

December 18, 2013

Chief William Fisher Seneca-Cayuga Tribe of Oklahoma 23701 So. 655 Rd. Grove, OK 74344

## RE: Seneca-Cayuga Tribe of Oklahoma Gaming Ordinance and Resolution Number 61-100813

Dear Chief Fisher,

This letter responds to your October 16, 2013, request on behalf of the Seneca-Cayuga Tribe of Oklahoma to the National Indian Gaming Commission (NIGC) to review and approve the Tribe's amendments to its gaming ordinance. The amendments to the gaming ordinance were adopted by Resolution No. 61-100813 by the Business Committee of the Seneca-Cayuga Tribe of Oklahoma.

Resolution No. 61-100813 revises the Tribe's current gaming ordinance to modernize the Tribe's gaming laws and regulatory system, to comply with NIGC regulations, and to authorize internet gaming if conducted in accordance with Federal law. The amendments establish the Office of Gaming Appeals, expand and modify the duties and authorities of the Tribal gaming commissioner, require vendor registration, outline violations, and revise the dispute resolution process. Additionally, the definitions, the gaming licenses, and the background investigations provisions were amended to comply with NIGC regulatory changes. Also, the ordinance amendment contains provisions directly related to using the internet to conduct gaming so long as it is conducted in accordance with Federal law.

Thank you for bringing the amended gaming ordinance to our attention. The ordinance is approved to the extent it is consistent with the requirements of the Indian Gaming Regulatory Act and NIGC regulation and for gaming only on Indian lands, as defined by IGRA, over which the Tribe has jurisdiction. It is important to note this letter does not constitute approval of specific games or gaming and expresses no opinion on whether the provisions in the ordinance relating to internet gaming are consistent with other applicable federal law.

Chief Fisher December 18, 2013 Page 2 of 2

If you have any questions, please contact Staff Attorney Heather Corson at (202) 632-7003.

Sincerely,

Jonodev Chaudhuri Acting Chair

cc: Elizabeth Homer, Homer Law Mayo S. Whitecrow, Seneca-Cayuga Tribe of Oklahoma Gaming Commission

# **ENCLOSURE 1**



## SENECA-CAYUGA TRIBE OF OKLAHOMA Resolution # <u>61~10</u>0813

#### AMENDING THE SENECA-CAYUGA GAMING CODE

WHEREAS: The Seneca-Cayuga Tribe of Oklahoma is a federally recognized Indian Tribe organized under the Oklahoma Indian Welfare Act of 1936 with a Constitution and By-laws approved by the Secretary of Interior on April 26, 1937 and ratified by vote of the General Council of the Tribe on May 15, 1937; AND

WHEREAS: The Business Committee is empowered under Article VI of the Constitution and By-laws to transact business and otherwise speak or act on behalf of the Seneca-Cayuga Tribe in all matters on which the Tribe is empowered to act; AND

**WHEREAS:** The Seneca-Cayuga Tribe of Oklahoma, as a federally recognized Indian tribe, engages in gaming activities on its Indian lands pursuant to the Indian Gaming Regulatory Act as a means to promote tribal economic development and self-sufficiency; **AND** 

WHEREAS: The Business Committee adopted the Seneca-Cayuga Gaming Code by Resolution No. 16-072093 on July 20, 1993, which was amended by Resolution No. 28-090605 on September 12, 2005, in order to authorize, permit, and otherwise regulate gaming activities taking place on the Indian lands of the Seneca-Cayuga Tribe of Oklahoma; AND

WHEREAS: The Business Committee has determined that it is in the Seneca-Cayuga Tribe of Oklahoma's best interests to amend the Seneca-Cayuga Gaming Code to ensure consistency with current applicable federal regulations and promote the continued integrity of the Seneca-Cayuga Tribe of Oklahoma's gaming activities; AND

WHEREAS: The Business Committee desires to make changes to the currently effective Seneca-Cayuga Gaming Code and, as a result, wishes to adopt a new gaming ordinance titled "Seneca-Cayuga Gaming Ordinance," which shall supersede and replace the Seneca-Cayuga Gaming Code adopted by the Business Committee by Resolution No. 16-072093, as amended by Resolution No. 28-090605 on September 12, 2005.

**THEREFORE BE IT RESOLVED:** That the Business Committee hereby approves and adopts the Seneca-Cayuga Gaming Ordinance, in the form attached hereto as Exhibit A; AND

**BE IT FURTHER RESOLVED:** That upon becoming effective, the attached Seneca-Cayuga Gaming Ordinance shall operate to repeal all prior inconsistent laws, including but not limited to the Seneca-Cayuga Gaming Code, adopted by the Business Committee on July 20, 1993, as amended on September 12, 2005; AND

**BE IT FURTHER RESOLVED**: That the Business Committee authorizes and directs the Chief of the Seneca-Cayuga Tribe of Oklahoma to submit the attached Seneca-Cayuga Gaming Ordinance to the Chair of the National Indian Gaming Commission for review and approval.

#### **CERTIFICATION**

The foregoing Resolution was passed at a meeting of the Business Committee of the Seneca-Cayuga Tribe of Oklahoma conducted on October 8, 2013 with a vote of 4 for, gagainst, gabstaining.

William L. Fisher, Chief

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ATTEST:

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Thomas Weidman, Secretary-Treasurer

## SENECA-CAYUGA TRIBE OF OKLAHOMA GAMING ORDINANCE

## **SECTION 1. GENERAL PROVISIONS**

#### 1.1 Title

This Ordinance shall be known as the Seneca-Cayuga Tribe of Oklahoma Gaming Ordinance.

#### **1.2** Authority

This Ordinance is enacted pursuant to the authority vested in the Business Committee of the Seneca-Cayuga Tribe of Oklahoma through Article VI of the Tribe's Constitution and By-Laws, as approved by the Secretary of the Interior on April 26, 1937.

#### 1.3 Purpose

The Seneca-Cayuga Tribe of Oklahoma hereby enacts this Ordinance in order to:

- (a) Establish the legal and regulatory framework for the regulation, control, and licensing for the operation of all gaming activities within the jurisdiction of the Tribe.
- (b) Establish the Seneca-Cayuga Office of the Gaming Commissioner, which shall serve as the primary regulator of the Tribe's gaming activities, and which shall have the power to:
  - i. License the Tribe's gaming facilities, employees, Gaming Vendors, and Gaming Financiers;
  - ii. Monitor and regulate all gaming activities conducted within the jurisdiction and authority of the Tribe;
  - iii. Adopt and implement such rules and regulations as may be necessary to carry out the purposes of this Ordinance;
  - iv. Conduct investigations and sanction violations of the gaming laws and regulations of the Tribe; and
  - v. Conduct hearings.
- (c) Establish the Seneca-Cayuga Office of Gaming Appeals, a quasi-judicial body which shall have the power and authority to adjudicate all appeals from the actions and decisions of the Office of the Gaming Commissioner.
- (d) Ensure that the Tribe's gaming activities are conducted honestly and fairly and remain free from corrupt, incompetent, unconscionable, and dishonest persons and practices.

- (e) Ensure that the Tribe's gaming laws are fully and fairly enforced in accordance with principles of fundamental fairness and due process of law in relation to all persons involved with gaming activities under the jurisdiction of the Tribe.
- (f) Ensure that gaming activities are carried out in conformity with the Indian Gaming Regulatory Act and any Compact as may presently be in effect or be executed hereafter.

#### 1.4 Gaming Authorized

All Classes of gaming as defined in the Indian Gaming Regulatory Act, P.L. 100-447, 25 U.S.C. § 2701 et seq. and conducted pursuant to the Act, whether conducted via the Internet or within a landbased gaming facility, are hereby authorized by this Ordinance, provided that Class III gaming activities shall only be conducted to the extent authorized in a valid tribal-state gaming compact duly approved by the Secretary of the Interior, and further provided that any use of the Internet for purposes of gaming shall be consistent with all applicable federal laws.

## 1.5 Ownership of Gaming

The Tribe shall have the sole propriety interest in and responsibility for the conduct of any gaming operation authorized by this Ordinance.

#### 1.6 Use of Gaming Revenue

- (a) Net revenues from gaming shall be used only for the following purposes:
  - i. To fund the Tribe's government operations and programs;
  - ii. Provide for the general welfare of the Tribe and its members;
  - iii. Promote the Tribe's economic development activities;
  - iv. Donate to charitable organizations; or
  - v. Help fund operations of local government agencies.
- (b) Net revenues from gaming activities conducted or licensed by the Tribe may be used to make per capita payments to members of the Tribe only if:
  - i. The Tribe has prepared a plan to allocate revenues to uses authorized by 25 U.S.C. § 2710(b)(2)(B);
  - ii. The plan is approved by the Secretary as adequate;
  - iii. The interests of minors and other legally incompetent persons who are entitled to receive any of the per capita payments are protected and preserved and the per capita payments are disbursed to the parents or legal guardians of such minors or legal incompetents in such amounts as may be necessary for the health, education, or

welfare of the minor or legally incompetent person under a plan approved by the Secretary and the Tribe's Business Committee; and

iv. The Tribe shall ensure that Tribal members are notified of the tax liability for per capita payments and how taxes will be withheld.

#### 1.7 Audit

- (a) The Tribe shall cause to be conducted annually an independent audit of gaming operations and shall submit the resulting audit reports to the NIGC.
- (b) All gaming related contracts that result in the purchase of supplies, services, or concessions in excess of \$25,000.00 annually, except contracts for professional legal and accounting services, shall be specifically included within the scope of the audit that is described in Subsection 1.7(a) above.

## 1.8 Protection of the Environment and Public Health and Safety

All gaming facilities shall be constructed, maintained and operated in a manner that adequately protects the environment and the public health and safety.

## 1.9 Gaming Facility License Required

The SCOGC shall issue a separate license to each place, facility, or location where gaming is conducted under this Ordinance. Every gaming facility shall display in a prominent place a current and valid license for that location.

#### 1.10 Licenses for Key Employees and Primary Management Officials

The SCOGC shall ensure that the regulations promulgated pursuant to this Ordinance are implemented with respect to Key Employees and Primary Management Officials employed at any gaming enterprise operated on Indian Lands.

## 1.11 Designation of Agent for Service of Process

The Gaming Commissioner is hereby designated as agent for service of any official determination, order, or notice of violation of this Ordinance or of the Indian Gaming Regulatory Act. The Gaming Commissioner shall promptly report and provide copies of any such service to the Business Committee as appropriate.

## 1.12 Effective Date and Repeal of Inconsistent Legislation

This Ordinance shall become effective as a replacement for the Seneca-Cayuga Gaming Code, as approved on July 20, 1993 by Resolution #16-072093 of the Business Committee and subsequently amended on September 6, 2005, immediately upon its approval by the Chair of the National Indian Gaming Commission. Upon such approval, this Ordinance shall revoke, supersede, and replace the Seneca-Cayuga Gaming Code in its entirety. All other laws of the Tribe inconsistent with the

provisions of this Ordinance and existing as of the effective date of this Ordinance are hereby repealed, including all inconsistent laws, ordinances, and resolutions. Repeal by this Ordinance of any law, ordinance, or resolution shall not have the effect of reviving any prior law, ordinance, or resolution heretofore repealed or suspended by such repealed code.

## 1.13 Severability

The provisions of this Ordinance are severable and if any part or provision hereof shall be held void by a court of competent jurisdiction, the decision of the court so holding shall not affect or impair any of the remaining parts or provisions of this Ordinance.

## **1.14 Management Contracts**

No management contract may be executed by or on behalf of the Tribe with any third-party unless authorized by a duly adopted resolution of the Business Committee and in full compliance with all applicable provisions of IGRA, particularly, 25 U.S.C. § 2711 and regulations issued pursuant thereto.

## 1.15 Compliance with Applicable Federal Laws

In addition to its authority to enforce compliance with this Ordinance and regulations issued hereunder, the SCOGC is hereby delegated the authority to monitor, enforce, and sanction violations of all federal laws and regulations applicable to the Tribe's gaming activities including, without limitation, the pertinent provisions of Title 25 of the United States Code and the Code of Federal Regulations, Title 26 of the United States Code and the Code of Federal Regulations, and Title 31 of the U.S. Code and Code of Federal Regulations, among others.

#### 1.16 Compliance with Compact

The SCOGC is hereby delegated the authority to monitor, enforce, and sanction violations of the terms and conditions of the Tribe's Compact.

#### 1.17 Consent to Jurisdiction

Any person who:

- (a) Applies for and/or is granted a license under this Ordinance;
- (b) Applies for employment in any gaming facility or in relation to an Internet Gaming System licensed and/or regulated under this Ordinance;
- (c) Enters into any contract, engagement, or agreement related to gaming regulated under this Ordinance; and
- (d) Participates in any gaming activity authorized by this Ordinance, accesses the Internet Gaming System, or enters onto the premises of any gaming facility licensed under this Ordinance –

is subject to the civil jurisdiction of the Tribe, the SCOGC, and the Tribal Courts, and a person's performance of any of these acts shall constitute consent to the Tribe's exercise of such jurisdiction.

#### 1.18 Noncompliance

Failure to comply with any of the requirements of this Ordinance, or the regulations promulgated hereunder shall constitute a violation of this Ordinance.

#### **1.19 Definitions**

For purposes of this Ordinance, the following definitions shall apply:

- (a) "Alternate Hearing Officer" means the hearing officer who presides over hearings of the Office of Gaming Appeals when the Chief Hearing Officer is subject to recusal in a particular matter or is otherwise unavailable.
- (b) "Business Committee" means the Seneca-Cayuga Tribal Business Committee, the elected governing body of the Tribe.
- (c) "Chief" means the Chief of the Seneca-Cayuga Tribal Business Committee.
- (d) "Chief Hearing Officer" means the head of the Office of Gaming Appeals charged with carrying out the adjudicative functions of the Office of Gaming Appeals.
- (e) "Class II Gaming" means that gaming defined as Class II in 25 U.S.C. § 2703(7)(A) and 25 C.F.R. § 502.3.
- (f) "Class III Gaming" means that gaming defined as Class III in 25 U.S.C. § 2703(8) and 25 C.F.R. § 502.4.
- (g) "Compact" means an effective Tribal-State Gaming Compact between the Seneca-Cayuga Tribe of Oklahoma and the State of Oklahoma pursuant to the terms and conditions of 25 U.S.C. § 2710(d).
- (h) "Gaming Commissioner" means the senior most official of the Seneca-Cayuga Office of the Gaming Commissioner, charged with overall supervisory and administrative responsibility for directing the Tribe's gaming licensing program; for monitoring compliance with the IGRA; and for general enforcement and administration of this Ordinance and all regulations issued in relation thereto.
- (i) "Gaming Financier" means, unless otherwise provided herein or in a Compact in effect with the State of Oklahoma, any provider of financing to a gaming operation.
- (j) "Gaming Vendor" means any person or entity that manufactures, sells, or supplies gaming goods, including gaming equipment or services for the gaming activities and operations at the Tribe's gaming facilities or on the Internet Gaming System, including accounting services

and financing, but excluding certified public accountants or attorneys and their firms to the extent that they are providing services covered by their professional licenses.

- (k) "Hearing Officer" means the Chief Hearing Officer or Alternate Hearing Officer.
- (1) "IGRA" means the Indian Gaming Regulatory Act of 1988, 25 U.S.C. § 2701 et seq.
- (m) "Indian Lands" means all lands that meet the definition of Indian lands as defined in 25 U.S.C. § 2703(4).
- (n) "Internet Gaming" means the placing of wagers using an Internet Gaming System, the core components of which shall be physically located on the Indian Lands of the Tribe, through which the Tribe may offer authorized games to authorized players who have established Internet Gaming Accounts, and includes all games of chance and gaming activities that are not expressly prohibited by Federal law. Internet Gaming shall not include any promotional or marketing activities conducted over the Internet in which the elements of consideration, chance, and reward are not present.
- (o) "Internet Gaming Account" means an account that an authorized player shall use for the deposit and withdrawal of funds used for Internet Gaming.
- (p) "Internet Gaming Service Provider" means a Gaming Vendor that does any of the following on behalf of the Tribe:
  - i. Directs, provides, or solicits customers to or for the Internet Gaming System or materially assists in any of those activities in exchange for a commission or other fee;
  - ii. Manages, administers, or controls wagers on authorized Internet games;
  - iii. Manages, administers, or controls the Internet games with which those wagers are associated;
  - iv. Develops, maintains, provides, or operates an Internet Gaming System; or
  - v. Manufactures, sells, or supplies gaming goods, equipment, or services used in connection with an Internet Gaming System.
- (q) "Internet Gaming System" means all hardware, software, and communications that comprise a system for the purpose of offering authorized Internet Gaming.
- (r) "Key Employee" means a person who performs one or more of the following functions:
  - i. Bingo caller;
  - ii. Counting room supervisor
  - iii. Chief of security;

- iv. Custodian of gaming supplies or cash;
- v. Floor manager;
- vi. Pit boss;
- vii. Dealer;
- viii. Croupier;
- ix. Approver of credit; or
- x. Custodian of gambling devices and the Internet Gaming System, including persons with access to cash and accounting records within such devices;
- xi. Person whose duties and functions are in relation to the operation, management, administration, or control of wagers and games on an authorized Internet Gaming System;
- xii. If not otherwise included, any other person whose total cash compensation is in excess of \$50,000 per year; or
- xiii. 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 Tribe 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) "NIGC" means the National Indian Gaming Commission.
- (u) "Net Revenue" means gross revenues of an Indian gaming activity less amounts paid out as, or paid for, prizes and total operating expenses, excluding management fees.
- (v) "Non-Gaming Vendor" means any person or business entity that provides services or goods to a gaming facility or in relation to the Internet Gaming System that are not directly related to or used in connection with gaming activities or the handling, processing, and/or accounting of cash or cash equivalents from the gaming activities, but excluding goods and services provided by phone companies or a publicly regulated utility company. Non-Gaming Vendors are those whose dealings or transactions with the gaming operation pose negligible risk of detrimentally affecting the integrity of the Tribe's gaming activities. Examples of nongaming goods and services include, but are not limited to: airlines, hotels used for business travel, subscription newspapers and periodicals, laundry services, food, beverages, cleaning supplies; gardeners, general purpose equipment or items such as light bulbs, vacuum cleaners, and decorations, and providers of entertainment services.

- (w) "Principal" means with respect to Gaming Vendors, Gaming Financiers, and Internet Gaming Service Provider, its sole proprietor or any partner, trustee, beneficiary, or shareholder holding five percent (5%) or more of its beneficial or controlling ownership, or any officer, director, Primary Management Official employee including its Chief Financial Officer or other person who has financial management responsibility as an employee or under contract, or Key Employee thereof; and with respect to Management Contractors, any person or entity having a direct and financial interest in, or management responsibility for the Management Contract, including any officer of a corporation, any individual who serves on the board of directors of a corporation, any shareholder who directly or indirectly owns five percent (5%) or more of the issued and outstanding stock of the corporation, all general partners in a partnership, and all managers of a limited liability company.
- (x) "Primary Management Official" means
  - i. The person having management responsibility for a management contract; or
  - ii. Any person who has authority to hire and fire employees or set up working policy for the gaming operation, or the chief financial officer or other person who has financial management responsibility.
- (y) "Secretary" means the Secretary of the Department of the Interior.
- (z) "Seneca-Cayuga Office of Gaming Appeals" or "Office of Gaming Appeals" means the quasi-judicial body responsible for adjudicating matters that come before it and performing such other functions as are authorized by this Ordinance.
- (aa) "Seneca-Cayuga Office of the Gaming Commissioner" or "Office of Gaming Commissioner" or "SCOGC" means the administrative department within the Tribe responsible for the day-to-day regulation of the Tribe's gaming operation(s) and ensuring compliance with this Ordinance and all applicable laws and regulations related to Tribal gaming.
- (bb) "Tribal Courts" means the Seneca-Cayuga Tribe of Oklahoma Court of Indian Offenses or any other court of competent jurisdiction established under the laws of the Seneca-Cayuga Tribe of Oklahoma.
- (cc) "Tribe" means the Seneca-Cayuga Tribe of Oklahoma, a federally recognized Indian tribe organized under the Oklahoma Indian Welfare Act of 1936 with a Constitution and By-Laws approved by the Secretary of the Interior, April 26, 1937.

## **SECTION 2. GAMING LICENSES**

#### 2.1 License Requirements

All Key Employees and Primary Management Officials must apply for a gaming license prior to the initiation of the applicant's employment activities. The SCOGC, by regulation, may establish

licensure or permitting requirements for other categories of workers and employees of a gaming operation or the Internet Gaming System, including employees of related business activities or enterprises, such as, for example, retail facilities, hotels, and restaurants.

#### 2.2 Application Forms

Each person or entity having a management contract, each Primary Management Official, and each Key Employee shall complete an application for an initial license or renewal of an existing gaming license for each gaming facility and/or the Internet Gaming System(s) on an application prescribed by the SCOGC. The application shall set forth:

- (a) The name under which the applicant transacts or intends to transact business on Indian Lands;
- (b) The location of the gaming facility for which the gaming license is sought or the location of the Internet Gaming System, as applicable; 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 an 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.

#### 2.3 Privacy Act and False Statement Notices

The following notices shall be placed on the application form for a Key Employee or a Primary Management Official before that form is filled out by an applicant:

(a) 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 Tribal 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 Tribe 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 a tribe 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 a gaming operation. Failure to consent to the disclosures indicated in this notice will result in a Tribe's 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. (b) A false statement on any part of your license 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.)

#### 2.4 Payment of Application Fee

Each application shall be accompanied by payment of an application fee established by the SCOGC, which shall include the cost of the background investigation conducted pursuant to the requirements of this Ordinance.

#### 2.5 Withdrawal of Application

An application for a license pursuant to this Ordinance may not be withdrawn without the permission of the Gaming Commissioner. An applicant may request to withdraw an application by submitting to the Gaming Commissioner a written request for withdrawal. The Gaming Commissioner shall have the right, in his or her sole discretion, to grant or deny a request for withdrawal. A decision to deny a request for withdrawal shall be final and unappealable.

#### 2.6 Continuing Duty to Provide Information

Applicants and licensees shall have a continuing duty to provide any materials, assistance, or other information required by the SCOGC, and to fully cooperate in any investigation conducted by or on behalf of the SCOGC. If any information provided on the application changes or becomes inaccurate in any way, the applicant or licensee as a condition of licensure must promptly notify the SCOGC of such changes or inaccuracies.

## SECTION 3. BACKGROUND INVESTIGATIONS

#### 3.1 General

The SCOGC shall conduct, or cause to be conducted, a background investigation of Principals of Gaming Vendors, Gaming Financiers, Internet Gaming Service Providers, and Management Contractors, and each applicant for a position who is designated as a Key Employee or Primary Management Official. Background investigations performed for the SCOGC may be performed by Tribal law enforcement authorities, provided that such authorities have access to the law enforcement records of the Federal Bureau of Investigation and such authorities are certified graduates of the federal law enforcement academy or the Oklahoma law enforcement academy, or the Federal Bureau of Investigation. In conducting the investigation, the SCOGC shall keep confidential the identity of each person interviewed during the course of the investigation.

#### 3.2 Background Investigations

(a) The SCOGC shall request from each Primary Management Official and from each Key Employee all of the following information:

- i. Full name, other names used (oral or written), social security number(s), birth date, place of birth, citizenship, gender, all languages (spoken or written);
- ii. Currently and for the previous 5 years: business and employment positions held, ownership interests in those businesses, business and residence addresses, and drivers license numbers;
- iii. The names and current addresses of at least three personal references, including one personal reference who was acquainted with the applicant during each period of residence listed in the application;
- iv. Current business and residence telephone numbers;
- v. A description of any existing and previous business relationships with Indian tribes, including ownership interests in those businesses;
- vi. A description of any existing and previous business relationships with the gaming industry generally, including ownership interests in those businesses;
- vii. The name and address of any licensing or regulatory agency with which the person has filed an application for a license or permit to gaming, whether or not such license or permit was granted;
- viii. 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;
- ix. For each misdemeanor conviction or ongoing misdemeanor prosecution (excluding minor traffic violations), within 10 years of the date of the application, the name and address of the court involved and the date and disposition;
- x. For each criminal charge (excluding minor traffic charges), whether or not there is a conviction, if such criminal charge is within 10 years of the date of the application and is not otherwise listed pursuant to Subsections 3.2(a)(viii) and (ix) above, the criminal charge, the name and address of the court involved and the date and disposition;
- xi. The name and address of any licensing or regulatory agency with which the person has filed an application for an occupational license or permit, whether or not such license or permit was granted;
- xii. A current photograph;
- xiii. Any other information the SCOGC deems relevant; and
- xiv. Fingerprints consistent with procedures adopted by the SCOGC according to 25 C.F.R. § 522.2 (h), which shall be taken by the Commission and forwarded to the

NIGC to be processed by the Federal Bureau of Investigation National Criminal Information Center.

- (b) Upon an applicant's submission of a complete and signed application, the SCOGC shall conduct an investigation sufficient to make a determination under Section 3.3 below.
- (c) In conducting a background investigation, the SCOGC shall interview the applicant and a sufficient number of knowledgeable people, but not less than three, such as previous employers, personal references, and any other person(s) who may provide SCOGC with a knowledgeable basis for making its suitability determination. The SCOGC shall keep confidential the identity of each person interviewed in the course of the investigation.

#### 3.3 Suitability/Eligibility Determination

The SCOGC shall review a person's prior activities, criminal record, if any, and reputation, habits and associations to make a finding concerning the eligibility of the applicant for licensure as a Key Employee or Primary Management Official. If the SCOGC determines that the issuance of a gaming license to the applicant 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 and methods and activities in the conduct of gaming, licensure shall be denied to the applicant, whereupon such applicant shall not be eligible for employment with the gaming operation as a Key Employee or Primary Management Official.

#### 3.4 Investigative Report

The SCOGC shall prepare and maintain a complete application file, which shall include the application containing the information listed in Section 3.2(a), and all forms and attachments thereto as well as the eligibility determination and investigative report, which shall be completed for each applicant following completion of his or her background investigation pursuant to 25 C.F.R Part 556 of the NIGC's regulations. An investigative report shall include all of the following:

- (a) Steps taken in conducting a background investigation;
- (b) Results obtained;
- (c) Conclusions reached; and
- (d) The bases for those conclusions.

#### 3.5 Notices to the NIGC

- (a) The SCOGC shall submit a notice of the results of the applicant's background investigation to the NIGC's Regional office in Tulsa, Oklahoma no later than sixty (60) days after an employee begins work.
- (b) The notice of results shall contain:

- i. The applicant's name, date of birth, and social security number;
- ii. The date on which the applicant began or will begin work as a Key Employee or Primary Management Official;
- iii. A copy of the eligibility determination; and
- iv. A summary of the information presented in the investigative report, including a listing of:
  - 1) Licenses that have been previously denied;
  - 2) Gaming licenses that have been revoked, even if subsequently reinstated;
  - 3) Every known criminal charge brought against the applicant within the last 10 years of the date of application; and
  - 4) Every felony of which the applicant has been convicted or any ongoing prosecution.
- (c) If a license is denied to an applicant, the SCOGC shall notify the NIGC, and will forward copies of its eligibility determination and investigative report, if any, to the National Indian Gaming Individuals Records Systems.
- (d) The gaming operation shall not employ as a Key Employee or Primary Management Official a person who does not have a license after 90 days.

#### 3.6 Records Retention

With respect to Key Employees and Primary Management Officials, the SCOGC shall retain complete application files containing the information listed in Section 3.2 (a), investigative reports, and eligibility determinations for inspection by the Chairman of the NIGC or his or her designee for no less than three (3) years from the date of termination of employment.

## SECTION 4. ISSUANCE OF GAMING LICENSE; SUSPENSION

#### 4.1 Granting a Gaming License

- (a) Once the notice of results of an applicant's background investigation has been submitted to the NIGC, the SCOGC may issue the license to the applicant.
- (b) Upon issuance of the license, the SCOGC shall notify the NIGC of such issuance within 30 days.
- (c) The SCOGC shall respond to a request for additional information from the Chairman of the NIGC concerning a Key Employee or a Primary Management Official who is the subject of a report.

(d) If, within the thirty (30) day period described above, the NIGC provides the SCOGC with a statement itemizing objections to the issuance of a license, the SCOGC shall reconsider the application, taking into account the objections itemized by the NIGC. The SCOGC shall make the final decision whether to issue a license to such applicant.

#### 4.2 NIGC Objection, License Suspension or Revocation

- (a) If, after the issuance of a gaming license, the SCOGC receives from the NIGC reliable information indicating that a Key Employee or a Primary Management Official is not eligible for employment under Section 3.3 above, the SCOGC shall immediately suspend such license and shall notify the licensee in writing of the suspension and the proposed revocation.
  - i. The SCOGC shall notify the licensee of a time and a place for a hearing on the proposed revocation of a license.
  - After a revocation hearing, the SCOGC shall decide to revoke or to reinstate a gaming license. The SCOGC shall notify the NIGC of its decision within forty-five (45) days of receiving notification from the NIGC pursuant to Section 4.2(a).

#### 4.3 Denial or Other Disposition

If the SCOGC denies the license application or the license is otherwise not issued, the SCOGC shall notify the NIGC and submit copies of its eligibility determination and notice of results to the NIGC for inclusion in the Indian Gaming Individual Record System.

## SECTION 5. GAMING VENDOR, GAMING FINANCIER, AND INTERNET GAMING SERVICE PROVIDER LICENSING

#### 5.1 Application and Licensing Deadlines

Before a Gaming Vendor, Gaming Financier, or Internet Gaming Service Provider may contract or enter into any other business arrangement with the gaming operation, a completed application for a license shall be provided to the SCOGC by the applicant, which application shall contain all of the information required under this Section. The SCOGC shall conduct or cause to be conducted the background investigation and make the suitability determination in this Section to determine whether or not to grant the license.

## 5.2 License Applications for Gaming Vendors, Gaming Financiers, and Internet Gaming Service Providers

Applications for a Gaming Vendor/Gaming Financier/Internet Gaming Service Provider license must include the following:

(a) Name of business, business address, business phone, federal tax ID number (or SSN if a sole proprietorship), main office address if different from business address, any other names the applicant has done business under, type of service applicant will provide;

- (b) Whether the applicant is a partnership, corporation, limited liability company, sole proprietorship, or other entity;
- (c) If the applicant is a corporation, the state of incorporation, and the qualification to do business in the State of Oklahoma if the gaming operation is in a different state than the state of incorporation;
- (d) Trade name, other names ever used, names of any wholly owned subsidiaries or other businesses owned by the Gaming Vendor, the Gaming Financier, the Internet Gaming Service Provider, or its Principals;
- (e) General description of the business and its activities;
- (f) Whether the applicant will be investing in or loaning money to the gaming operation and, if so, how much;
- (g) A description of any existing and previous business relationships with the gaming industry generally, including ownership interests in those businesses;
- (h) A list of Indian tribes with which the Gaming Vendor, Gaming Financier, or Internet Gaming Service Provider has an existing or previous business relationship, including ownership, financial, or management interests in non-gaming activities;
- (i) Names, addresses, and phone numbers of three business references with whom the company had regularly done business for the last five years;
- (j) The name and address of any licensing or regulatory agency with which the business has filed an application for a license or permit related to gaming, whether or not such license or permit was granted;
- (k) If the business has ever had a license revoked for any reason, the circumstances involved;
- (1) A list of lawsuits to which the business had been a defendant, including the name and address of the court involved, and the date and disposition, if any;
- (m) A list of the business' funding sources and any liabilities of \$50,000 or more;
- (n) A list of the Principals of the business, their social security numbers, addresses, and telephone numbers, title, and percentage of ownership in the company; and
- (o) Any further information the SCOGC deems relevant.

## 5.3 Background Investigations for Gaming Vendors, Gaming Financiers, and Internet Gaming Service Providers

The SCOGC shall conduct or cause to be conducted a background investigation for each prospective Internet Gaming Service Provider, Gaming Vendor, and Gaming Financier requiring a license. The background investigation must include all of the following actions:

- (a) Verification of the applicant's identity and the information submitted by the applicant on the license application;
- (b) Contacts with the applicant's personal and business references;
- (c) A civil, criminal, and credit history check; and
- (d) A background investigation, as more specifically described in Section 3.2 of this Ordinance, of all individuals who are a Principal, Key Employee, or Primary Management Official of the Gaming Vendor, Internet Gaming Service Provider, or Gaming Financier, including interviews with the personal references listed.

## 5.4 Suitability Determination

The SCOGC may deny the Internet Gaming Service Provider, Gaming Vendor, or Gaming Financier applicant a license if the SCOGC concludes the applicant:

- (a) Is not sufficiently stable and capitalized;
- (b) Is owned, operated, or managed by persons who fail to meet the suitability standards in this Ordinance; or
- (c) Has a history of performance failure or contentious business relationships.

#### 5.5 Vendor License Fee

The SCOGC shall set and charge a licensing fee for investigating and licensing Gaming Vendors, Internet Gaming Service Providers, and Gaming Financiers.

## SECTION 6. REGISTRATION FOR NON-GAMING VENDORS

#### 6.1 Registration Required

Every Non-Gaming Vendor providing services or goods to the gaming operation, other than a federally, state, or tribally regulated publicly traded public utility company or one which is otherwise exempt under regulations issued by the SCOGC, shall be subject to a requirement to register with the SCOGC and provide such information to the SCOGC as it may by regulation require prior to contracting with or providing such goods and/or services to the gaming operation.

#### 6.2 Registration Application

Registration shall include:

- (a) For persons:
  - i. Full name;
  - ii. Social security number;
  - iii. Address;
  - iv. Date and place of birth;
  - v. Citizenship;
  - vi. Gender;
  - vii. The location of the gaming facility or Internet Gaming System for which the registration is sought; and
  - viii. Employer.
- (b) For business entities:
  - i. The name of the business;
  - ii. The purpose of the business;
  - iii. The goods or services to be provided to the gaming operation;
  - iv. Current business address and telephone numbers; and
  - v. Such other information as the SCOGC may require.

#### 6.3 Exemptions

The SCOGC may, by regulation, exempt Non-Gaming Vendors from this registration requirement due to the unique nature of the goods, supplies, or services provided, or due to the highly attenuated nature of the transaction, such as individuals or entities who:

- (a) Provide unique goods, supplies, or services on a one-time, occasional, infrequent, or irregular basis;
- (b) Do not require access to the secured or controlled areas of the gaming facility or Internet Gaming System;
- (c) Have no continuing or ongoing contractual relationship with the gaming enterprise;
- (d) Are used in the course of business travel;

- (e) Constitute governmental or quasi-governmental components of tribal, local, state, or federal government;
- (f) Are licensed or regulated or certified by a state or federal agency or the industry or the Tribe and are providing professional services within the scope of such license or certification, such as attorneys, architects, and accountants; or
- (g) Provide utilities or similar services essential to the conduct of business.

## SECTION 7. FACILITY LICENSING

#### 7.1 License Requirements

The SCOGC shall issue a separate facility license for each place, facility, or location where gaming takes place under this Ordinance, provided that the following requirements are satisfied:

- (a) Documentation is provided demonstrating that the facility is located, or will be located if it is to be constructed, on the Tribe's Indian Lands;
- (b) The facility is of sound physical structure with adequate, safe, and operational plumbing, electrical, heating, cooling and ventilation systems in place;
- (c) Documentation is provided describing the premises and the name and address at which gaming will be conducted;
- (d) The facility has been inspected and approved for safety by a qualified building and fire inspector approved by the SCOGC;
- (e) The facility is equipped with security and surveillance equipment meeting or exceeding provisions set forth in regulations established by the SCOGC;
- (f) The gaming operation has prepared and the facility is subject to an emergency preparedness plan approved by the SCOGC;
- (g) The gaming operation has submitted all documentation required by applicable regulations of the NIGC for a new facility or, renewal, license; and
- (h) The gaming operation has provided such other information as the SCOGC may require by regulation.

#### 7.2 License Unassignable

If the gaming operation elects to move to a different location and operate under the same trade name, such action shall nonetheless be deemed to require the issuance of a new facility license for purposes of this Section, and the SCOGC shall issue a new license in accordance with this Section.

## SECTION 8. INTERNET GAMING SYSTEM LICENSING

#### 8.1 License Required

An Internet Gaming System on which authorized Internet games are offered pursuant to this Ordinance must be licensed by the SCOGC.

## 8.2 License Requirements

The SCOGC shall issue a separate license for Internet Gaming Systems on which authorized Internet games are offered, provided that the following minimum requirements are satisfied:

- (a) The core components of the Internet Gaming System, including the servers and databases running the games on the Internet Gaming System and storing game and Internet Gaming Account information, are physically located on Indian Lands.
- (b) The integrity of the Internet Gaming System and all of its core components are tested on an ongoing basis.
- (c) The Internet Gaming System is designed in a manner that:
  - i. Requires players to log in to individual Internet Gaming Accounts in order to participate in Internet gaming;
  - ii. Requires players to enter passwords and other personal identifying information in order to log in to their Internet Gaming Accounts;
  - iii. Implements automated procedures to verify the player's identity, age, and physical location each time the player attempts to access the Internet Gaming System;
  - iv. Identifies and verifies that the individual placing an Internet Gaming bet or wager is not a minor and is physically located on Indian lands at the time the bet or wager is placed;
  - v. Automatically prevents unauthorized individuals from accessing the Internet Gaming System;
  - vi. Detects and reports suspicious behavior, such as cheating, theft, embezzlement, collusion, money laundering, or any other illegal activities;
  - vii. Ensures secure communications between a client terminal and the Internet Gaming System; and
  - viii. Does not in any manner interfere with the ability of the SCOGC to supervise the Internet Gaming conducted thereon.
- (d) Internal controls are in place to:

- i. Prevent unauthorized access by any individual whose age and physical location has not been verified;
- ii. Prevent fraud, money laundering, and other criminal activity;
- iii. Prevent compulsive gambling;
- iv. Protect the privacy and Internet security of any individual who places a bet or wager on the Internet Gaming System;
- v. Ensure that the Internet Games are fair and honest; and
- vi. Prevent collusion, cheating, and the use of cheating devices.
- (e) Adequate procedures are in place for the resolution of disputes arising out of Internet Gaming Accounts and the Internet Gaming System.
- (f) The Internet Gaming System has been certified by an independent testing laboratory as compliant with all technical standards specified as required under applicable law and applicable minimum international industry standards.

## SECTION 9. OFFICE OF THE GAMING COMMISSIONER

## 9.1 Establishment

The Seneca-Cayuga Office of the Gaming Commissioner, having been previously established under the Tribe's prior gaming Ordinance, which was approved by the Business Committee by Resolution #16-072093, as amended, shall continue to act as the gaming regulatory body of the Tribe.

## 9.2 Gaming Commissioner Term

The SCOGC shall be comprised of a Gaming Commissioner, who shall serve a term of four years from the date of oath of office, and such deputies and staff as may be needed to carry out the responsibilities of the SCOGC. Once formally appointed, the Gaming Commissioner may continue to serve beyond the expiration of his or her term until a successor has been appointed.

## 9.3 Appointment

The Gaming Commissioner shall be appointed by the Chief subject to confirmation by majority vote of the Business Committee. Upon selecting a candidate the Chief shall put the nomination upon the agenda of any regular or specially called Business Committee meeting and, at such meeting, nominate his selection. Thereafter, the Business Committee shall have thirty (30) days to confirm the appointment. Should the Business Committee refuse to confirm the nominee, the Chief shall make another nomination. This process shall continue until the Gaming Commissioner is appointed.

#### 9.4 Gaming Commissioner Qualifications

To be eligible for appointment as Gaming Commissioner, a nominee shall:

- (a) Be at least thirty-five (35) years of age;
- (b) Based on a combination of experience and education, be considered capable of performing the duties of the position;
- (c) Possess a bachelor's degree or higher;
- (d) Never have been convicted of any gaming-related offense;
- (e) Have no financial interest in, or management responsibility for, any gaming activity;
- (f) Never have been convicted of any crime of moral turpitude, including but not limited to fraud, theft, bribery, gaming offense, or embezzlement, regardless of the degree of the offense, by any court of law; and
- (g) Have no immediate family members who have a financial interest in the gaming activities or equipment specifically regulated by the Gaming Commissioner other than a financial interest enjoyed equally by all tribal citizens.

## 9.5 Background Investigation of Gaming Commissioner Candidate

A candidate for appointment to the position of Gaming Commissioner shall be subject to a background investigation and verification that the candidate is eligible and suitable for appointment in accordance with the criteria set forth in this Ordinance.

#### 9.6 Vacancy in Office of the Gaming Commissioner

During any vacancy in the position of the Gaming Commissioner, the senior ranking staff member of the SCOGC shall act as Interim Gaming Commissioner until a Gaming Commissioner is appointed. Such Interim Gaming Commissioner shall have all powers of the Gaming Commissioner, provided that the appointed Gaming Commissioner shall have the authority to review and reverse any actions or decisions of the Interim Gaming Commissioner for good cause.

#### 9.7 Compensation

The Gaming Commissioner or Interim Gaming Commissioner shall be paid a salary set by the Business Committee in accordance with the approved budget of the SCOGC then in effect, provided that the salary shall not be decreased while the Gaming Commissioner or Interim Gaming Commissioner remains in office.

#### 9.8 Deputy Commissioners and Staff

The Gaming Commissioner may employ Deputy Commissioner(s) and such other staff as may be necessary to carry out its duties, but which at a minimum will include compliance officers and licensing officials, as needed.

#### 9.9 Removal for Cause

- (a) The Gaming Commissioner may only be removed for cause by an affirmative vote of at least five (5) members of the Business Committee, which shall include, without limitation:
  - i. Conviction of a felony, any gaming related offense (misdemeanor, felony and other certain crimes), or any crime of moral turpitude;
  - ii. Conviction in any court of competent jurisdiction of any offense of any degree involving untruthfulness or dishonesty; or
  - iii. Solicitation or acceptance of bribes;
  - iv. Use of office for personal gain;
  - v. Excessive use of intoxicants or controlled substances;
  - vi. Gross neglect of duty or misconduct reflecting adversely upon the integrity or reputation of the Tribe.
- (b) Notice of a proposed suspension and/or removal shall be provided to the Gaming Commissioner at least fourteen (14) days in advance of the date set for a hearing before the Business Committee, which notice shall state the cause or causes for removal with sufficient particularity to put the Commissioner on notice of the nature of the charges against him or her. The Commissioner shall be afforded the right to respond to the charges and present witnesses and other evidence in his or her defense at a hearing convened by the Business Committee.
- (c) The decision of the Business Committee following the hearing shall be final and binding and shall not be subject to judicial review.
- (d) The Gaming Commissioner shall be removed by the Business Committee and the position deemed immediately vacant if the Gaming Commissioner is:
  - i. Convicted by a court of law of any felony;
  - ii. Convicted for any misdemeanor offense involving a crime of moral turpitude; or
  - iii. Found by any gaming jurisdiction to be culpable for any gaming offense;

#### 9.10 Duties and Authority of SCOGC

The SCOGC shall be responsible for ensuring that gaming is conducted in accordance with this Ordinance and any related tribal laws, IGRA, rules and/or regulations, and may exercise any proper power and authority necessary to perform the duties assigned, which shall include the following:

(a) Be charged with the responsibility of administering and enforcing the provisions of this Ordinance.

- (b) Secure, monitor, and safeguard the honesty, integrity, fairness and security of all Tribal gaming operations.
- (c) Monitor and enforce compliance with all laws and regulations applicable to the Tribe's gaming activities.
- (d) Have the authority and responsibility for issuing regulations to implement all provisions of this Ordinance.
- (e) Adopt and submit to the Business Committee an annual proposed operating budget.
- (f) Submit to the Business Committee a quarterly report of the status of all its activities and gaming matters.
- (g) Develop licensing and background procedures applicable to the gaming operation.
- (h) Issue, renew, suspend, condition, and revoke licenses as appropriate and in accordance with the provisions of this Ordinance and basic principles of due process of law.
- (i) Conduct background investigations according to requirements at least as stringent as those set forth in 25 C.F.R. Parts 556 and 558.
- (j) Create and maintain an investigative report on each background investigation in accordance with the requirements set forth in 25 C.F.R. Part 556 and 558.
- (k) Forward results and findings of background investigations of Key Employees and Primary Management Officials to the NIGC and comply with all applicable notice and submission requirements set forth in 25 C.F.R. Parts 556 and 558.
- Review license applicant activities, criminal record, if any, and reputation, habits, and associations to make a finding of their suitability for licensure and eligibility for employment in and/or contracting with the gaming operation.
- (m)Maintain a complete application file for each licensee containing the license application and background investigation results and findings.
- (n) Conduct such audits as may be necessary for the proper control and financial oversight of gaming activities, including but not limited to financial and operational audits, internal control audits, revenue tracking, and monitoring the integrity of information technology systems.
- (o) Ensure that audits as required hereunder are conducted and transmit the reports to the NIGC.

- (p) Ensure that the Tribe's gaming facilities are constructed, maintained, and operated in a manner that adequately protects the environment and public health and safety.
- (q) Monitor gaming activities to ensure compliance with this Ordinance, the Indian Gaming Regulatory Act, and all other laws applicable to the Tribe's gaming activities, including rules and regulations issued thereunder.
- (r) Work with law enforcement and regulatory agencies as needed to carry out the Tribal Gaming Agency's duties and responsibilities.
- (s) Investigate possible violations of this Ordinance, the Indian Gaming Regulatory Act, and any other applicable laws and regulations pertaining to the Tribe's gaming activities, including rules and regulations issued thereunder, and take appropriate enforcement actions.
- (t) Ensure compliance with the Tribe's internal control standards through oversight and enforcement.
- (u) Ensure that all Internet Gaming Systems are designed in a manner that requires players to verify their identity and physical location prior to game play.
- (v) Ensure implementation of appropriate data security standards to prevent Internet Gaming System access to persons whose age and location have not been verified.
- (w) Ensure the core components of an Internet Gaming System, including the servers and databases running the games on the Internet Gaming System and storing game and Internet Gaming Account information, are physically located on Indian Lands, and the integrity of the Internet Gaming System and all of its core components are tested on an ongoing basis.
- (x) Establish regulations, standards and procedures for the licensing of Gaming Vendors, Gaming Financiers, and Internet Gaming Service Providers, and the registration of all Non-Gaming Vendors.
- (y) Independently select and retain legal counsel or professional services, including investigative services, to assist in any of the issues over which the SCOGC exercises jurisdiction;
- (z) Issue such orders and directives as may be necessary to ensure the Tribe's compliance with all applicable laws and regulations, including but not limited to notices of violation, orders to compel, and orders to cure.
- (aa) Conduct hearings pertaining to all matters arising under this ordinance, including without limitation, patron disputes, licensure matters, violations, sanctions, and penalties.

(bb) Carry out all duties and functions necessary to implement, carry-out and enforce the provisions of this Ordinance, including, but not limited, to the development of internal agency forms, schedules, guidance documents, policies and procedure.

#### 9.11 Regulations

- (a) The SCOGC shall have the authority to promulgate regulations to carry out the provisions contained in this Ordinance and other applicable laws and regulations pertaining to the conduct of gaming, including but not limited to, the provisions of any lawful tribal-state gaming compact.
- (b) At a minimum, the SCOGC shall provide copies of its regulations to the Business Committee and senior management of facility licensees, and shall upon request of a licensee, provide hard or electronic copies of its regulations or pertinent parts thereof.
- (c) A copy of all adopted regulations shall be maintained at the Tribal headquarters and the offices of the SCOGC.

## SECTION 10. SENECA-CAYUGA OFFICE OF GAMING APPEALS

## 10.1 Establishment and Purpose

The Seneca-Cayuga Office of Gaming Appeals is hereby established as an independent administrative law tribunal of the Seneca-Cayuga Tribe of Oklahoma. The Office of Gaming Appeals is delegated exclusive jurisdiction to adjudicate appeals of all final actions and decisions of the SCOGC, subject to appellate review by the Tribal Courts, as provided under Tribal law.

#### **10.2** Authority

The Office of Gaming Appeals is vested with all necessary powers to:

- (a) Hear and adjudicate appeals from the actions and decisions of the SCOGC;
- (b) Issue subpoenas, take testimony, and conduct hearings; and
- (c) Handle such other matters and conduct such other activities as are consistent with the power and authority delegated the Office of Gaming Appeals under this Ordinance.

#### **10.3** Appointment

The Office of Gaming Appeals shall be comprised of a Chief Hearing Officer and an Alternate Hearing Officer, both of whom shall be appointed by the Business Committee by a majority vote, and such staff as may be needed to carry out the responsibilities of the Office of Gaming Appeals. The Alternate Hearing Officer shall serve in the place of the Chief Hearing Officer in the event the Chief Hearing Officer is subject to recusal in a particular matter or is otherwise unavailable for any reason.

#### **10.4 Qualifications**

To be eligible for appointment as Hearing Officer, a nominee shall:

- (a) Based on a combination of experience and education, be considered to be capable of performing the duties of the position;
- (b) Be at least thirty-five (35) years of age at the time of appointment;
- (c) Never have been convicted of any crime of moral turpitude, including but not limited to, fraud, theft, bribery, or embezzlement, regardless of the degree of the offense, by any court of law;
- (d) Never have been convicted of any felony offense by any court of law;
- (e) Never have been found culpable for any gaming offense by any gaming jurisdiction; and
- (f) Have no pecuniary interest in any gaming management contract between the Tribe and a third party, or in any entity that provides gaming goods, supplies, or services to a Tribal gaming operation.

#### 10.5 Terms

Hearing Officers may be appointed to a term of up to five years and may continue to serve beyond the expiration of his or her term until a successor has been duly appointed. Hearing Officers may be employed or retained by contract or employed on a part time, full time, or intermittent basis as the work and approved budget shall dictate.

#### **10.6 Rules and Procedures**

The Chief Hearing Officer shall adopt rules for the conduct of hearings, which shall include the following provisions:

- (a) Hearings shall be conducted efficiently and in accordance with principles of due process of law;
- (b) Hearings shall be open to the public and minutes or other records shall be kept;
- (c) Hearing Officers may take such steps as necessary to protect the confidentiality of the Tribe's proprietary information and to conduct deliberations related to adjudications, including incamera inspections of books, records, and any evidence before it;
- (d) All decisions of the Hearing Officer shall be issued in writing and shall be final and such other requirements as set forth herein shall be met; and
- (e) The Hearing Officer shall establish and make public written standards and procedures for the handling of all adjudications, including notice requirements, evidence, and time frames.

#### **10.7** Compensation

The Business Committee shall establish the Hearing Officer's rate of compensation, which shall not be diminished during his or her term in office. The Hearing Officer shall be reimbursed for all actual expenses incurred on business, including necessary and reasonable travel expenses.

#### **10.8 Suspension**

The Business Committee may suspend a Hearing Officer for up to ninety (90) days for any reason that could subject the Hearing Officer to removal as provided in Section 10.9.

#### 10.9 Removal

- (a) A Hearing Officer may only be removed for cause, which shall include:
  - i. Failure to carry out the duties of the position;
  - ii. Excessive use of intoxicants or controlled substances;
  - iii. Use of office for personal gain;
  - iv. Violation of this Ordinance or other law or regulation of the Tribe or of IGRA; or
  - v. Any misconduct or gross neglect of duty reflecting adversely on the dignity and integrity of the Tribe or its government.

Only the Business Committee shall have the authority to remove a Hearing Officer.

- (b) A Hearing Officer shall be removed by the Business Committee and the position deemed immediately vacant if he or she is:
  - i. Convicted by a court of law of any felony offense;
  - ii. Convicted by a court of law for any misdemeanor offense involving dishonesty or untruthfulness; or
  - iii. Found culpable for any gaming offense by any gaming jurisdiction.

#### **10.10 Due Process for Removal**

Except as provided above in Subsection 10.9(b), in any removal process, a written Notice of Proposed Removal shall be provided to the Hearing Officer at least fourteen (14) days in advance of the date set for a hearing before the Business Committee and shall set forth with particularity the basis for such proposed action with sufficient specificity as to permit the preparation of an answer to such allegations. The decision of removal by the Business Committee shall be final and non-appealable.

#### 10.11 Vacancy

In the event of a suspension or removal of a Hearing Officer, the Business Committee shall notify or appoint an alternate until a successor is appointed and installed.

## SECTION 11. RECORDS AND REPORTS

#### 11.1 Keep and Maintain

Each gaming operation shall keep and maintain sufficient books and records to substantiate the receipts, expenses, and uses of revenues relating to the conduct of gaming activities authorized under a license. Included in the records of the activity shall be session summary sheets, operational budgets and projections, promotions, and tour/bus attendance and compensation.

#### 11.2 Statement of Gross Revenues and Net Revenues

No later than the fifteenth day of each month, the gaming operation shall provide, in a report form prescribed by the SCOGC, a statement of gross revenues and net revenues received or collected at each gaming facility and on the Internet Gaming System, if applicable, during the immediately preceding period.

#### 11.3 Falsification

No licensee shall falsify any books or records relating to any transaction connected with the conduct of gaming activities authorized under this Ordinance.

#### **11.4 Inspections**

All books and records of each gaming operation relating to licensed gaming activities shall be subject to inspection, examination, photocopy, and auditing by the Gaming Commissioner or a person designated by the Gaming Commissioner at anytime during reasonable hours.

#### **11.5 Insurance Policies**

A copy of all insurance policies covering each gaming enterprise or any part thereof shall be filed with the SCOGC.

## **SECTION 12. VIOLATIONS**

#### 12.1 Gaming License

No person shall operate or conduct any gaming activity in a gaming operation within the exterior boundaries of the Tribe's Indian Lands without a gaming license issued by the SCOGC, as required by this Ordinance.

## 12.2 Falsifying or Omitting Information

No licensee or license applicant shall provide false information in connection with any document or proceeding under this Ordinance.

#### 12.3 Accounting and Inspection

- (a) No management contractor shall fail to account fully for all monies received or collected in connection with gaming activities.
- (b) In compliance with 25 C.F.R. § 571.5 or § 571.6, a gaming operation shall not refuse to allow an authorized representative of the NIGC or an authorized official from the SCOGC to enter and inspect a gaming operation.

#### 12.4 Age Limit

No person under the age of eighteen (18) years shall be permitted to participate in any gaming activity.

## 12.5 Cheating

No person shall engage in cheating in any gaming activity.

#### 12.6 Possession of a Firearm

No person, other than a law enforcement officer or security personnel licensed to carry a firearm, may enter or remain in a gaming facility under this Ordinance while in the possession of a firearm or other weapon.

#### 12.7 Violation of any Provision, Rule, Regulation, or Order

No person shall violate any provision of this Ordinance, nor any rule, regulation, or order that the SCOGC may promulgate or issue.

#### 12.8 Facility Compliance with Ordinance.

The management of each gaming facility is responsible for ensuring that all Primary Management Officials and Key Employees assisting in the operation of any gaming activity comply with this Ordinance. Management is also responsible for ensuring that all games are properly classified and licensed or authorized in accordance with this Ordinance. A violation by any such officials or employees shall be deemed a violation by management and may subject management to sanctions.

#### 12.9 Fraudulent Scheme or Technique

No person playing in or conducting any gaming activity authorized under this Ordinance shall:

(a) Use bogus or counterfeit cards or substitutes, or use any game cards that have been tampered with;

- (b) Use a machine or software to automate the next player action at any point during an Internet game;
- (c) Employ or have on one's person any cheating device to facilitate cheating in any gaming activity;
- (d) Use any fraudulent scheme or technique, including when an operator or player of games of charitable gaming tickets directly or indirectly solicits, provides, or receives inside information on the status of game for the benefit of either person; or
- (e) Knowingly cause, aid, abet, or conspire with another person or any person to violate any provision of this Ordinance or any rule or regulation adopted under this Ordinance.

#### 12.10 Failure to Maintain Suitability

It shall be a substantial violation for any licensee to fail or cease to meet the suitability standards established by this Ordinance.

#### **12.11 Property Damage**

No person shall damage or attempt to damage either intentionally or negligently any property, gaming device or equipment, or any article belonging to the Tribe, a patron, or an employee.

#### **12.12 Fraudulent Conduct**

It shall be a substantial violation of this Ordinance for any person or entity to engage in any fraudulent conduct, which shall include:

- (a) Defrauding the Tribe, any licensee, or any participant in any gaming activity or promotion;
- (b) Providing information that is known or should have been known to be false or making false statements with respect to an application for employment or for any license;
- (c) Claiming, collecting or taking, or attempting to claim, collect, or take, money or anything of value in or from a game/gaming facility with intent to defraud or claiming, collecting, or taking an amount greater than the amount actually won in such game;
- (d) Providing information that is known or should have been known to be false or misleading or making any false or misleading statement to the Tribe, the SCOGC, or other civil or criminal enforcement agency of the Tribe with any contract for services or property related to gaming;
- (e) Making any statement that was known or should have been known to be false or misleading in response to any official inquiry by the SCOGC or other civil or criminal law enforcement agency of the Tribe;
- (f) Falsifying, destroying, erasing, or altering any books, computer data, records, or other information relating to a gaming facility or activity;

- (g) Entering into any contract, or making payment on any contract for the delivery of goods or services to the gaming operation, when such contract fails to provide for or result in the delivery of goods or services of less than fair value for the payment made or contemplated;
- (h) Concealing, altering, defacing, or destroying any records, documents, information, or materials of any kind, including but not limited to, photographs, audio recordings, or video tapes;
- (i) Offering or attempting to offer anything of value, to a licensee in an act that is an attempt to induce, or may be perceived as an attempt to induce, the licensee to act or refrain from acting in a manner contrary to the official duties of the licensee under Tribal law; and
- (j) Acceptance by a licensee of anything of value with the expectation that the receipt of such thing of value is intended, or may be perceived as intended, to induce the licensee to act or refrain from acting, in a manner contrary to the official duties of the licensee under Tribal law.

#### 12.13 Exclusions

Any person appropriately advised to leave the gaming facility or prohibited from participating in Internet Gaming by a member of management, the security department, or the SCOGC shall comply with such request.

#### 12.14 Discretion of SCOGC

Any person found to be in violation of any of the foregoing by the SCOGC may be permanently excluded from the gaming facility, permanently prohibited from participating in Internet Gaming, or subject to such lesser sanction as may be imposed by the SCOGC, as appropriate. The SCOGC shall have the discretion to bring an enforcement action against any person or entity whose actions or inactions present an actual or imminent threat or danger to the public health and safety of the facility or its patrons or to the integrity of gaming, and to investigate suspicion of wrongdoing associated with any gaming activity. Actions taken by the SCOGC under this provision shall at all times be reasonable and prudent and the specific grounds for such action must be documented.

## **SECTION 13. CIVIL ENFORCEMENT**

#### 13.1 Civil Action

The SCOGC may take any or a combination of the following actions with respect to any person or entity who violates any provision of this Ordinance:

(a) Impose a civil fine not to exceed five thousand dollars (\$5,000.00) for each violation, and if such violation is a continuing one, for each day of such violation;

- (b) Suspend, deny, or revoke any gaming or gaming-related license issued by the SCOGC pursuant to this Ordinance, including machine and vendor licenses, provided that such sanction shall be commensurate with the seriousness of the violation;
- (c) Permanently remove a Non-Gaming Vendor from the registry, provided that such sanction shall be commensurate with the seriousness of the violation;
- (d) Temporarily or permanently exclude, bar, or deny admission from or to the gaming facility, provided that the sanction shall be commensurate with the seriousness of the violation;
- (e) Temporarily or permanently bar registration and participation on the Internet Gaming System.

#### **13.2 Preliminary Determination**

Whenever, upon preliminary factual finding, the SCOGC determines that any person has failed to comply with the provisions of this Ordinance or any regulations promulgated hereunder, the SCOGC shall provide written notice to the affected person or entity explaining the alleged violation, the proposed action or sanction, and the steps needed for cure, if any. Such notice may be delivered in person or by letter to his/her last known address and shall describe the procedures to be followed for appeal. Within thirty (30) days of receipt of the written notice, the SCOGC shall hold a hearing, if necessary. The subject shall have the opportunity to be heard and present evidence.

#### 13.3 Hearing

At the hearing, it shall be the obligation of the subject to show cause why the preliminary determination is incorrect, why the application or license in question shall not be revoked or suspended, why the period of suspension should not be extended, or to show cause why special conditions or limitations upon a license should not be imposed, or to show cause why any other action regarding any other person or person subject to any action should not be taken.

#### **13.4 Final Determination**

Following such hearing, the SCOGC shall, within thirty (30) days, reach a final determination concerning the preliminary factual finding and whether the license in question should be granted, continued, suspended, revoked, conditioned, or limited, and whether or not any other action recommended to or by the SCOGC (including but not limited to forfeitures or fines) should be taken.

#### 13.5 Jurisdiction

The Office of Gaming Appeals shall have exclusive jurisdiction over any and all decisions and actions of the SCOGC under this Ordinance, and shall have the authority to reverse, affirm, or modify any and all decisions and sanctions imposed by the SCOGC pursuant to this Ordinance.

#### 13.6 Acknowledgement

Every person or entity that applies for a license, registration, or permit and accepts such license, registration, or permit thereby acknowledges the civil enforcement jurisdiction and authority of the Office of Gaming Appeals, the SCOGC, and the Tribe.

## **SECTION 14 APPEALS**

#### 14.1 Request for Reconsideration to the Gaming Commissioner

- (a) Any person or entity aggrieved by a decision or action taken by the SCOGC may request reconsideration by the Gaming Commissioner.
- (b) Hearings for reconsideration may be conducted informally, provided that:
  - i. The Gaming Commissioner or his or her designee shall be present and preside over the hearing;
  - ii. The requestor shall be accorded the opportunity to be physically present at the hearing and, if so desired, accompanied by legal counsel at his or her own expense;
  - iii. The requestor shall be permitted to present testimony and other relevant evidence, provided that it is not unduly redundant;
  - A record of the proceeding is kept, including at a minimum the date and time of the hearing, the names of all persons present, and a summary description of the content of the proceeding. An audio or video recording of the proceeding shall be sufficient to meet this recording requirement; and
  - v. The Gaming Commissioner shall keep a copy of any documents submitted by the respondent as part of the administrative record.
- (c) Any person or entity having sought a request for reconsideration who fails to appear on the date and time set for hearing shall be deemed to have abandoned any and all objections to the SCOGC's action(s) or decision(s) and shall have no further right of appeal, except that upon a showing of good cause for such failure to appear, the Gaming Commissioner may, in his or her sole discretion, grant a new hearing date, if a request for such relief in the view of the Gaming Commissioner is made timely under the circumstances.
- (d) The Gaming Commissioner or his or her designee shall within thirty (30) days of the hearing date issue a written decision specifying the reasons for his or her decision, which shall be delivered to the requestor by certified mail, return receipt requested. The Gaming Commissioner's final decision after reconsideration shall be made a permanent part of the administrative record.

#### 14.2 Appeal to Office of Gaming Appeals

- (a) Any person or entity aggrieved by a final decision of the SCOGC or decisions of the gaming facility related to personal injury or property damage may seek a hearing by the Office of Gaming Appeals, provided that a petition of appeal is filed no later than thirty (30) days after the Gaming Commissioner's decision or action.
- (b) The appeal shall be in writing and shall state the name, issue contested, the change(s) sought, the basis of such change(s), and such evidence as the appellant may wish to submit.
- (c) If a hearing is granted and takes place, it shall be at a date, time, and place as set by the Hearing Officer and shall be on the record.
- (d) The Hearing Officer shall issue a written determination supporting or denying (in whole or in part) the appeal and setting out his or her basis for the decision.
- (e) In appeals before the Office of Gaming Appeals, review shall be limited to the record that was before the SCOGC at the time of the final decision or action appealed from. The Hearing Officer shall afford deference, as appropriate, to the expertise of the SCOGC, and shall not set aside, modify, or remand any action or decision of the SCOGC except upon a finding that such decision, action, or inaction was:
  - i. Arbitrary and capricious, an abuse of discretion, or otherwise not in accordance with law;
  - ii. Contrary to tribal law or other applicable controlling law;
  - iii. In excess of statutory jurisdiction, authority, or limitation or short of statutory right;
  - iv. Without observance of procedure required by law; or
  - v. Unsupported by a preponderance of the evidence in a case reviewed on the record.

#### 14.3 Appeals from Final Decision of the Office of Gaming Appeals

- (a) The Tribal Court shall have appellate jurisdiction over final decisions of the Office of Gaming Appeals, provided that the appeal is filed no later than the thirtieth (30<sup>th</sup>) day following the date of a final decision by the Hearing Officer.
- (b) Failure to seek review as provided herein shall constitute a waiver of all rights of appeal and further shall deprive the Tribal Courts of jurisdiction over the matter.
- (c) The manner and further requirements for filing appeals and/or claims for adjudication in the Tribal Courts shall be in accordance with the rules and procedures of the Tribal Courts.

## SECTION 15. PRIZE CLAIMS AND PATRON DISPUTES

#### 15.1 Prize Claims.

- (a) In the event of a dispute between a patron and the gaming operation regarding the payment of a wager or distribution of winnings, the patron may make a claim against the gaming operation by filing a written prize claim notice within forty-eight (48) hours of the event which is the basis of the prize claim.
- (b) The written notice of the prize claim shall state, at a minimum, the following information:
  - a. Time;
  - b. Date;
  - c. Place;
  - d. Circumstances of the claim;
  - e. Identity of the affected licensees or employees, if known;
  - f. Amount of the relief demanded; and
  - g. The name, address, and telephone number of the claimant.
- (c) Failure to file the prize claim during such 48-hour period of time shall forever bar such prize claim.
- (d) The SCOGC shall promptly review, investigate, and make a determination regarding the prize claim. Any portion of the prize claim which remains unresolved after thirty (30) days from the date of filing shall be deemed denied if the SCOGC fails to notify the claimant in writing of its approval within such 30-day period.
- (e) To appeal the SCOGC's decision, the claimant must file an appeal with the Office of Gaming Appeals not later than thirty (30) days after the SCOGC's decision.
- (f) The maximum amount payable for any prize claim shall be the amount of the prize which the claimant establishes he or she was entitled to be awarded.
- (g) Notices explaining the prize claims procedure shall be prominently posted in the gaming facility, and pamphlets describing the same shall be made available to all patrons of the gaming facility.

#### 15.2 Tort Claims

(a) Any patron having a claim against the gaming operation for personal injury or property damage shall first file a tort claim notice with the gaming operation within ninety (90) days of the date of the alleged injury or damage.

The tort claim notice shall state the following:

- i. Date;
- ii. Time;
- iii. Place;
- iv. Circumstances of the claim;
- v. The identities of tribal or gaming employees, and witnesses, as applicable;
- vi. The amount of compensation or other relief demanded;
- vii. The name, address, and telephone number of the claimant; and
- viii. The name, address, and telephone number of any agent authorized to settle the claim.
- (b) In the event a claim is not filed within ninety (90) days after the date of the alleged injury or damage, but within one (1) year, any judgment arising from the act which is the subject of the claim shall be reduced by ten percent (10%).
- (c) The gaming operation shall promptly review, investigate, and make a determination regarding the tort claim within thirty (30) days from the filing date. Failure to notify the claimant of a decision within the specified 30-day period shall be deemed a denial of the claim.
- (d) To appeal the gaming operation's decision, the claimant must file an appeal with the Tribal Court no later than on the thirtieth (30<sup>th</sup>) day after the date on which the claim was denied by the gaming operation.
- (e) The Tribal Court shall have exclusive jurisdiction to adjudicate a claim by a gaming patron for personal injury or property damage provided for herein, but only if:
  - i. The purported injury occurred on the premises of a gaming facility licensed under this Ordinance;
  - ii. The claimant has filed a timely and valid tort claim notice as provided herein;
  - iii. The claimant has followed all required procedures pursuant to Tribal law, including the pertinent terms of any Compact relating to tort claims;
  - iv. The gaming operation has denied the claim; and
  - v. The claimant has filed an appeal with the Tribal Court no later than on the thirtieth  $(30^{th})$  day after the date the claimant received notice of the denial of the claim by the gaming operation.

- (f) Failure to file a tort claim notice within one (1) year of the date of the alleged injury or damage shall deprive the Tribal Courts of jurisdiction over the matter and forever bar such tort claim against the gaming operation.
- (g) The maximum amount of damages payable for any tort claim for personal injury or property damage shall be limited to liability insurance coverage maintained by the gaming operation which shall, at a minimum, be consistent with any applicable requirements under the Compact.
- (h) Notices explaining the tort claims procedure shall be prominently posted in the gaming facility, and pamphlets describing the same shall be made available to all patrons of the gaming facility.

#### **SECTION 16. APPLICABLE LAW**

#### 16.1 Law Applicable to Tort Claims

The law governing every tort claim brought pursuant to this Ordinance shall be Tribal law, provided that the Tribal Court may assimilate and apply the laws of the State of Oklahoma in adjudicating tort claims. Such assimilation and application of the laws of the State of Oklahoma by the Tribal Court shall under no circumstances be construed as conferring any jurisdiction or authority on the State of Oklahoma or any department, agency, or sub-division of the State of Oklahoma.

#### 16.2 Law Applicable to Gaming Contracts

- (a) Every contract entered into by a gaming operation, the SCOGC, and the Office of Gaming Appeals, with any person or entity who is required to hold a license or registration issued pursuant to this Ordinance, or that involves or relates to gaming, shall be subject to all applicable laws relating to or regulating Tribal gaming, including, without limitation, the IGRA and the implementing regulations, this Ordinance, and the Compact. Any provision of any gaming or gaming-related contract contrary to this Section shall be void as a matter of law and policy, and shall be unenforceable.
- (b) Unless the parties expressly agree to choose another law for the purpose of the interpretation and enforcement of a contract subject to this Section, such contract shall be governed by the laws of the Tribe, as defined under Tribal law.

#### 16.3 No Waiver of Sovereign Immunity

Except as specifically provided in the Compact, nothing in the Ordinance shall be deemed or construed as a waiver of the Tribe's sovereign immunity from unconsented suit and under no circumstances shall any award of monetary damages be levied against the Tribe or its gaming facilities for any claim authorized pursuant to this Ordinance other than amounts recoverable from the general liability insurance policy carried by the gaming operation for tort claims and only up to the limit of such policy.

## SECTION 17 RESOLUTION OF DISPUTES BETWEEN MANAGEMENT AND PATRONS

#### 17.1 Right to Exclude or Remove

The Tribe hereby declares that the exclusion or removal of certain persons from its gaming facilities and/or the exclusion of persons from the Internet Gaming System is necessary to carry out the policies of this Ordinance and to maintain effectively the strict regulation of gaming activities.

#### 17.2 Restraining Persons Suspected of Violating Ordinance

Any person engaging in any violation of this Ordinance or any other applicable laws or regulations on the premises of a gaming facility licensed under this Ordinance may be removed from the premises or temporarily restrained by security officers for the sole purpose of transferring the person to the custody of appropriate law enforcement officials. In no event shall such person be restrained for more than two (2) hours except upon request of law enforcement officials.

#### 17.3 Removal Due to Improper Conduct by Patrons

- (a) The following improper conduct shall result in removal of a patron from the premises of a Tribal gaming facility:
  - i. Cheating;
  - ii. Underage gambling;
  - iii. Possession of weapons in the gaming operation;
  - iv. Possession of alcohol that has been brought by a patron into the gaming operation;
  - v. Possession of a controlled substance in the gaming operation; and
  - vi. Disorderly conduct, including the willful disregard for the rights of others, and any other act disruptive to the gaming operation and its patrons.
- (b) Failure by a patron to provide proof of age when requested by gaming operation personnel shall result in removal of the patron from the gaming operation premises.
- (c) Removal of patron shall be accomplished by security personnel, upon management's request.

#### **17.4 Patron Complaints**

Either the general manager of the gaming facility or his or her designee shall be present at all times to resolve complaints by patrons involving the gaming operation. If the general manager or his or her designee is unable to resolve any dispute, upon the patron's application, the dispute may be referred to the SCOGC for resolution and, upon appeal, to the Office of Gaming Appeals.

## **SECTION 18 RESERVED**