall fail to maintain adequate fiscal and financial records, account fully for all monies received or collected in connection with Gaming activities or omit the filing of any report required under a management contract, NIGC regulations, Nation Law or the Compact or fail to abide by the laws or regulations of the Nation, or fail to abide by a bona fide order, request or command of the SGA.

§24.4 No person shall engage in cheating in any Gaming activity in any Nation Gaming operation nor shall any person be permitted to engage in fraudulent conduct affecting the gaming operation or its customers

§24.5 No person playing in or conducting any authorized gaming activity shall:

- (a) Use bogus or counterfeit cards, dice or substitutes or use any game cards or dice that have been tampered with, altered or marked;
- (b) Employ or have on one's person any device which may be used to facilitate cheating in a gaming activity;
- (c) Use any fraudulent scheme or techniques, including when an operator or player of games of charitable gaming tickets directly or indirectly solicits, provides, or receives inside information of the status of the game for the benefit of either person; or
- (d) Knowingly cause, aid, abet, or conspire with another person to violate any provision of this Ordinance or any regulation adopted under this Ordinance.

§24.6 No person or entity subject to the Nation's jurisdiction shall:

- (a) Handle cash or cash equivalents in a manner inconsistent with the SGA's regulations or internal control procedures;
- (b) Install gaming machines in a manner inconsistent with SGA rules and regulations;
- (c) Take any action that interferes with, impedes or prevents the SGA from



fulfilling its duties and responsibilities under this Ordinance.

§24.7 No manager, employee or other responsible person shall:

- (a) Fail to keep appropriate books and records sufficient to substantiate the income and expenses and to verify the propriety of all expenditures and disbursements by any component of the gaming operation;
- (b) Falsify any books or financial records related to any transaction connected with holding, operating or conducting gaming activity or gaming promotions;
- (c) Make any unauthorized payments or disbursements related to the operation of gaming;
- (d) Convert for personal use any funds, property or other financial assets of the gaming operation; or
- (e) Place unlicensed or unauthorized gaming equipment on the gaming floor and permit its play.

§24.8 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.

§24.9 No person, including security department personnel, shall possess, or be permitted to possess any firearm within any Gaming Facility without the prior written consent of both the Nation Law Enforcement Agency and the State, except for duly authorized personnel of each. The SGA shall post in a conspicuous location at every entrance to each Gaming Facility, a sign stating: No person shall possess any firearm within this Gaming Facility.

§24.10 It is a substantial violation for any person or entity to engage in fraudulent conduct including:

- (a) Defrauding the Nation, the Gaming Operation, any Gaming Operation licensee, or any game participant in relation to any gaming activity or promotion;
- (b) Knowingly and maliciously providing information that is known to be false with respect to any SGA license application or vendor registration program;
- (c) Claiming, collecting, taking or attempting to claim, collect or take money or anything of value in or from a gaming facility with the intent to defraud; or claiming, collecting or taking an amount greater than the amount actually won in a game with intent to defraud;
- (d) Falsifying, destroying, wrongfully altering, or intentionally failing to produce any books, data, records or other information relating to the Gaming Operation required to be produced under applicable laws or regulations;
- (e) Offering or attempting to offer anything of value to a licensee in an act that is an attempt to induce the licensee to act in a manner contrary to the official duties of the licensee;
- (f) Accepting anything of value with the expectation that the receipt of value is intended to induce the licensee to act in a manner contrary to their official duties;

- (g) Misusing technological devices to aid or abet fraudulent conduct; or
- (h) Converting or diverting gaming revenues for personal enrichment or other purpose not authorized by the Nation.

§24.11 No person shall violate any provision of this Law, Nation Gaming laws, the Compact, NIGC regulations or any final SGA order or rule.

§24.12 Any person who is in privity with or collusion with a person who violates this Law, Nation Gaming laws, the Compact, NIGC regulations or any final SGA order or rule shall be deemed to be in violation to the same extent as the violator and shall be treated accordingly.

§24.13 The Nation shall construct, maintain and operate a Gaming Facility in a manner that adequately protects the environment and public health and safety.

## **SECTION 25 – NOTICE OF VIOLATION**

§25.1 The SGA Executive Director may issue a notice of violation of any provision of this Law, other applicable Nation gaming laws, the NIGC or SGA rules and regulations and the Compact.

§25.2 A notice of violation shall contain:

- (a) A citation to any legal 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 day from the date the notice was issued or such additional days as the Executive Director deems appropriate;
- (e) A statement of the rights to appeal;
- (f) A statement that the violation may be subject to a civil fine assessment in accordance with Section 26; and
- (g) A description of respondent's appeal rights and responsibilities.

## **SECTION 26 – CIVIL FINE ASSESSMENT**

§26.1 The SGA Executive Director may:

- (a) Impose a civil fine not to exceed five hundred dollars (\$500) for each violation, and if such violation is a continuing one, for each day that the violation occurs (not to exceed \$25,000); Impose a civil fine of one hundred dollars (\$100) per day for failure to submit to the NIGC or SGA any report required under this Law when it is due and one thousand dollars (\$1000) per day for failure to file any such report after a three-day notice and demand;
- (b) Require reimbursement for monies improperly or illegally taken from the Nation

- Gaming Operation or Nation; or
- (c) Ban the violator(s) from the Nations Gaming Facility(s).

§26.2 In determining the amount of a civil fine, the SGA Executive Director shall consider the following factors:

- (a) Economic benefit of noncompliance. The SGA Executive Director shall consider the extent to which the respondent obtained an economic benefit from noncompliance as well as the likelihood of escaping detection.
  - (1) The SGA Executive Director may consider the documented benefits of noncompliance or may rely on reasonable assumptions regarding such benefits.
  - (2) If noncompliance continues for more than one day, the SGA Executive Director may treat each daily legal act or omission as a separate violation.
- (b) Seriousness of the violation. The civil fine may be adjusted based on the seriousness of the violation including the extent to which the violation threatens the integrity of the gaming operation.
- (c) History of violations. The SGA Executive Director may consider the history of violations over the preceding five (5) years when those violations are the subject of final SGA action.
- (d) Negligence or willfulness. The SGA Executive Director may consider respondent's degree of fault in causing or failing to correct the violation.
- (e) Good faith. The SGA Executive Director may reduce the fine based on respondent's degree of good faith in attempting to achieve rapid compliance after notification of the violation.

§26.3 The procedure for assessing fines include:

- (a) Within fifteen (15) calendar days after service of a notice of violation or such other additional period as the SGA Executive Director may authorize, the respondent shall submit written information about the violation and any corrective measures undertaken.
- (b) The SGA Executive Director may issue a proposed civil fine assessment within thirty (30) days after the respondent has responded to the notice of violation.
- (c) The proposed civil fine assessment shall include a description of the factors relied on to establish the amount of the fine and a notice of the respondent's appeal rights and responsibilities.
- (d) If, within 30 days of the receipt of the proposed civil fine assessment, the respondent does not file an appeal to the SGA Commission, the civil fine assessment becomes final.

## **SECTION 27 – HEARINGS AND APPEALS**

§27.1 This Section provides procedures for appeals to the SGA Commission for:

- (a) A notice of violation;
- (b) A civil fine assessment; and
- (c) Any negative licensing actions including a denial, suspension or revocation of a gaming license.
- (d) Any negative vendor registration actions, including a denial, suspension or revocation thereof.

§27.2 Any person subject to a notice of violation or civil fine assessment or denial, suspension or revocation of a gaming license may appeal the decision to the Commission within thirty (30) days of the receipt of such decision. The appeal must include:

- (a) A copy of the decision being appealed;
- (b) An explanation why the decision should be not be upheld;
- (c) A statement as to whether the appellant requests a hearing; and
- (d) Any information or documents supporting such appeal.

§27.3 Upon request, the SGA Executive Director shall provide, in a timely manner, a copy of the record on which he or she relied to appellant and the commissioners.

§27.4 If the appellant requests a hearing, the commissioners 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 notice of appeal or such other time upon which the commissioners and appellant agree. A majority of the commissioners may, upon establishing that it has jurisdiction, affirm, modify, reverse and or vacate the decision.

§27.5 If the appellant requests a hearing, appellant shall be entitled to:

- (a) Notice and an opportunity to be heard;
- (b) Representation by an attorney;
- (c) A transcript of the hearing;
- (d) Witnesses subpoenaed to testify at the hearing; and
- (e) Cross-examination of witnesses;
- (f) A stay of enforcement of any Civil Fine Assessment

## **SECTION 28 – FINAL AGENCY ACTION AND ENFORCEMENT**

§28.1 If the respondent fails to appeal the notice of violation, the civil fine assessment or license decision within 30 days, such decisions shall become final agency actions of the SGA.

§28.2 Any decision by a majority of the commission on an appeal from a notice of violation, civil fine assessment or license decision shall be a final action for purposes of this Law.

§28.3 Civil fines assessed are not operating expenses of the Gaming Operation but individual

debts of the persons who violated the laws of the Nation.

§28.4 After a final action, the SGA may:

- (a) Suspend or revoke any applicable gaming license or vendor registration;
- (b) Bring an action in the Nation's court or other court of competent jurisdiction to:
  - (1) Seize any gaming apparatus, proceeds, or other property connected with the gaming activities of the respondent;
  - (2) Collect any unpaid fines if unpaid after thirty (30) calendar days;
  - (3) Execute on any nonexempt property of the respondent located within the exterior boundaries of the Nation Lands;
  - (4) Garnish wages; and
  - (5) Seek such other equitable relief authorized by law.

§28.5 Every person who applies for a gaming license or vendor registration and accepts such license or vendor registration thereby acknowledges the civil enforcement jurisdiction and authority of the SGA under this Law to suspend or terminate his or her gaming license or vendor registration and to seek the seizure of his or her property after a final agency action, despite lack of actual notice, provided that the SGA has used its best efforts to notify the person, in person or by letter delivered to his or her last not address.

## **MISCELLANEOUS PROVISIONS**

### **SECTION 29 – SERVICE OF PROCESS**

§29.1 The Nation Council hereby designates the President of the Nation as the agent for service of process for any official NIGC or State determination, order, or notice of violation.

### **SECTION 30 – RESOLUTION OF DISPUTES BETWEEN THE GAMING PUBLIC AND THE NATION OR THE MANAGEMENT CONTRACTOR**

§30.1 The resolution of claims involving disputes relating to a patron's entitlement to a game prize are to be governed by the procedures set forth in the Compact.

§30.2 The resolution of claims involving demands or liability for bodily injury and property damages arising out of or relating to the operation of the Gaming Facilities are to be governed by the procedures set forth in the Compact.

### **SECTION 31 – MANAGEMENT CONTRACTOR/CONTRACT PROVISIONS**

§31.1 All references or procedures applicable to Management Contractors or Management Contracts become effective upon adoption by Council of any Management Contract.

## **SECTION 32 – PROHIBITION AGAINST INDIVIDUALLY OWNED CLASS III GAMING**

§32.1 No license shall be issued by the SGA for individually owned Class III Gaming operations.

## **SECTION 33 – CONFLICT OF LAWS**

§33.1 Where this Law conflicts with the Compact and its Appendices, the Compact and the Appendices shall prevail provided that they are no less stringent than the Act, NIGC regulations and this Law.

## **SECTION 34 – ACCESS TO NATION GAMING OPERATION**

§34.1 The Nation Gaming Operation shall allow an authorized SGA representative to enter and inspect a gaming operation pursuant to NIGC regulations or the laws or regulations of the Nation.

## **SECTION 35 – SEVERABILITY PROVISION**

§35.1 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 36 – EFFECTIVE DATE**

§36.1 This Law shall be effective upon the approval by the Seneca Nation Council and the Chairperson of the NIGC and supersedes all previous Class III gaming ordinances.