

Request for Proposals (RFP)

Sustainable Landscaping Design & Implementation for the Seneca Allegany Skatepark

Issued by: Community Planning and Development Department

Issue Date: April 29, 2026

Proposal Due Date: May 13, 2026

Project Overview

The Seneca Nation Community Planning and Development Department, with funding provided from the Skatepark Project and Ralph C. Wilson Jr. Foundation, is seeking qualified landscape architecture and design firms to develop and implement a sustainable landscaping plan for a newly constructed skatepark located at 195 River Street, Salamanca, New York. The project aims to reduce the environmental impact of the skatepark while creating a space that respectfully acknowledges and reflects the cultural significance of the Seneca Nation, whose ancestral lands include this region.

Project Goals

The selected firm will design a landscape that:

- Enhances ecological sustainability and biodiversity
- Reduces stormwater runoff and urban heat island effects
- Incorporates native and regionally appropriate plant species
- Creates welcoming, inclusive, and educational public space
- Honors and reflect the history, culture, and ongoing presence of the Seneca people

Scope of Work

1. Site Assessment

- Conduct a comprehensive environmental and cultural site analysis
- Evaluate soil conditions, drainage patterns, and existing vegetation
- Identify opportunities for habitat restoration and green infrastructure

2. Sustainable Design Strategy

- Develop a landscape plan incorporating:
 - Native plantings (particularly species significant to Seneca culture where appropriate)
 - Rain gardens, bioswales, or permeable surfaces
 - Shade structures using vegetation
 - Low-maintenance and climate-resilient design
- Minimize irrigation needs and chemical inputs

3. Cultural Integration & Collaboration

- Engage in meaningful consultation with representatives of the Seneca Nation or designated cultural advisors
- Integrate culturally significant design elements, which may include:
 - Interpretive signage or storytelling features
 - Symbolic plantings or land-use patterns
 - Gathering spaces reflecting Indigenous design principles
- Ensure all cultural elements are developed collaboratively and respectfully

4. Community Engagement

- Incorporate feedback from local stakeholders, including youth and skatepark users

5. Implementation Plan

- Provide detailed construction documents and planting plans
- Include cost estimates and phased implementation options
- Outline maintenance recommendations aligned with sustainability goals

Deliverables

- Conceptual design package
- Final landscape design and construction drawings
- Planting and materials specifications
- Cultural interpretation plan (developed with Seneca consultation)
- Maintenance and sustainability guidelines
- Project timeline and cost estimate

Proposal Requirements

Interested firms should submit:

- Company overview and relevant experience
- Portfolio of similar projects (sustainable design and/or culturally responsive work)
- Proposed project approach and methodology
- Description of experience working with Indigenous communities (if applicable)
- Project team qualifications
- References
- Detailed cost proposal

Evaluation Criteria

Proposals will be evaluated based on:

- Demonstrated experience in sustainable landscape architecture
- Cultural competency and approach to Indigenous collaboration
- Design innovation and feasibility
- Community engagement strategy
- Cost-effectiveness

Timeline

- RFP Issued: April 29, 2026
- Questions Due: May 08, 2026
- Proposals Due: May 13, 2026
- Selection Announcement: May 20, 2026
- Project Start: May 27, 2026

Additional Considerations

- The project must comply with all Seneca Nation Environmental, TERO, and Business License regulations and recommend permit for the city of Salamanca.
- Preference may be given to firms that include Indigenous team members or formal partnerships
- The selected firm will be expected to approach this project with cultural humility and a commitment to long-term relationship-building

Contact Information

For questions or submission details, please contact:

Seneca Nation Community Planning and Development Department
CPDD@sni.org

TRIBAL EMPLOYMENT RIGHTS ORDINANCE



(ENACTED: JUNE 23, 1993

EFFECTIVE JUNE 23, 1993)

AMENDED: APRIL 16, 1994
AMENDED: APRIL 13, 1996
AMENDED: JULY 11, 1998
AMENDED: DECEMBER 11, 2004
AMENDED: NOVEMBER 12, 2005
AMENDED: AUGUST 12, 2006
AMENDED: OCTOBER 13, 2007
AMENDED: SEPTEMBER 20, 2008

AND

EFFECTIVE: FEBRUARY 14, 2009
AMENDED: MAY 12, 2012
AMENDED: AUGUST 6, 2012
AMENDED: JULY 14, 2018
AMENDED: FEBRUARY 17, 2022

SENECA NATION OF INDIANS
TRIBAL EMPLOYMENT RIGHTS ORDINANCE

SECTION 1: DECLARATION OF POLICY

As a guide to the interpretation and application of this Ordinance, the Seneca Nation of Indians declares that the public policy will be as follows:

Like land, water, and minerals; jobs, contracts, and subcontracts in the private sector on or near the Seneca Nation Territories are an important resource for Indian people and Indians must use their rights to obtain their rightful share of such opportunities as they become available. Indians have unique and special employment, contract, and subcontract rights and the Seneca Nation Tribal Government has the inherent sovereign power to pass laws to implement and enforce those special rights on behalf of Indians. Indians are also entitled to the protection of the laws that the Federal Government has adopted to combat employment discrimination, and tribal governments can and should play a role in the enforcement of these laws. The Seneca Nation believes that establishing a Tribal Employment Rights Office (TERO) is important in order to use the aforementioned laws and powers to increase employment of Indian workers and businesses to eradicate discrimination against Indians.

SECTION 2: DEFINITIONS

- A. "Employee" means any person employed for remuneration.
- B. "Employer" means any person, partnership, corporation, or any other business entity that employs for wages two or more employees.
- C. "Covered Employer" means any employer employing two or more employees who during any 30-Day period, spend, cumulatively, 40 or more hours performing work within the exterior boundaries of any Nation Lands as defined in Section 2.H.
- D. "Entity" means any partnership, sole proprietorship, corporations, joint venture, government, governmental enterprise, or any other natural or artificial person or organization. The term "entity" is intended to be as broad and encompassing as possible to ensure the Ordinance's coverage over all employment and contract activities within the Tribe's jurisdiction, and the term shall be so interpreted by the Commission and the courts.
- E. "Commission" means the Seneca Nation Tribal Employment Rights Commission established by this Ordinance.
- F. "Indian" shall mean all persons who are members of any recognized Indian Nation or Tribe.
- G. "Member" shall mean an individual who is an enrolled member of the Seneca Nation of Indians.

TRIBAL EMPLOYMENT RIGHTS ORDINANCE
PAGE 2

- H. "Nation Lands" shall mean the Allegany, Cattaraugus, Oil Spring, Buffalo Creek and Niagara Falls Territories, and any other lands now or hereafter owned in fee by the Nation or any Nation-created entity and within 25 miles of restricted fee lands of the Nation. Nation Lands shall also include the public rights-of-way of an Indian Reservation Roads, as that term is defined in Title 23 of the United States Code.
- I. "Qualified" shall mean any Indian or Indian-Owned Firm meeting the minimum requirements for a position, contract or subcontract as determined by the Director to be necessary for the proper performance of the work. When establishing minimum job requirements for categories of employees of an employer or entity, the Director may request a covered employer or entity to submit job descriptions and/or minimum requirements for review and approval by the Director. The Director may modify the job description and minimum job requirements to ensure that only those requirements necessary for the proper performance of the contract work are listed for the position and that a covered employer or entity has not used qualification criteria for such job requirements to serve as barriers to Indian employment.
- J. "Indian-Owned Firm" shall mean an entity which is:
1. Fifty-one percent (51%) or more Indian-owned, such that Indians provide real value for their ownership interest, obtain majority voting rights regarding decisions of the entity, are entitled to and receive at least fifty-one percent (51%) of all profits, and are entitled to at least fifty-one (51%) of the assets on dissolution of the entity.
 2. Under significant Indian management, such that at least one Indian is substantially involved in the day-to-day management of the firm as his or her primary employment.
 3. Not created solely or primarily to take advantage of Indian preference.
 4. Employs Indians in all or most positions for which qualified Indians are available.
 5. Have proper insurance coverage, including liability, workmen's' compensation and other essential coverages.
- K. "Law Enforcement" shall mean any Seneca Nation of Indians Police, Marshals, Conservation Officer, or any other department that is given enforcement power over Seneca Nation Laws.
- L. "Competitive business" shall mean, businesses which provide or receive goods and services which are subject to frequent fluctuations and market price and services.

TRIBAL EMPLOYMENT RIGHTS ORDINANCE
PAGE 3

- M. "Seneca-owned business" shall mean a business owned by one or more Members.
- N. "Day" or "Days" shall mean calendar days.

SECTION 3: INDIAN PREFERENCE IN EMPLOYMENT

All covered employers for all employment occurring within the exterior boundaries of any Nation Lands shall give preference to qualified Indians in all hiring, promotion, training, and all other aspects of employment, in accord with the following priorities:

first preference to qualified enrolled Seneca Nation members;

second preference to qualified non-enrolled Seneca Nation members supporting a Seneca family;

third preference to qualified non-Indian or nonmember Indians residing with and supporting a Seneca family;

fourth preference to other qualified Native Americans enrolled with any other Tribe;

fifth preference to qualified non-Indians.

The foregoing preferences shall also be applied in reverse order to any layoffs or reductions-in-force so that enrolled Seneca Nation members and other Indians are retained in positions of employment to the extent practicable. Covered employers shall further seek to have at least 51% of its employees who are working within the exterior boundaries of the Nation's Lands be qualified Indians. This 51% Indian workforce participation goal shall otherwise mean the aggregate number of person-hours worked (including training) on-site by Indian persons (including supervisory personnel and stewards) performing work pursuant to the contract divided by the total number of person-hours worked on-site in the performance of said contract.

All covered employers shall comply with the rules, regulations, guidelines, and orders of the Seneca Nation Tribal Employment Rights Commission which set forth the specific obligations of employers in regard to Indian preference in employment, provided, however that these requirements shall not apply to:

1. Any direct employment by any federal, state, or local and tribal governments or their subdivisions;
2. Any direct employment by not-for-profit organizations.

TRIBAL EMPLOYMENT RIGHTS ORDINANCE

PAGE 4

3. Direct employment by public utility companies for routine installation, maintenance and emergency repairs.

This Ordinance shall apply to all contractors, or grantees of such governments, not-for-profit and to all commercial enterprises operated by such governments. It shall apply to all contractors and subcontractors of any public utility company.

SECTION 4: INDIAN PREFERENCE IN CONTRACTING

- A. The prime contractor shall be required to comply with all other requirements of this Ordinance, including Indian preference in subcontracting, employment and payment of the Employment Rights fee. This Ordinance shall apply to any construction contract awarded by any department within the Seneca Nation, even if said contracts must be submitted to Tribal Council for approval. This Ordinance shall apply to all subcontracts awarded by a tribal, federal, or state direct contractor or grantee, whether or not the prime contract was subject to these requirements. All covered entities shall comply with the rules, regulations, guidelines, and orders of the Commission, which set forth the specific obligations of such entities in regard to Indian preference in contracting and subcontracting and employment.
- B. This Ordinance shall not apply to private individuals or Seneca-owned businesses except where such private individual or Seneca-owned business is bidding on a contract or subcontract that is funded by the Seneca Nation or any other government entity.
- C. A Compliance Plan must be completed by all contractors and subcontractors, and approved by the TERO Director before work can commence.
- D. All bid specifics must include the TERO bid language. To the extent practicable, the obligation to comply with this TERO Ordinance shall also be expressly stated in contracts and subcontracts, provided, however, that the failure to include this in a contract or subcontract shall not relieve a covered entity's obligation to comply with this Ordinance.
- E. To the extent practicable throughout the bid process, in accordance with the Seneca Nation's procurement policy bidding requirements, each "Request for Proposal" requiring multiple sealed bids with no less three submitted for consideration, the TERO office shall have representation on site during the opening of sealed bids, the evaluation of the proposal and the preconstruction meetings in order that TERO compliance is ensured

SECTION 4A: INDIAN PREFERENCE IN CONTRACTING FOR SALAMANCA CITY--CENTRAL SCHOOL DISTRICT RECONSTRUCTION PROJECT

When the Salamanca City Central School District (the "School District") is undertaking within the Allegany Territory a reconstruction project funded by New York State Construction Aid funding, the following provisions shall apply in lieu of Section 4 of this Ordinance:

TRIBAL EMPLOYMENT RIGHTS ORDINANCE
PAGES

- A. The School District, or its construction manager, shall award contracts or subcontracts for supplies, services, labor and materials in an amount of \$250 or more where the majority of the work on the contract or subcontract will occur within the exterior boundaries of any Nation Land shall give preference to qualified entities, which are certified by the Commission as 51% or more Indian-owned and controlled, in accord with the following preferences:

first preference to qualified Indian-Owned Firms that are certified by the Commission as "100% Seneca";

second preference to qualified Indian-Owned Firms that are certified by the Commission as "100% Indian-Majority Seneca" with greater preference within this subcategory given to those entities that have the higher percentage of ownership by Members;

third preference to qualified Indian-Owned Firms that are certified by the Commission as "Majority Seneca";

fourth-preference to qualified Commission-certified Indian-Owned Firms, with greater preference within this subcategory give to those Indian-owned firms that have the higher percentage of ownership by Members;

fifth preference, in the event that no qualified Indian-Owned Firm bids on the project, to other qualified firms.

It shall be a violation of this Ordinance for any covered entity awarding contracts or subcontracts for supplies, services, labor and materials to bid contracts or subcontracts below the dollar threshold set forth in Sec. 4A.A. or time its contracts or subcontracts which have the effect of circumventing the goals and purposes of this Ordinance.

- B. When a contract is awarded, based upon price and specifications that are not subject to negotiation, the contract shall be awarded to the qualified Indian-Owned Firm with the lowest responsive bid if it is reasonable and is equal to the bid of the lowest bidder from any other qualified source, in accord with the priorities set out in Section 4A.A.
- C. The prime contractor shall be required to comply with all other requirements of this Ordinance, including Indian preference in subcontracting consistent with this Section 4A, employment and payment of the Employment Rights fee. This Ordinance shall apply to all subcontracts awarded by a tribal, federal, or state direct contractor or grantee, whether or not the prime contract was subject to these requirements. All covered entities shall comply with the rules, regulations, guidelines, and orders of the Commission, which set forth the specific obligations of such entities in regard to

TRIBAL EMPLOYMENT RIGHTS ORDINANCE
PAGE 6

Indian preference in contracting and subcontracting and employment.

- D. This Ordinance shall not apply to private individuals or Seneca-owned businesses except where such private individual or Seneca-owned business is bidding on a contract or subcontract that is funded by the Seneca Nation or any other government entity.
- E. A Compliance Plan must be completed by all contractors and subcontractors, and approved by the TERO Director before work can commence.
- F. All bid specifics must include the TERO bid language. To the extent practicable, the obligation to comply with this TERO Ordinance shall also be expressly stated in contracts and subcontracts, provided, however, that the failure to include this in a contract or subcontract shall not relieve a covered entity's obligation to comply with this Ordinance.

SECTION 4B: CERTIFICATION OF ENTITIES AS AN "INDIAN-OWNED FIRM"

- A. Any entity which seeks certification as an Indian-Owned Firm" eligible for the preferences provided under this Ordinance shall submit to the TERO Director an application for certification as an Indian-Owned Firm on a form established by the Commission accompanied by documents and records sufficient to allow the Commission to determine whether the entity meets the criteria for certification set out in Sections 2.1 and 4B of this Ordinance. In addition, an entity which seeks certification as an Indian-owned firm eligible for the preferences provided under this Ordinance, shall submit a new application or renewal application annually. In the event that any of the information submitted by an entity pursuant to this Section 4B changes, the entity is required to provide written notice to the Commission of any such change along with documentation relevant to such change.

Any entity seeking certification, or certification renewal, as "100% Seneca" shall include with the application a non-refundable application fee of \$250.00 payable by check to the Seneca Nation of Indians. All other certification and certification renewal applications shall include with the application a non-refundable application fee of \$500.00 payable by check to the Seneca Nation of Indians. Upon receipt, the application fees shall be deposited in the Nation's general fund, and the TERO shall receive an allocation of such fees by Council action as may be necessary for the TERO to satisfy its obligations.

- B. The application (and all renewal applications) shall be submitted to the TERO Director no later than the time that the entity submits a bid on a project that is subject to bidding, and a copy of the application with supporting documentation, including

TRIBAL EMPLOYMENT RIGHTS ORDINANCE
PAGE?

the application fee, shall also accompany the bid. If the contract is not subject to bid procedures, an application for certification as an Indian-Owned Firm shall be submitted to the TERO Director before any contract will be made with the entity, and entities are encouraged to submit their applications at as early a date as practicable.

- C. Documentation will be required to establish eligibility for certification as an Indian owned firm. The failure to provide valid documentation will result in a Commission decision denying certification of the entity. Documentation required shall include, but are not necessarily limited to:

1. The identity of the Indian owners and the names and addresses of the tribes in which each such person is enrolled;

2. Documents showing how the entity was established and the ownership and control of such entity. For corporations and limited liability corporations this would include a copy of the articles of incorporation, charter and/or bylaws, and a certified listing of share ownership in the corporation including any and all rights and interest in such shares. For partnerships, limited liability partnerships and any other form of joint venture, this should include a copy of the written agreement by which that partnership, limited liability partnership or joint venture has been established and which shows ownership interests and control as between the parties to the agreement.

3. Copies of all insurance policies and verification that the premiums have been paid. The TERO Director has the authority to investigate the insurance and bonding requirements to ensure they are proper and current.

- D. It is the responsibility of the entity, and the individual owners of such entity seeking certification as an "Indian-Owned Firm" under this Ordinance to provide accurate, complete and timely information to the Commission. Failure to provide accurate, complete and timely application shall be grounds for a Commission decision not to certify the entity as an Indian-Owned Firm. In the event that false information is found to have been provided to the Commission, the Commission shall have authority to investigate the matter pursuant to Sections 12, 13 and 14, and to take enforcement action and impose penalties under the procedures established by section 15. Certified Indian-Owned Firms shall have an affirmative duty to notify the Commission, within a reasonable period of time subsequent to its certification as an Indian-Owned Firm, of any changes in its organization which may affect its status as an Indian-Owned Firm or any changes in its insurance coverage or bonds.

- E. A Commission decision not to certify an entity as an Indian-Owned Firm may be reviewed pursuant to Section 16 if a suit seeking such review is filed within 15 Days from a decision of the Commission. Such review shall be limited to review of the records as provided to the Commission and the Commission's decision shall be set

aside only if it is found to be arbitrary, in excess of the authority of the Commission or not supported by the records provided to the Commission. Any decision following such review shall be limited to prospective relief, shall not include injunctive relief that would affect contracts already awarded, and shall not include any claims for damages. The Commission's decision shall stay in effect unless and until reversed by the Nation's Courts in a final, non-appealable decision.

SECTION 4C: ADDITIONAL CERTIFICATION

- A. In addition to certification as an "Indian-owned firm," an entity may seek additional certification to qualify for certain preferences in contracting and subcontracting. The purpose of the additional certification process is not to penalize Indian-Owned Firms that have partnered with or otherwise secured the expertise of non-Indians or non-Members to form a team with a given level of capacity and capability. Rather, the purpose is to ensure that a certified Indian-Owned Firm receives the appropriate preference consideration relative to other Indian Owned Firms under the Ordinance when competing for contracts and subcontracts.
- B. An applicant seeking to qualify for preference in contracting and/or subcontracting as an Indian-Owned Firm that is "100% Seneca," "100% Indian-Majority Seneca," or "Majority Seneca" shall submit proof of the applicant's Indian ownership and control to the TERO Director. The TERO Director shall review the material submitted and make a recommendation to the Commission as to whether the applicant firm meets the minimum ownership and control requirements for additional certification.
- C. The ownership and control requirements applicable to each preference category are as follows:
1. 100% Seneca. In order for an Indian-owned firm to be additionally certified as "100% Seneca," the documentation must establish the following:
 - a. Members own 100% of the firm, are entitled to 100% of all profits, and are entitled to 100% of the assets of the firm upon dissolution; and
 - b. Members exercise 100% of the management and supervisory control of the day-to-day operations of the business, including that all key employees are Members. The employment of non-Members who are not key employees will not disqualify the firm from certification in this category, provided that the non-Members they do not exercise or have the authority to exercise, any management or supervisory functions for the firm.
 2. 100% Indian-Majority Seneca. In order for an Indian-owned firm to be additionally certified as "100% Indian-Majority Seneca," the documentation must establish the following:

TRIBAL EMPLOYMENT RIGHTS ORDINANCE

PAGE 9

- a. Indians own 100% of the firm are entitled to 100% of all profits, and are entitled to 100% of the assets of the firm upon dissolution;
- b. Members own at least 51% of the firm are entitled to at least 51% of all profits, and are entitled to at least 51% of the assets of the firm upon dissolution;
- c. Indians exercise 100% of the management and supervisory control of the day-to-day operations of the business, including that all key employees are Indians; and
- d. Members exercise majority control of the business and are substantially involved in the day-to-day management and operations of the business.

3. Majority Seneca. In order for an Indian-owned firm to be additionally certified as "Majority Seneca," the documentation must establish the following:

- a. Members own at least 51% of the firm are entitled to at least 51% of all profits, and are entitled to at least 51% of the assets of the firm upon dissolution; and
- b. Members exercise majority control of the business and are substantially involved in the day-to-day management and operations of the business.

D. The following factors will be applied in determining whether the firm meets the minimum ownership requirements for the applicable certification category:

1. Value. The Indian owner(s) must establish that they provided real value for their stated ownership interest by providing capital, equipment, real property, or similar assets commensurate with the value of their ownership share. It will not be considered "real value" if the Indian(s) purchased their ownership share, directly or indirectly, through a promissory note, the ultimate creditor of which is the non-Indian owner(s) of the firm or an immediate relation thereof, or any similar arrangement, unless a convincing showing can be made that the Indian owner(s) brought such special skills, marketing connections, or similar benefits to the firm that there is a good reason to believe that arrangement would have been entered into even if there were not an Indian preference program in existence under the Ordinance.

Where an Indian owner can demonstrate that he or she could not pay good value for the ownership interest because the normal capital sources were closed to him or her because he or she Indian, that person may satisfy this requirement by demonstrating further that he or she extended his or her capital raising capability as far as possible, such that the Indian owner clearly is at risk in the business in relationship to his or her means.

2. Profits. The Indian owner(s) will receive the percentage of all profits equal to their ownership interest. If there is any provision that gives the non-Indian owner a greater share of the profits, in whatever form and under whatever name, such as through management fees, equipment rental fees, or bonuses tied to profits, additional

certification shall be denied. Salary scales will be reviewed to ensure the relative salaries being paid Indian and non-Indian owners are consistent with the skills of the parties and are not being used to circumvent the requirement that the Indian owners are receiving profits equal to their ownership interest.

E. In determining whether the firm meets the minimum ownership requirements for the applicable certification category, the following will be considered in determining whether the firm is under significant Indian management and operational control:

1. To show Indian manage and supervisory control, one or more of the Indian owners must be substantially involved, as a senior level official, in the day-to-day management and operation of the firm. He or she must, through prior experience or training, have substantial occupational ties to the area of business in which the firm is engaged such that he or she is qualified to serve in the senior level position and is sufficiently knowledgeable about the firm's activities to be accountable for the firm's activities. The Indian owners must have the demonstrable ability to independently make basic decisions pertaining to the day-to-day operations of the firm. Office management, clerical, or other experience unrelated to the firm's field operations is insufficient to establish the requisite control necessary for certification.

2. There must be good reason to believe that the firm was not established solely or primarily to take advantage of the Indian preference program. In evaluating an applicant under this criterion the Commission will consider the factors set out below. The Commission shall exercise broad discretion in applying these criteria in order to preserve the integrity of the Indian preference program and, in close or questionable cases, may deny certification:

a. History of the Firm. Whether the history of the firm provides reason to believe it was established primarily to take advantage of the Indian preference program, and in particular whether the firm, a portion of the firm, or key actors in the firm originally were associated with a non- Indian-owned business that gained little of business value in terms of capital, expertise, equipment, etc., by adding ownership or by merging with an Indian firm.

b. Employees. Whether key non-Indian employees of the applicant are former employees of a non-Indian firm with which the Indian firm is or has been affiliated, through a joint venture or other arrangement, such that there is reason to believe the non-Indian firm is controlling the applicant. Whether Indians are employed in all or most of the positions for which qualified Indians are available. A high percentage of non- Indian employees in such positions will provide reason to believe the firm was established primarily to benefit non-Indians.

TRIBAL EMPLOYMENT RIGHTS ORDINANCE
PAGE 11

- c. Relative Experience and Resources. Whether the experience, expertise, resources, etc., of the non-Indian partner(s) is so much greater than that of the Indian(s) that there is little sound business reason for the non-Indian to accept a junior role in the firm or venture other than to be able to take advantage of the Indian preference program.
- F. In considering the various factors relevant to the control of an Indian-Owned Firm, the Commission may, in the exercise of its discretion, decide in close cases to provide an additional certification to the entity at the next lowest level, if such factors for that level are otherwise satisfied, in order to allow the firm to more clearly develop over time the requisite demonstrable level of control for the category originally sought.
- G. A Commission decision not to certify an entity Indian-Owned Firm as "100% Seneca", "100% Indian-Majority Seneca", or "Majority Seneca" may be reviewed in accordance with Section 16 if a suit seeking review of that Commission decision is filed within 15 Days from a decision of the Commission. Such review shall be limited to review of the records as provided to the Commission and the Commission's decision shall be set aside only if it is found to be arbitrary, in excess of the authority of the Commission or not supported by the records provided to the Commission. Any decision following such review shall be limited to prospective relief, shall not include injunctive relief that would affect contracts already awarded, and shall not include any claims for damages. The Commission's decision shall stay in effect unless and until reversed by the Nation's Courts in a final, non-appealable decision.

SECTION 5: UNIONS

Any covered employer who has a collective bargaining agreement with one or more unions shall obtain written agreement from such union(s) stating that the union shall comply with the Indian preference laws and with the rules, regulations, and guidelines of the Seneca Nation. Such agreement shall be subject to the approval of the TERO Director.

SECTION 6: COMMISSION: MEMBERS: QUORUM

- A. There is created a Seneca Nation Employment Rights Commission.
- B. The Commission shall be composed of five Commissioners, to serve a two-year term, nominated by the Seneca Nation President and appointed by the Seneca Nation Tribal Council, with at least two members from each Reservation. The Commission shall designate one of its members as Commission chairperson.
- C. At least three of the Commissioners shall constitute a quorum to transact business. When a vacancy occurs in the Commission, the remaining members may exercise all powers of the Commission until the vacancy is filled. Vacancies must be filled

TRIBAL EMPLOYMENT RIGHTS ORDINANCE
PAGE 12

within 60 Days. Three consecutive unexcused absences from Commission meetings by a member of the Commission shall result in the member's automatic removal from the Commission.

SECTION 7: POWERS OF THE COMMISSION

The Commission has the full power, jurisdiction, and authority to:

- A. Formulate, adopt, amend, and rescind rules, regulations, and guidelines necessary for the Commission to function.
- B. Require each covered employer or entity to submit to the Director, an acceptable Compliance Plan indicating how it will comply with this Ordinance, before a covered employer or entity commences work within the exterior boundaries of any Nation Lands.
- C. Require the Director to impose numerical goals and timetables that specify the minimum number of Indians a covered employer must hire.
- D. Require covered employers to establish or participate in training programs the Commission determines necessary in order to increase the pool of qualified Indians on any Nation Lands.
- E. Prohibit covered employers from using qualification criteria in their personnel requirements that serve as barriers to Indian employment.
- F. To enter into agreements with unions to insure union compliance with this Ordinance. Such agreements shall in no way constitute recognition or endorsement of any union.
- G. Impose contra(£ and subcontract preference requirements with first preference as stated in this Ordinance and establish and operate a system for certifying firms as eligible for Seneca and other Indian preference.

SECTION 8: DIRECTOR; QUALIFICATIONS; STAFF; DUTIES

- A. The TERO Director shall have authority to hire staff, to expend funds appropriated by the Seneca Nation Tribal Council, and to obtain and expend funding from federal, state, or other sources to carry out the purposes of this Ordinance, subject to approval by the TERO Commission and the Seneca Nation Tribal Council.
- B. The TERO Director shall administer the policies, authorities and duties prescribed for him/her in this Ordinance and delegated to him/her by the Commission pursuant to Section 9.

- C. Establish in conjunction with tribal employment and training programs, a tribal hiring hall or skills bank and impose a requirement that no covered employer may hire a non-Indian until the TERO office has certified that no qualified Indian is available to fill the vacancy, with preferences in referral as defined in Section 3.
- D. The Director shall have the authority to review and sign Compliance Plans. It will be the Director's responsibility to ensure that Indian preference is given in contracting, subcontracting and employment.
- E. The Commission shall have the authority to recommend corrective action or removal of the TERO Director.

SECTION 9: DELEGATION OF AUTHORITY

The Commission shall delegate to the Tribal Employment Rights Office Director the authority to carry out the day-to-day operations of the Tribal Employment Rights Office and such other authority as is convenient or necessary to the efficient administration of this Ordinance, except that the Commission may not delegate its power or duty to:

- A. Adopt, amend and/or rescind rules, regulations or guidelines.
- B. To conduct hearings or to impose sanctions pursuant to Section 15.

SECTION 10: INTERGOVERNMENTAL RELATIONSHIPS

The Commission, acting through the TERO Director, is authorized to enter into cooperative relationships with federal employment rights agencies such as the EEOC and the Office of Federal Contract Compliance Programs (OFCCP), in order to eliminate discrimination against Indians within and outside Nation Lands.

SECTION 11: EMPLOYMENT RIGHTS FEE

An Employment Rights fee to raise revenue for the operation of the Tribal Employment Rights Office is imposed as follows:

- A. Every covered employer with a prime construction contract in the sum of \$50,000 or more, shall pay a one-time fee of 5% of the total amount of the contract. Such fee shall be paid by the employer prior to commencing work on any Nation Lands. However, where good cause is shown, the Commission may authorize a construction contractor to pay said fee in installments over the course of the contract.

- B. The fee shall be non-refundable once a project has commenced.
- C. The TERO Director shall be responsible for collecting said fees pursuant to any rules and regulations adopted by the Commission. Said fees shall be paid to the Seneca Nation Treasurer and, upon receipt, shall be deposited in the Nation's general fund, and the TERO shall receive an allocation of such fees by Council action as may be necessary for the TERO to satisfy its obligations.
- D. The TERO Director shall waive the Employment Rights fee where the covered employer is the Seneca Nation of Indians or any department, corporation, or agency of the Seneca Nation.

SECTION 12: COMPLAINTS

Any individual, group of individuals, or organization that believes any covered employer or entity, or the Commission has violated any requirements imposed by this Ordinance or regulations issued pursuant to it, may file a complaint with the TERO Director. The complaint shall be in writing and shall provide such information as is necessary to enable the TERO Director to carry out an investigation. The TERO Director shall investigate every complaint filed with him/her. If upon investigation he or she has reason to believe a violation has occurred, he/she shall proceed pursuant to the provisions of Section 15. Within 20 Days after receipt of the complaint and on a regular basis thereafter, the TERO Director shall provide the complaining party with a written report on the status of the complaint.

SECTION 13: INVESTIGATIONS

On his/her own initiative or pursuant to a complaint, the TERO Director or any field compliance officer designated by the TERO Director shall make such public or private investigations within any Nation Lands, as he/she or the Commission deems necessary to determine whether any covered employer or other covered entity has violated any provision of this Ordinance or any rule or order hereunder, or to aid in prescribing rules, regulations, and guidelines hereunder. The TERO Director or his delegate may enter during business hours the place of business or employment of any covered employer for the purpose of such investigations and may require the covered employer or entity to submit such reports as he deems necessary to monitor compliance with the requirements of the Ordinance or any rule or order hereunder.

SECTION 14: POWER TO REQUIRE TESTIMONY & PRODUCTION OF RECORDS For

the purpose of investigations or hearings, which in the opinion of the TERO Director or the Commission, are necessary and proper for the enforcement of this Ordinance, a Commissioner, the TERO Director, or any field compliance officer designated by the TERO Director, may take evidence, and require by citation, the production of books, papers, contracts, agreements or other documents, records or information which the TERO Director or Commission deems relevant or

TRIBAL EMPLOYMENT RIGHTS ORDINANCE
PAGE 15

materials to the inquiry. The Commission shall have the authority to administer oaths or affirmations and subpoena witnesses.

Any entity's state or federal tax records, payroll information, or financial reports subpoenaed pursuant to this section or used in a compliance hearing or subsequent appeal to the Tribal Court of Appeals, shall be confidential records and shall not be open to public inspection. They shall be used only by the TERO Director, the Commission, parties to a Compliance hearing or the Tribal Court of Appeals.

SECTION 15: ENFORCEMENT

- A. When after conducting an investigation initiated by a complaint pursuant to Section 12, or a self-initiated investigation pursuant to Section 13, there is reason to believe a violation of the Ordinance or regulations issued pursuant to it has occurred, the TERO Director or Compliance Officer shall notify the covered employer or entity in writing, specifying the alleged violations. However, he/she may withhold the name(s) of the complaining party if there is reason to believe such party shall be subject to retaliation. The TERO Director or Compliance Officer shall seek to achieve an informal settlement of the alleged violation. If unable to do so, the TERO Director or Compliance Officer shall issue a formal written notice of noncompliance which shall also advise the covered employer or entity of his right to request a hearing.
- B.
 1. The formal written notice shall set out the nature of the alleged violation and the steps that must be taken to come into compliance. It shall provide the employer or entity with five Days to come into compliance. If the TERO Director or Compliance Officer believes irreparable harm will occur during that period, he/she may require that compliance occur within fewer than five Days.
 2. If the party fails or refuses to comply, the TERO Director or Compliance Officer may request a hearing before the Commission. The hearing shall be held as soon as practicable but no later than ten Days after the date of compliance established in the TERO Director's or Compliance Officer's formal notice of a violation, unless the Commission deems an expedited hearing necessary to avoid irreparable harm.
 3. If a party fails or refuses to comply and does not request a hearing, the Commission may proceed pursuant to Subsection F.
- C. If the party requests a hearing pursuant to Subsection B.2, and the TERO Director or Compliance Officer has good cause to believe that there is a danger that the party requesting the hearing will remove itself or its property from the jurisdiction of the Nation prior to the hearing, he/she, in his/her discretion, require the party to post a

TRIBAL EMPLOYMENT RIGHTS ORDINANCE
PAGE 16

bond with the Commission in an amount sufficient to cover possible monetary damages that may be assessed against the party at the hearing. If the party fails or refuses to post said bond, the Commission may proceed pursuant to Subsection F. The TERO Director or Compliance Officer may also petition the Seneca Nation Peacemakers Court for such interim and injunctive relief as is appropriate to protect the rights of the Commission and other parties during the pendency of the complaint and hearing proceedings.

- D Any hearing held pursuant to Subsection B.2 shall be conducted by the Commission. Conduct of the hearing shall be governed by the rules of practice and procedure which may be adopted by the Commission. The Commission shall not be bound by technical rules of evidence in the conduct of hearings under this Ordinance, and no informality in any proceeding, as in the manner of taking testimony, shall invalidate any order decision, rule or regulation made, approved, or confirmed by the Commission. The proceedings and testimony shall be recorded at the request of the party charged or at the Commission's initiative.
- E Any covered employer or other person subject to Nation jurisdiction which retaliates against any employee, employer, union or other entity because of its exercise or rights under this law, or compliance with provisions of this law, shall be subject to the sanctions set forth in Subsection F.
- F If no hearing is requested under Subsection B.2, or after a hearing the Commission finds the party in violation and no adequate defense in law or fact exists, or the party failed or refused to post a bond under Subsection C, the Commission may:
1. Deny such party the right to commence business within Nation Lands.
 2. Suspend such party's operation within Nation Lands.
 3. Terminate such party's operation within Nation Lands.
 4. Deny the right of such party to conduct any further business within Nation Lands.
 5. Impose a civil fine on such party in an amount not to exceed \$5000 for each violation.
 6. Order such party to make payment of back pay to any aggrieved Indian covered under this Ordinance.
 7. Order such party to dismiss any employees hired in violation of this Ordinance or Commission guidelines.

8. Order the party to take such action as is necessary to ensure compliance with this Ordinance or to remedy any harm caused by a violation of this Ordinance consistent with the requirements of 25 U.S.C. 1301 et seq. (Indian Civil Rights Act).

The Commission's decision shall be in writing, and served on the parties by registered mail or in person, no later than thirty Days after the close of the hearing provided in Subsection D. Where the party's failure to comply immediately with the Commission's orders may cause irreparable harm, the Commission may request injunctive relief before the Peacemakers Court pending the party's appeal or expiration of the time for appeal.

SECTION 16: APPEALS

- A. An appeal to the Nation's Court may be taken from any final order of the Commission by any party adversely affected thereby. Except as otherwise provided in this Ordinance, the time lines and filing requirements under the civil procedure shall be used in filing an appeal. The Courts shall uphold the decision of the Commission unless it is demonstrated that the decision of the Commission is arbitrary, capricious or in excess of the authority of the Commission. Except as provided in Subsection B of this Section, the order of the Commission shall abate pending a final, non-appealable determination by the Nation's Courts. Upon petition, the Peacemaker's Court may order a party to post a bond sufficient to cover the Commission's assessment against the party or to assure the party's compliance with other sanctions or remedial actions imposed by the Commission's order, if that order is upheld by the Courts.
- B. If at any stage in the enforcement process the Commission has reason to believe there is a danger that a party will remove itself or its property from the jurisdiction of the Nation's Courts, such that the Commission or Courts will not be able to collect monetary damages or TERO fees that are (a) owed by that party pursuant to any outstanding order of the Commission or Nation Court, or (b) which will be owed if the charges set out in any outstanding notice of violations are upheld, the Commission may petition the Peacemaker's Court pursuant to the rules and procedures of that court to attach and hold sufficient property of the party to secure compliance or for such other relief as is necessary and appropriate to protect the right of the Commission and other affected parties.

SECTION 17: CONFISCATION AND SALE

If 31 Days after sanctions have been imposed by the Commission pursuant to Subsection E of Section 15 no appeal has been filed, or 31 Days after a decision by the Court of Appeals pursuant to Subsection A of Section 16, a party has failed to pay monetary damages imposed on it or otherwise failed to comply with an order of the Commission or the Court, the TERO Director or

Court or Court of Appeals may order the Seneca Nation Law Enforcement to confiscate and hold for sale the parties' property to ensure payment or to achieve compliance. Any confiscation order shall be accompanied by a list of the parties' property believed to be within the jurisdiction of the Seneca Nation, the value approximating the amount of monetary damages owed. The Seneca Nation Law Enforcement shall deliver in person a notice to the party informing it of the confiscation and of its right to redeem said property by coming into compliance with the order outstanding against it. If 30 Days after confiscation the party has not come into compliance, the Seneca Nation shall sell said property and use the proceeds to pay any outstanding monetary damages imposed by the Commission and all cost incurred by the court, the law enforcement in the confiscation and sale. All proceeds remaining shall be returned to the party.

SECTION 18: ORDERS TO LAW ENFORCEMENT

The Seneca Nation of Indians Law Enforcement Departments are hereby expressly authorized and directed to enforce such cease and desist or related orders as may from time to time be properly issued by the TERO Commission, Director or Tribal Courts. Such orders do not require a judicial decree or order to render them enforceable. The Law Enforcement Officer shall not be civilly liable for enforcing such orders so long as the order is signed by the Director and the Commission.

SECTION 19: FAIR LABOR STANDARDS

The provisions of the Federal Fair Labor Standards Act, as amended now or in the future, regarding minimum wages, overtime, fringe benefits, and time for payment of wages, are adopted by reference in and by this Ordinance. The Commission shall have the authority to monitor and enforce those requirements, pursuant to the monitoring and enforcement authorities provided generally to the Commission by this Ordinance. Provided that, this section shall apply only to those employers who are otherwise covered by the Federal law. No employer who is not presently subject to the Federal Laws (or subsequently made subject by amendments or court decisions) shall be covered by this section. The purpose of this section is to give the Commission the parallel authority to monitor and enforce the fair labor requirements against those already covered by the Federal law, not to expand such requirements to employers not already covered. In imposing back pay awards, penalties and interest sanctions under this provision, the Commission shall credit an employer with any back pay, interest or penalties paid pursuant to an order of settlement entered into with the Federal government for the same violation.

SECTION 20: SEVERABILITY

If for any circumstance, provision(s) or sections of this Ordinance are held invalid by the appropriate court of jurisdiction, the remainder of this Ordinance and other provisions or sections will not be affected in the application of the Ordinance of any person, employers and others covered by the Ordinance.

TRIBAL EMPLOYMENT RIGHTS ORDINANCE
PAGE 19

SECTION 21: EFFECTIVE DATE

This Ordinance shall be effective from the date of its approval by the Seneca Nation Tribal Council.

Enacted: June 23, 1993
Effective: June 23, 1993
Amended: April 16, 1994
Amended: April 13, 1996
Amended: July 11, 1998
Amended: December 11, 2004
Amended: November 12, 2005
Amended: August 12, 2006
Amended: October 13, 2007
Amended: September 20, 2008 (effective February 14, 2009)
Amended: May 12, 2012
Amended: August 6, 2012
Amended: July 14, 2018

Seneca Nation of Indians

President - J. Conrad Seneca
Clerk - Lenith K. Waterman

12837 ROUTE 438
CATTARAUGUS TERRITORY
SENECA NATION
IRVING, NY 14081

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



Treasurer - Al E. George

90 OHI:YO' WAY
ALLEGANY TERRITORY
SENECA NATION
SALAMANCA, NY 14779

Tel. (716) 945-1790
FAX (716) 945-0150

AT THE REGULAR SESSION OF COUNCIL OF THE
SENECA NATION OF INDIANS HELD ON
FEBRUARY 08, 2025, AT THE WILLIAM SENECA
BUILDING ON THE CATTARAUGUS TERRITORY.

CN: R-02-08-25-14

EXECUTIVES PRESENT:	PRESIDENT	—	J. CONRAD SENECA
	TREASURER	—	AL E. GEORGE
	CLERK	—	LENITH K. WATERMAN

TO APPROVE TRIBAL EMPLOYMENT RIGHTS ORDINANCE AMENDMENT

MOTION: by Christina Reiller, seconded by Kevin Seneca, that the Seneca Nation Council approves the following resolution:

WHEREAS the Seneca Nation has the inherent sovereign power to enact laws which promote fair and equitable employment on the Seneca Nation's Territories and for projects and programs that the Nation is a party; and

WHEREAS the Seneca Nation adopted a Tribal Employment Rights Ordinance (TERO) in 1993 and has Amended the Ordinance on occasion to meet the growing needs of the Nation and its people; and

WHEREAS the Tribal Employment Rights Commission (Commission) exists by authority of the Seneca Nation Council; and

WHEREAS pursuant to Section 7 of the Ordinance, Powers of the Commission, the Commission has the full power, judication and authority to: Formulate, adopt, amend, and rescind rules regulations, and guidelines necessary for the Commission to effectively carry out the terms and conditions of the TERO; and,

WHEREAS the Commission recommends amending Section 11, Employment Rights Fee, to facilitate administration and enforcement of the law for contracts that involve work both on-Territory and off-Territory,

NOW, THEREFORE, BE IT RESOLVED, the Seneca Nation Council hereby amends Section 11 of the Tribal Employment Rights Ordinance to redesignate subsection A as subsection A.1 and to add a new subsection A.2 which reads as follows:

- A.2. For all Contracts that involve work both on-Territory and off-Territory the effective fee under subsection A.1 paid by the Contractor may be prorated for and applied to just the percentage of contract work on-Territory so long as the Contractor and all Sub-Contractors have a Compliance Plan in place focused on achieving at least 51% native employment goals.

ALL IN FAVOR

MOTION CARRIED

CERTIFICATION

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 February 08, 2025, on the Cattaraugus 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 William Seneca Building, on the Cattaraugus Territory, on the 12th day of February 2025.

ATTEST:



LENITH K. WATERMAN, CLERK
SENECA NATION OF INDIANS

{SEAL}

SENECA NATION OF INDIANS



BUSINESS CODE

September 26, 1988

Seneca Nation of Indians licensing procedure under the Business Code of 1988 as it pertains to businesses other than those under the Business Ordinance of 2003

Seneca Nation Business Code

Contents

Contents.....	1
Preamble.....	3
SECTION 1- PRIVILEGE OF DOING BUSINESS-AUTHORITY TO REGULATE.....	3
(a) Authority.....	3
(c) Need.....	3
(d) Declaration of Authority.....	3
(e) Extending Privilege to Existing Businesses, Condition for Constitution.....	3
(f) Administration- Enforcement Agencies.....	4
(g) Authority of Advisory Committees.....	4
ARTICLE 1- GENERAL PROVISIONS.....	4
PART 1- SHORT TITLE, INTERPRETATION, APPLICATION AND SUBJECT MATTER.....	4
1-101 Short Title.....	4
1-102 Scope.....	4
1-103 Purposes: Rules of Construction: Variation by Agreement.....	5
1-104 Amendment, Recession or Adoption of Rules.....	5
1-105 Applicable Law.....	5
1-106 Jurisdiction- Policy.....	5
1-107 Jurisdiction- Forums; Originals.....	5
1-108 Territorial Jurisdiction.....	6
1-109 Personal- Jurisdiction.....	6
1-110 General Subject Matter Jurisdiction and Limitation.....	7
1-111 Jurisdiction Over Property.....	7
1-112 Remedies Liberal Administered.....	7
1-113 Self Help Remedies Eliminated.....	7
1-114 One Action to Foreclose Security Interest.....	7
1-115 Action to Foreclose Interest on Personal Property.....	8
1-116 Great Seal of the Seneca Nation.....	8
1-117 Signatories.....	8
1-118 Burden of Establishing Signatures, Defense and Due Course.....	9
1-119 Appendix of Official Forms.....	9
1-120 Adoption and Amendment, Procedures.....	9
1-121 Payments	9
1-122 Computation of Time.....	9
1-123 Severability.....	10
1-124 Effective Date.....	10

Seneca Nation Business Code

ARTICLE 2- BUSINESS LICENSE SYSTEM

2-101 Short Title.....	10
2-102 Purpose.....	10
2-103 Authority	10
2-104 General Definitions.....	10
2-105 Business License; Required.....	11
2-106 Business License Eligibility.....	12
2-207 Business License Exemptions.....	12
2-108 Procedures Generally.....	12
2-209 Failure to Apply for License.....	13
2-110 Penalty for Fraudulent Application.....	13
2-111 Information Required.....	14
2-112 Formal Discussion.....	14
2-113 Reinstatement of License.....	15
2-114 Period of Determination Issuance.....	15
2-115 License Form; Distribution of Copies; Fee.....	16
2-116 Posting.....	16
2-117 Duration.....	16
2-118 Terms and Conditions.....	16
2-119 General Record Keeping.....	17
2-120 Applications and Returns Confidential.....	17
2-121 Indian Traders License.....	18
2-122 Consent to Jurisdiction.....	18
2-123 Indian Labor, Deviation, Denial.....	18
2-124 Remedies.....	18
2-125 Redemption.....	19
2-126 Severability.....	19

Seneca Nation Business Code

PREAMBLE

The Seneca Nation of Indians, in order to promote the economic development of the Seneca Reservations for the benefit of Seneca people and in order to clearly establish and exercise the Tribe's authority to regulate the conduct and operations of business(es) within the Seneca Reservations, hereby declares that the Seneca Nation of Indians (hereinafter "Nation" by virtue of its inherent sovereignty, its treaties, and the Seneca Nation Constitution of 1848, as amended 1966 and 1978, and acting through the Tribal Council, hereby declares its authority to, regulate the privilege of non-Senecas doing business within the Nation.

SECTION 1- PRIVILEGE OF DOING BUSINESS- AUTHORITY TO REGULATE

(a) Authority

The Seneca Nation has inherent sovereign authority to protect the lands, waters, and natural resources of the Allegany, Cattaraugus, and Oil Spring Reservations, which are secured to the Nation by the Treaty 1794, 7 Stat. 44 which declares the lands within these Reservations "to be the property of the Seneca Nation" and further provides that "...the United States will never claim the same nor disturb the Seneca Nation, nor any of the Six Nations, or of their Indian friends residing thereon and united with them, in the free use and enjoyment thereof..." 7 Stat. 44, 45.

(b) The Nation has inherent sovereign authority to protect the health, welfare, safety, environment, political integrity, and economic security of the Nation; its members and persons subject to the jurisdiction of the Nation; and the Nation must exercise this authority in order to provide for present and future generations by maintaining an environment which will protect and enhance the Nation's natural resources including but not limited to ground water resources and by protecting the Nation lands from development in a manner which is inconsistent with sound business practices and harmful to the Seneca people.

(c) Need

The Nation has in the past granted permission to non-Seneca's to enter upon and use Nation lands through permits and leases. The Nation's economic self-determination policy to encourage larger businesses and industries to locate within the Nation boundaries as well as individual businesses creates a need for laws to regulate business conduct.

(d) Declaration of Authority

The Seneca Nation through Tribal Council hereby declares its inherent sovereign authority to grant, deny, modify, suspend or revoke the privilege of doing business within the Nation as it deems reasonable.

(e) Extending Privilege to Existing Businesses, Conditions for Continuation

The privilege of doing business is hereby granted to those businesses presently operating within the Nation pursuant to leases or permits for land use or contractual agreements with the Nation, its enterprises and agencies subject to the control and/or supervision of the Tribal Council; provided that said business shall within 30 days submit an application for a Nation Business License in accordance with the provisions contained herein.

Seneca Nation Business Code

Continuation of said privilege is conditioned upon the business' compliance with the applicable laws of the Nation and the effect or validity of prior leases, permits or contracts authorizing entry onto lands subject to Nation jurisdiction.

(f) Administration-Enforcement Agencies

Enforcement agencies as established by the Nation Tribal Council shall share the responsibility for administering these rules, subject to Tribal Council approval.

(g) Authority of Advisory Committees

- (1) The Seneca Nation Business Commission is authorized to negotiate and recommend to Tribal Council the grant of leases and permits and licenses for the use of Nation lands for all existing Nation businesses for all business purposes now or hereafter authorized by Seneca law upon such terms and conditions as in the discretion of the Business Commission are deemed in the best interests of the Seneca Nation of Indians, subject to Tribal Council approval.
- (2) The Seneca Nation Planning commission is authorized to negotiate and recommend to Tribal Council the grant of leases and permits and licenses for the use of Nation lands for all future Nation businesses for all business purposes now or hereafter authorized by Seneca law upon such terms and conditions as in the discretion of the Planning Commission are deemed in the best interests if the Seneca Nation of Indians, subject to Tribal Council approval.
- (3) The above designated agencies are further authorized to adopt such rules and regulations as it deems necessary to govern the leasing of, and permits and licenses for the use of Nation lands, subject to approval by Tribal Council.

ARTICLE 1- GENERAL PROVISIONS

PART 1-SHORT TITLE, INTERPRETATION, APPLICATION AND SUBJECT MATTER

1-101 Short Line

This Chapter shall be known and may be cited as Seneca Nation Business Code- General Provisions. Each article of this code may be cited by its own short title.

1-102 Scope

These rules being adopted this 26th day of September 1988, shall govern the conduct of business operations within the exterior boundaries of the Seneca Nation Reservations. These rules are promulgated pursuant to authority granted by its treaties the Seneca Nation Constitution of 1848, as amended 1966, 1978, and 2024 and shall include traditional, custom and practice. Where doubt exist as to such custom, the advice of tribal elders familiar with tribal custom will be requested. Proof of the existence of tribal law or custom shall be by presentation of evidence showing the custom to exist by a preponderance of the evidence.

Seneca Nation Business Code

1-103 Purposes: Rules of Construction: Variation by Agreement

(a) This chapter shall be liberally interpreted and applied to promote the following purposes and policies:

(1) To simplify, clarify, and to make uniform the law governing Seneca Nation Business conduct on the Seneca Nation Reservations.

(2) To permit the orderly initiation of new businesses and the control of business practices between Nation members and between Seneca and non-Seneca persons, through custom, usage and agreement.

(b) The effect of the provisions of this chapter may be varied by written agreement; but the obligations of good faith, diligence, reasonableness and care may not be disclaimed. The parties may by written agreement determine the standard by which to measure the performance of such obligations if such standards are not unreasonable.

(c) The words "unless otherwise agreed" or words of similar importance do not imply that the effect of other provisions may not be changed by agreement.

(d) Words in the singular include the plural and the plural include the singular. Words in one gender include the other gender.

1-104 Amendment, Recession or Adoption of Rules

These rules of conducting business operations are to be designed "rule". Any rule in this chapter may be changed or terminated or additional rules may be adopted not inconsistent with the Seneca Nation Constitution of 1848, as amended 1966 and 1978. No rule so modified, terminated or adopted shall divest or enlarge the substantive of the other party.

1-105 Applicable Law

Civil matters shall be governed by Seneca Nation laws and customs not in direct contravention of the laws of the United States.

1-106 Jurisdiction Policy

It is hereby declared as a matter of tribal policy and legislative determination by the Seneca Nation Tribal Council that the interest of the Seneca Nation require that they provide itself, its members and other persons living on the Seneca Reservations or who are within the jurisdiction of the tribe with an effective means of redress in civil cases concerning business transactions arising between Nation members or a Nation member and non-nation member who through residence, presence, business dealings, contracts, or other actions or failures to act, or other contacts within the Nation, commit offences against the Nation or incur civil obligations to persons or entities entitled to Nation protection. The provisions of the Business code contained herein shall, except as otherwise expressly provided, apply to all persons or entities, whether Nation members or not, within the territorial jurisdiction or the Nation.

1-107 Jurisdiction-Forums: Original

(a) The Peacemakers Courts of the Seneca Nation shall have original jurisdiction over all civil disputes which involve commercial transactions between Nation members or Seneca and non-Seneca persons.

Seneca Nation Business Code

- (b) Except as otherwise required by federal law the Peacemakers Court shall have original jurisdiction over all commercial matters in which the Nation, or its officers, agents, or employees are parties either in their official capacities or as a result of performing their duties for the Nation.
- (c) Nothing in the preceding paragraph or elsewhere in this Business Code shall be construed as a waiver, of sovereign immunity by the Nation, its enterprises, its officers, agents, or employees, unless specifically expressed as such by Tribal Council.
- (d) In commercial transactions involving Nation custom, ordinances, or regulation where doubt exists as to such custom, the Court may request the advice of Tribal elders familiar with such custom and tradition. Proof of the existence of a Tribal law or custom shall be made by a presentation of evidence showing the Tribal law or custom to exist by a preponderance of the evidence.

1-108 Territorial Jurisdiction

- (a) The jurisdiction of the Nation as exercised in this Business Code shall extend to all lands now within the Nation or which may hereafter be added to and to such other lands as may be owned by the United States and held in trust for the benefit of the Nation.
- (b) Unless, in direct contravention of federal law, the jurisdiction of the Nation and its courts shall extend beyond the territorial limitation set forth in Section 1-108 (a) to carry out the jurisdiction provisions set forth below.

1-109 Personal- Jurisdiction

- (a) As used in these jurisdictional provisions, the word "Person" shall include any individual, firm, partnership, association or corporation, or business entity.
- (b) Unless otherwise excepted within this Code or in contravention of federal law, the peacemakers court shall have exclusive jurisdiction over the following persons, who shall also be subject to the rules, regulations, and procedures as established by this Code.
 - (1) Any person residing, domiciled or located within the Nation for:
 - (i) any civil cause of action, or
 - (ii) is charged with an offense prohibited by this Business Code when the offense occurred within the Nation boundaries, or
 - (iii) adversely affects the health, safety, welfare or political integrity of the Nation.
 - (2) Any person who transacts, conducts or performs any business or activity within the Nation, either in person, by agent or representative.
 - (3) Any person who owns, uses, or possesses any property within the Nation,
 - (4) Any person who commits a legally harmful (physically tortious) act or engages in legally harmful (physically tortious) conduct within the Nation boundaries, either in person or by agent or representative.
 - (5) Any person who commits a civil offense prohibited by this Business Code by his own conduct or the conduct of another for which he is legally accountable if:
 - (i) the conduct occurs either wholly or partly within the Nation boundaries; or

Seneca Nation Business Code

(ii) the conduct which occurs outside Nation boundaries constitutes an attempt solicitation, or conspiracy to commit an offense within the Nation, and an act in furtherance of the attempt or conspiracy occurs within Nation boundaries; or
(iii) the conduct which occurs within the Nation boundaries constitutes an attempt, solicitation, or conspiracy to commit in another jurisdiction an offense prohibited by this Business Code or other ordinance of the Seneca Nation and is also prohibited by such other jurisdictions.

(c) None of the foregoing basis of jurisdiction are mutually exclusive, to the other and jurisdiction over a person may be established on any one or more such basis.

1-110 General Subject Matter Jurisdiction and Limitation

(a) Subject to any contrary provisions, exceptions, or limitations contained in this Business Code, the Peacemakers Courts shall have jurisdiction over all civil actions and all offenses occurring within the territorial jurisdiction as defined in section 1-108.

(b) The Peacemakers Courts shall not assume jurisdiction over any civil or criminal matter which does not involve either the Seneca Nation, its officers, agents or employees in their official capacity, its property or enterprises, or a Nation member or member of another federally recognized tribe or the Nation ordinances, resolutions, rules, or regulations, if some other judicial forum exists for the handling of the matter and the matter is not one in which the rights of the Nation or its members may be directly affected.

1-111 Jurisdiction over Property

Unless otherwise excepted within this code or in direct contravention of federal law, or as expressly stated elsewhere in this Business Code, the rules, regulations, and procedures contained herein shall apply to, and the Peacemakers Courts shall have jurisdiction over, any real or personal property located within the territorial jurisdiction of the Nation, including airspace; to determine the ownership or rights thereof or to determine the application of such property to the satisfaction of a claim for which the owner of the property is or may be liable.

1-112 Remedies Liberal Administered

(a) The remedies provided by this code shall be liberally administered so that the aggrieved party they be placed in as good a position as if the other party had fully performed.

(b) Any right or obligation declared by this Code is enforceable by court action unless the provision declaring it specifies a different effect.

1-113 Self Help Remedies Eliminated

(a) All self-help remedies for the recovery of real or personal property secured to ensure payment of obligations are hereby declared unavailable, except as otherwise provided herein.

(b) This section shall not be interpreted to prevent the voluntary surrender of secured property to a creditor by a debtor, provided that such voluntary surrender occurs at the time of such surrender. All contract provisions for such surrender executed in advance of the need shall be of no effect.

Seneca Nation Business Code

1-114 One Action to Foreclose Security Interest

(a) There can be but one action in Tribal Court to recover any debt or enforce or collect on any right secured by a mortgage or other security interest on non-trust real or personal property situated or located on the Seneca Reservations, which action must be in accordance with the procedures outlined herein. The term non-trust property as used herein means property, the title to which is not held in trust for the Nation or Nation members.

(b) In spite of the above provisions if the debt for which the encumbrance is held is not totally due but is payable in installments, whether such debt is evidenced by one or more principal notes or otherwise, such encumbrance may be collected on, at the election of the holder of the note for installment(s) due or other charges to be paid by the debtor. The Tribal Court may by judgement, direct the sale of the encumbered property or of the equity of the defendants or so much as may be necessary to satisfy the amount due, and such encumbrance shall otherwise remain in full force and effect and the holder of the note shall have the right to enforce on the balance or any part of the balance.

1-115 Action to Foreclose Interest on Personal Property

(a) An action to collect on a security interest in non-trust personal property shall be commenced by filing a complaint in Tribal Court.

(b) The Court shall determine the issues presented and may direct the sale of the encumbered property or so much as is necessary to satisfy the amount due, and direct the application of the proceeds of the sale to the payment of the costs of Court, the expenses of the sale, and the amount due the plaintiff. If it appears from the Seneca Nation Marshal or Law Enforcement record of sale that the proceeds are insufficient and an amount still remains due, the Court may direct entry of a judgement for such balance against the defendant or defendants.

(c) If it is reasonably made to appear after a complaint is filed, that the collateral is in imminent danger of being concealed, removed from the Reservation or otherwise disposed of in a manner inconsistent with the security interest, the Court may order the person having possession or control over such property to appear and show cause why such property should not be taken into custody of the Court or other security provided to prevent the improper disposal of the collateral.

(d) Sale of property under the court's judgment shall be conducted in the manner provided for execution sales in the Seneca Nation Peacemakers Court Rules of Civil Procedure.

1-116 Great Seal of the Seneca Nation

The affixing of the Great Seal of the Seneca Nation of Indians to a writing evidencing a contract for sale or an offer to buy or sell goods or a lease of real or personal property is evidence of the validity of such writing when it is accompanied by the date and signature of the Clerk of the Seneca Nation of Indians.

1-117 Signatories

All Seneca Nation of Indians negotiable instruments including checks, bank drafts, notes, bonds and securities bearing the dated signatures of the President and the Treasurer of the

Seneca Nation Business Code

Seneca Nation of Indians, as authorized by Tribal Council, shall be evidence of the validity of such instrument.

1-118 Burden of Establishing Signatures, Defense and Due Course

- (a) Unless specifically denied, each signature on an instrument is admitted. When the effectiveness of a signature is put in issue:
- (1) The burden of establishing it is on the party claiming under the signature, but
 - (2) The signature is presumed to be genuine or authorized except where the action is to enforce the obligation of a purported signer who has died or become incompetent before proof is required.
- (b) When a signature(s) is admitted or established, production of the instrument entitles a holder to recover on it unless the defendant establishes a defense.
- (c) After it is shown that a defense exists a person claiming the rights of a holder in due course has the burden of establishing that he or some person under whom he claims is in all respects a holder in due course.

1-119 Appendix of Official Forms

The designated commission(s) shall have the power to adopt, amend, and rescind an appendix of forms, subject to approval by Tribal Council. Forms adopted pursuant to this section shall illustrate the purposes and policies which the business rules intend.

1-120 Adoption and Amendment Procedures

These rules and regulations may be amended at a duly called regular or special session of the Seneca Nation Tribal Council where interested parties shall have an opportunity to comment on proposed rules and regulations or modifications in the existing rules and regulations of the Seneca Nation Business Code.

Proposed rules and regulations and modifications in the existing rules and regulations of the Nation Business and/or Planning Commission(s) shall be presented to the Tribal Council, who may recommend publication in the designated publications most likely to give notice to the Seneca Nation public two consecutive issues, which shall be available to the public.

1-121 Payments

Checks or other payment of any financial obligation due to the Seneca Nation of Indians shall be addressed to the Seneca Nation of Indians Business Office, P.O. Box 231, Salamanca, New York 14779.

1-122 Computation of Time

In computing any period of time prescribed in these rules and regulations, the day of the act or event which initiates the time period shall not be counted. The last day of the period shall be included unless it is a Saturday, Sunday, or legal holiday of the Nation, in which case the deadline shall be the next working day. (Legal holidays of the Nation are the same as Federal holidays, with the substitution of American Indian Day for Columbus Day). The Nation has a holiday on Friday if the calendar date of the holiday is on a Saturday.

Seneca Nation Business Code

1-123 Severability

If any provision of this chapter or application to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of this chapter which can be given effect without the invalid provision or application, and to this and the provision of this Business Code are declared severable.

1-124 Effective Date

Article 1 and 2 of this Business Code shall take effect on September 26, 1988, or within thirty (30) days after being passed into Law by Tribal Council Resolution.

ARTICLE 2- BUSINESS LICENSE SYSTEM

2-101 Short Title

This chapter shall be known and may be cited as Seneca Nation Business Code- Business Licenses. Each Article may be cited by its own short title.

2-102 Purpose

The Seneca Nation of Indians (hereinafter "Nation") authorized by its treaties, its Constitution and acting through its Tribal Council, recognizes the need for individual businesses and organizations to aid in its economic development and makes this provision for the issuance of business licenses accordingly.

2-103 Authority

The Seneca Nation, by virtue of its inherent sovereignty, its treaties and the Seneca Nation Constitution of 1848, amended 1966 and 1978, and acting through its Tribal Council has authority to grant permission to do business within the Nation by the issuance of business licenses.

2-104 General Definitions

In interpreting the provisions of this Article save when otherwise declared or clearly apparent from the context, the following definitions shall be applied:

"Action"- means a judicial proceeding whereby one prosecutes another for a wrong done or for protection of a right or prevention of a wrong.

"Aggrieved Party"-means a party who has been injured or who has suffered a loss.

"Agreement"-means a manifestation of mutual assent, between two or more legally competent persons which ordinarily leads to a contract. It is the bargain of the parties in fact as found in their language, or by implication from other circumstances, including course of dealing or usage of trade or course of performance.

"Authority"-means an agency created by the Nation, i.e...SNEIDA

"Business"- means all activities engaged in, whether the object of gain, benefit or advantage to the taxpayer or another person or class, directly or indirectly or not, including daily, seasonal.

Seneca Nation Business Code

“Commission”- means the Seneca Nation of Indians Planning and Business Commissions.

“Council”- means the Council of the Seneca Nation of Indians

“Court”-means the Seneca Nation Peacemakers Court or the Surrogates Court.

“Engaging in Business”- means commencing, conducting, or continuing in any business of whatever nature and also the exercise of corporate or franchise powers as well as liquidating a business when the liquidators hold themselves out to the public as conducting such business.

“Fiscal”- means either the calendar year or the business fiscal year when permission is obtained from the Planning-Business Commission to use a fiscal year instead of the calendar year.

“Impound”- means to place merchandise, funds, or records in the custody of a Nation officer of the law.

“Indian”- means a member of any tribe, Pueblo, band, group, village or community that is recognized by the Secretary of the Interior or the Secretary of Health and Human Services as being Indian, or any person who possesses Indian blood and who is recognized as an Indian by the community where such person lives.

“Individual”- means a natural person, a corporation, an entity, association.

“License”- means a grant of permission to do a particular thing, to exercise a certain privilege, or to carry on particular business or to pursue a certain occupation.

“Mitigate”- means to lessen or reduce, the general rule is that one who is wronged must exercise reasonable diligence and ordinary care to avoid aggravating the injury or increasing the damages.

“Party”- as distinct from third party means a person who has engaged in a transaction or made an agreement within this Code.

“Person”- means an individual, corporation, governmental subdivision or agency, partnership, association, cooperative or any other legal entity.

2-105 Business License: Required

Every individual engaged in or intending to engage in a trade, business, profession or commercial activity of any sort within the Nation boundaries shall, prior to January 1, 1989, and prior to December 31, or each calendar year thereafter, file with the designated agency an application for a business license or renewal and upon their recommendation for licensure to Tribal Council and subsequent issuance, shall entitle such entity to engage in the kind(s) of business activity at the location(s) listed in the application.

Seneca Nation Business Code

2-106 Business License Eligibility

Any person or business entity which meets the requirements of this section shall be eligible to apply for, receive, and hold a license to conduct business operations upon the Seneca Nation of Indians Reservations and such holder(s) of a valid and unrevoked license(s) granted pursuant to this Code shall have the right to conduct only such business(es) upon the Seneca Nation of Indians Reservations at such time(s) at such location(s) as is (are) listed on the application.

2-207 Business License Exemptions (CN: R-07-12-25-12)

(a) No business license shall be required of

- (1) Any person engaged in the ministry of healing by purely spiritual means or other reorganized religious activity;
- (2) Any entity owned by the Seneca Nation;
- (3) Any person under the age of eighteen (18) who conducts any activities which gross less than Ten Thousand Dollars (\$10,000.00) in any one calendar year;
- (4) Any person engaged in the production and sale of the intrinsic or traditional crafts of the Seneca in the traditional manner which grosses less than Twenty-Five Thousand Dollars (\$25,000.00) in any one calendar year;
- (5) Any person who engages in a business operated entirely from their place of residence which grosses less than Twenty-Five Thousand Dollars (\$25,000.00) in any one calendar year;
- (6) Any person who gross receipts attribute to activities that occur within the Nation boundaries are less than Twenty-Five Thousand Dollars (\$25,000.00) in any one calendar year.

(b) No officer or employee of any government and no individual in private or public employment who is compensated for services performed by him or her as an employee by his or her employer shall, for such employment be required to obtain a license; in the case of a partnership, association, or joint venture, no license shall be required of any partner, associate or joint venture who does not engage in or conduct a trade, business or Professional activity of the entity on the Reservation.

2-108 Procedure Generally

(a) A Business License Application form may be obtained during regular business hours at the Nation Clerk's Office. Application(s) required to be obtained under the provisions of this sub-section shall be in addition to all other licenses, fees and permits required by Seneca law. Completed applications and proof of fees paid shall be submitted to the Tribal Planning Office for transmission to the Business and/or Planning Commissions.

(b) No license shall be granted to any business entity until it has completed the application and presented proof to the designated agency that it has complied with all tribal requirements established as conditions of commencing business within the Nation including but not limited to, the following:

- (1) Proof of ownership of the land and/or an agreement with the landowner.
- (2) Pursuant to the Nation's contract and employment preferences and the Buy Indian Act 25 U.S.C. 47, the entity agrees that whenever possible enrolled members

Seneca Nation Business Code

will have employment preference in business operating by Nation license within the Nation's jurisdiction.

(3) Has submitted an environmental impact statement.

(4) Has submitted proof of insurance coverage or a plan for personal and property damage, including flood insurance.

(5) If subject to the corporate section of this Code, has filed the proper documents authorizing it to conduct business as a corporation.

(6) If a construction company, proof of the agreement with the landowner and the construction plan.

(c) Approved Applications

Within ten (10) working days after approval of a completed application the Planning Commission shall recommend at the next session of Council that Tribal Council issue said applicant a license to engage in the business activity stated on the application, subject to any conditions or limitations by Tribal Council.

2-209 Failure to Apply for License

(a) It shall be a violation of this Code for any entity doing business within the Nation which fails to obtain a license as provided for in this Code. Such entity shall, in addition to being required to immediately apply for such a license and pay the required fee, may be fined as defined by Seneca Law for each day it conducts business operations without a license, unless good cause is shown to the designated agencies' Chairpersons as to why such a license has not been obtained in a timely manner.

(b) If the Chairperson(s) of the designated agencies become aware that an entity is conducting business within the Nation without a license, they shall in the name of the Nation deliver by personal service, then if unable, by registered mail (return receipt) a notice to the entity informing it that it is operating in violation of this Code and that it shall, within five (5) working days, apply for a license and/or liable for such fines as are indicated in the letter.

(c) Where the Chairperson(s) of the designated agencies have reason to believe that the political integrity, economic security, health, safety, welfare, or morals of Nation residents are endangered by the continuation of such activity, the Chairpersons may by motion at a meeting of the designated agency, petition the Tribal Court in the name of the Seneca Nation to order such business to terminate all business activity until it has applied for a license.

(d) Any entity doing business in the Nation without applying for a license within the time period requested by the Chairpersons or any entity whose license to do business has been revoked by any court or agency of competent jurisdiction pursuant to any provision of this Code or any other Tribal Code, shall immediately cease business operations within the Nation provided that, upon a showing of good cause, the court may grant the entity a reasonable period during which to conclude his business so long as, during that time, the continuation of such business does not endanger the political integrity, economic security, health, safety, welfare, or morals of Nation residents.

2-110 Penalty for Fraudulent Application

Seneca Nation Business Code

Any person who gives a false or fictitious name or address in an application for a business license or who makes application in the name of a person other than the true owner shall be fined, as defined by Seneca Law.

2-111 Information Required

(a) Every person or business entity desiring a business license, shall obtain an application for such license from the Nation Clerk. Each application shall contain an identification number and shall set forth in writing the following information:

- (1) Name address and phone number of Business.
- (2) Location(s) of Business, including Road and Reservation.
- (3) Name, address and phone number(s) of owner or Chief Executive Officer.
- (4) Date and signature of applicant.
- (5) Date request submitted and received by Business and/or Planning Commission.
- (6) Signature and Position of person receiving application

(b) Each applicant shall be accompanied by payment of a twenty-five dollar (\$25.00) fee, which shall be a non-refundable fee.

Form of Registration and Application

Applications for a Business license shall be made upon Form 87SNBC-1A, which is hereby adopted.

(c) Use of Identification Number

All applications for Business licenses shall bear a number which shall be the identification number of the applicants business for purposes of renewal, amendments, reports and any other papers relating to the applicants business.

(d) Membership List

All business applicants must indicate to the designated agency(s) current officers and/or directors including persons having a direct or indirect financial interest in the business by attaching such list to the application form. Supplementary lists of additions and deletions must be filed quarterly with the designated agencies who will transmit a copy to the Clerk's Office. Such information shall be kept in confidentiality.

(e) Application Fees

Each application for an origin/renewal license shall be submitted to the Planning office and, shall bear the identification number and be accompanied by proof of a Twenty-Five Dollar (\$25.00) payment which shall constitute a non-refundable application fee, except where waived by Tribal Council or other Seneca Nation Law. The person authorized to accept such applications then issues a receipt for the application.

(f) Business Application Register: The Tribal Planning Office shall keep a register of all Business license applicants setting forth the business name and date of application.

2-112 Formal Discussion

(a) where any of the designated agencies has reason to believe that an applicant or existing business shall, if permitted to commence or continue to do business within the Nation, presents a danger to the political integrity, economic security, health, safety, welfare or morals of resident of the Nation, the Chair of the designated agency shall upon motion of the designated agency at a meeting of said agency within five (5) working days notify said entity first by telephone then by registered mail return receipt, in writing of the reason(s) it

Seneca Nation Business Code

believes the entity presents such a danger and giving a noticing date and place for a formal discussion on the matter to be held within five (5) working days after delivery of notice.

(b) Discussion B.O.P; Closed Discussion; Recommendation

- (1) Where the applicant is an existing business, a quorum of the Business Commission will conduct the discussion, and where the applicant is a new business, a quorum of the Planning-Commission will conduct the discussion. The Planning Office will send notice to the business/applicant telling when and where the meeting with the Commission will take place.
- (2) The Commission hearing the evidence shall then conduct a closed discussion of the merits of the application/ business which discussion shall remain confidential.
- (3) During the discussion the entity shall bear the burden of proof that its business activity does not present a danger to the political integrity, economic security, health, safety, welfare, or morals of the residents of the Reservation(s). In any discussion the entity shall be entitled to be represented by counsel, at their own expense, present testimony and evidence in support of their case and to cross-examine adverse witnesses.
- (4) If after discussion the Commission(s) find no danger exists they shall state their reasons in writing, and where applicable shall then so affix their statement with the words, "Approved" and the date of approval stamped on the front of the application. The approved application shall then be transmitted immediately to the Chairperson, who shall recommend licensure at the next session of Tribal Council.
- (5) If after discussion the Commission(s) finds by a preponderance of the evidence that a danger does exist, they shall within two (2) working days, notify said entity, first by telephone and then in writing by registered mail return receipt, stating the reasons for their finding, which shall then be affixed to the application with the words "Rejected" and the date of rejection stamped on the front of the application. A copy of which shall be filed with the Nation Clerk.
- (6) Any applicant or business entity may appeal a Commission(s) finding to the Tribal Court and shall be entitled to an expedited hearing on the matter.
- (7) Where the business is an existing business, a recommendation for suspension or revocation shall be transmitted to the Chairperson of the Business Commission who shall petition the Tribal Court on behalf of the Seneca Nation for an order to immediately enjoin the business from conducting further business, pursuant to Article 14 of the Peacemakers Court Rules.

(c) Failure to Appear

- (1) The consequences of applicant/business entity's failure to appear for discussion at the time stated in the notice to appear, shall be so stated in the notice of discussion and absent good cause to the contrary, shall imply that the applicant's/ entity's business does present a danger and consideration for a license will be denied with all preceding paperwork voided, and further legal proceedings may be initiated.
- (2) Applicant's/entity's failure to appear with good reason, as evidenced by a telephone call to the Planning Office upon receipt of notice will result in delay of consideration for licensure. A new appointment for discussion will be at the convenience of the Commission(s).

Seneca Nation Business Code

2-113 Reinstatement of License

When a license has been suspended, revoked or denied, and the suspension, revocation or denial is set aside and the license reinstated or granted, the original license shall not be reissued. A new application for licensure shall be required as provided in this Article.

2-114 Period of Determination Issuance

(a) The period in which the Commission(s) shall deliberate on a license application/renewal between the time of filing, and the findings shall not exceed one (1) month.

(b) Issuance by Clerk

A copy of the determination and recommendation of the Commission(s) shall be sent to the Clerk of the Nation who shall issue the license upon approval of Tribal Council.

2-115 License Form; Distribution of Copies; Fee

(a) The Nation Clerk shall issue a license upon authorization by Tribal Council.

(b) (1) The Clerk shall prepare the license in quadruplicate, issue the original to the licensee, retain a copy, forward a copy to Seneca Nation Law Enforcement and forward a copy to the Commission(s) at least five (5) days after Council authorization.

(2) No joint license for the purposes of doing business shall be issued.

(c) Fees- For each license or renewal granted by the Nation the license holder shall pay to the Nation the sum of Five Dollars (\$5.00) for each location at which it has been licensed to conduct business.

2-116 Posting

Every entity issued a business license shall post it in a conspicuous place at the business location listed on the license, or if it lists more than one location, it shall post a notice indicating the location at which the license is posted.

2-117 Duration

All licenses issued under this Code shall be valid and in effect for a maximum initial period of one year beginning January 1, and ending at Midnight on December 31, unless revoked as provided in this Code or under the provisions of any other Tribal Code.

(a) any license granted after January 1 of any given year shall be effective as though they had been issued on January 1 and shall expire at Midnight on December 31.

(b) terms for less than and longer than one year shall be at the discretion of the Business and Planning Commissions to recommend such terms to Council.

2-118 Terms and Conditions

(a) **Use-** Licenses or permits to do business authorize use for business purposes only and do not constitute recognition of ownership of the premises. Other use of the said property inconsistent with the peace and safety of other Nation residents shall be grounds for suspension, revocation of the license and/or eviction from the property involved.

(b) **Assignment-** Business licenses or permits to do business may not be assigned, transferred or otherwise disposed of without the prior written consent of the Nation. Licensees shall notify the designated agencies who shall/shall not recommend in writing

Seneca Nation Business Code

such assignment, transfer or disposal to Council setting forth their reasons for such recommendation or denial. Written consent to assign shall not be unreasonably withheld.

(c) Conservation- The license will comply with all applicable Seneca Nation Conservation and Environmental protection, health and safety laws now or hereafter adopted by the Council.

(d) Agency- Licenses to do business within the Nation do not create a Principal-Agent relationship whereby the Licensee acts on behalf of the Nation. Under no circumstances shall such authorization by license be interpreted to mean the licensee is a representative of the Nation.

2-119 General Record Keeping

(a) The Seneca Nation, through its designated agencies, shall require all persons doing business within the Nation to supply information concerning their business activities within the Nation.

(b) The Office of Fiscal Affairs (OFA) shall be authorized to inspect the books and records of any person or business entity located within the Nation. Upon notice to the entity such books and records shall be examined during regular business hours at the location where safe is kept. The purpose is to collect data relevant to the determination of matters such as taxability, control, relatedness to other persons, and accuracy of filed tax declaration.

(c) Financial and Statistical Information

The Business and Planning Commission(s) is authorized to request and obtain information from persons doing business within the Nation which directly pertains to ordinances establishing the Tax Code and those regulations being administered by the designated agencies.

2-120 Applications and Returns Confidential

(a) The applications and returns made to the designated agencies shall not be made public, nor shall they be subject to the inspection of any person except the President or members of the Tribal Council at Executive Session, and it shall be a violation of this code for recipients of such applications, or returns to make public or inform any other person as to the contents or information contained in or to permit inspection of any application or return except as authorized in this section.

(b) Confidentiality; Generally;

Information contained in any application submitted by or on behalf of any person to the designated agencies shall not be disclosed by the Commission(s) or any persons receiving or in possession of such information without the consent of the person, except that:

(1) Nothing in this exception shall prevent the disclosure of such information by the chairperson(s) of the designated agencies to an Executive Session of:

- (i) The Business Commission
- (ii) The Planning Commission
- (iii) The Tribal Council.

(2) Nothing in this section shall prevent the disclosure of such information by the designated agencies in judicial proceedings involving the person from whom such information was obtained.

(c) Statistical Summaries

Seneca Nation Business Code

Nothing in this section shall prevent the Business and/or Planning Commission(s) from publishing several statistical summaries, graphs, data analysis and other such information relating to the administration of programs of the Seneca Nation which is designed not to disclose information relating to a single person.

2-121 Indian Traders License

An Indian Traders License issued by the Bureau of Indian Affairs under 25 C.F.R. Sec. 140 is not deemed to be a Seneca Nation Business License. A Tribal Business License is required if a valid Indian Traders License has been issued by the Bureau of Indian Affairs. However, non-Indians possessing Indian Traders Licenses shall be held to provisions of 25 C.F.R. Sec 140 in addition to the laws of the Nation.

2-122 Consent to Jurisdiction

Acceptance of a Nation license to do business is consent to the jurisdiction of the Nation's courts to hear and determine any suit, claim, or other action arising out of or relating to the provisions of the license, access to or use of the property or activities of the licensee within the Nation, which involve the Nation or its members, officers, employees, agents, or representatives.

2-123 Indian Labor, Deviation, Denial

(a) Pursuant to Sec. 2-108(b) Business Licensing System where and whenever possible enrolled members shall have employment preference for business entities operating by license within the Nation

(b) A deviation from the Indian Labor require may be approved by submitting sufficient justification in writing to the designated agencies at the time of application for license, for their review.

(c) A denial of a license shall be in writing stating the reason(s) for such denial and any recommendations including an opportunity for informal discussion on the matter.

(1) Informal discussion shall provide the entity the opportunity to demonstrate that it cannot comply with the Indian Labor requirement.

(2) If the Chairpersons of the designated agencies finds by a preponderance of the evidence sufficient justification for non-compliance by the entity does not exist, they shall within five (5) working days to notify said entity by telephone then in writing by registered mail return receipt stating the reason for their finding.

(3) Said entity may appeal the Chairpersons' finding to the Tribal Court and shall be entitled to an expedited hearing on the matter.

(4) If the Chairpersons find sufficient justification for waiving the Indian Labor requirement, they shall recommend Licensure at the next session of Council, subject to Tribal Council approval

(d) Failure to Appear

An applicant's failure to appear for informal discussion absent good cause shall imply that the applicant cannot justify waiver of the Indian labor requirement. Failure to appear with good reason will result in delay of consideration for licensure, as a new appointment for discussion will be at the Chairpersons' convenience.

2-124 Remedies

Seneca Nation Business Code

(a) Order to Show Cause

If an entity doing business on the Reservation that has been directed by the Chairperson to cease business activity pursuant to the revocation of its license to do business within the Nation or under any other Tribal Code, fails to comply, the Chairperson shall within 24 hours petition the Court for a Show Cause Order as to why said business shall not be permanently restrained from doing business or excluded from the Nation.

(b) Physical Removal, Incapacitation, Exclusion

Where the petition by the Chairperson(s) allege that the business represents a danger to the political integrity, economic security, health, safety, welfare or morals of Nation residents, the Court shall hold an expedited hearing. If the entity fails to show good cause, the Court, may order the Seneca Nation Marshall and/or Chief Law Enforcement Officer to take appropriate action.

(1) Where the person(s) engaging in business are not members of the Nation, the Court may order the Nations Marshalls and/or Law Enforcement to physically remove where necessary all such persons from the property along with any personal property used in the conduct of said business that can be removed without causing permanent damage to it.

(2) For property which cannot be so removed, such as a building, the Court shall order the incapacitation of said property, and the Marshall and/or Law Enforcement shall use a padlock or other means so that it can no longer be used to carry out business.

(3) Where the person(s) doing business in violation of this Code are tribal members, they shall be prosecuted for criminal contempt of court, and all personal and real property used in the conduct of such business shall be impounded, padlocked, or otherwise incapacitated so that it cannot be used to carry out further business. A corporation, partnership, or other entity shall be considered a tribal 'member' for purposes of this section only if fifty-one percent (51%) or more of the entity is owned by tribal members.

2-125 Redemption

(a) An entity may recover all such property incapacitated or impounded under this section by paying to the Nation, the costs of carrying out the legal proceedings incurred by the Nation as well as a fine as defined by Seneca Law for each day that has passed since it was ordered by the Chairperson(s) to apply for the Nation business license.

(b) An entity excluded or incapacitated under this provision may be granted a new license to engage in business activity in the Nation only if:

(1) no less than six (6) months has passed since the date of the exclusion order, and all outstanding fees and fines are paid;

(2) the entity has paid all costs incurred by the Nation in carrying out the exclusion or incapacitation order and has paid such fine(s) as the Peacemakers Courts deems appropriate and/or as defined by Seneca Law;

(3) Notwithstanding the provisions of the subsections above, the Peacemakers Court may, for good cause, deny such an entity a new license, or may attach such conditions as are appropriate upon the granting of a license, or may waive or mitigate the provisions of the preceding subsections. The determination of the Court shall be a final judgement.

Seneca Nation Business Code

(4) any entity may appeal the Court determination to the Tribal Appellate Court.

2-126 Severability

If any provision of this chapter or application to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of this chapter which can be given effect without the invalid provision or application, and to this end the provisions of this Business Code are declared severable

**SENECA NATION APPLICATION FOR LICENSE TO DO BUSINESS
APPLICATION CHECK LIST:**

BUSINESS CODE OF 1988

_____ **1. Completed Application - ALL businesses within the territories.**

_____ **2. Proof of Fee(s):**

A) Enrolled Member - _____ \$25.00 Application Fee
(Forward copy of Nation ID with Application)

B) Non-Enrolled - _____ \$150.00 Application Fee

_____ **3. Proof of Insurance identification(s) (Commercial)**

_____ **4. Authorization to Release Information**

**SENECA NATION OF INDIANS
APPLICATION FOR LICENSE TO DO BUSINESS
BUSINESS CODE of 1988
WITHIN THE SENECA NATION TERRITORY**

Please submit this form to: Clerk, Seneca Nation of Indians

Application To Do Business As: _____

Date of Application: _____ Identification No.: _____

1. Name, Address & Telephone of Applicant:

2. Business Name, Address & Telephone:

3. Nation Member: Yes: _____ No: _____

4. Enrollment number of Individual listed in Line 1:

5. Date business began or will begin operating on Seneca Territory: _____

6. Address where books and records are kept:

7. Location(s) of Business:

8. Description of business, if not exclusively cigarette or automotive fuel sale business, please specify:

9. Title of Organization:

- Husband/Wife Co-Ownership
- Sole Proprietorship
- Partnership
- Corporation
- Joint Venture
- Other _____

10. If a corporation, list tribe or state of incorporation: _____

11. Certification No: _____

12. If a corporation or partnership, list names and addresses of all corporate officers or partners:

	Name	Address	Title	Percent Ownership
1.	_____			

2. _____
3. _____
4. _____
5. _____
6. _____

(Attach additional sheets if necessary)

13. Type of corporation: _____
 (If foreign corporation, name, and address of statutory agent who shall be Reservation resident)

14. Corporation Charter (Attached) Yes _____ No _____

15. Corporation By-Laws (Attached) Yes _____ No _____

16. Board membership List (Attached) Yes _____ No _____

17. Previous Application _____ Previous License _____ Date: _____

18. Dates of Previous Licensed Periods: _____

19. Number of Employees: Indian _____ Non-Indian _____ Year: _____

20. Has applicant submitted proof of indemnification for personal injury or property damage through business operation? _____

21. Is applicant a participant in Flood Insurance Program? _____

22. Has applicant been convicted of a felony in any court in the U.S. or any state or territory? _____

If yes explain: _____

NOTICE: LEGAL SIGNATURE REQUIRED

Sole Proprietorship – owner must sign

Husband and Wife Co-ownership – both husband and wife must sign

Partnership – All partners must sign

Authorization to Release Information

I/we have applied for a business license from the Seneca Nation Business Permits Office. As part of the application process The Seneca Nation Business Permits Office may verify information contained in my/our application and in other documents required in connection with the application.

I/we authorize you to provide Seneca Nation Business Permits Office all information and documentation that they request. Such information includes, but not limited to compliance with our department rules and regulations and/or Seneca Nation rules, regulations and ordinances.

A copy of this authorization may be accepted as an original.

Your prompt reply to Seneca Nation Business Permits Office is appreciated.

This release of information is good for one year from the date signed.

Applicant's Signature: _____

Date: _____

Print Name: _____

Applicant's Signature: _____

Date: _____

Print Name: _____

Applicant's Signature: _____

Date: _____

Print Name: _____

Applicant's Signature: _____

Date: _____

Print Name: _____

Seneca Nation of Indians BUSINESS CODE



Statement of Information

The name of the company is: _____

Business Physical Address: _____
Complete Street Address *City* *State* *Zip*

Business Mailing Address: _____
Address *City* *State* *Zip*

Phone Number and Email: _____
Phone *Email*

I (we) declare that the information contained on this form and any attachments is true and correct to the best of my (our) knowledge and belief. I (we) understand that any material misrepresentation will result in the denial or subsequent revocation of any business license. I (we) agree, based on the consensual and contractual relationship with the Seneca Nation, to abide by all applicable laws, regulations, and rules of the Seneca Nation of Indians. I (we) also consent to the jurisdiction of the Courts of the Seneca Nation of Indians for the purpose of enforcing any laws, regulations, or rules governing this business license or the conduct of any business within the Seneca Nation of Indians' territories, and under penalty of perjury, my (our) signature(s) evidence(s) my (our) sworn promise, as required under the Business Code § 2-118 (C), that I (we) "will comply with all applicable Seneca Nation conservation and environmental protection, health and safety laws now or hereafter adopted by the Council"

- | | | | |
|----|--------------|-----------|-------|
| 1. | Printed Name | Signature | Title |
| 2. | Printed Name | Signature | Title |

FOR OFFICE USE ONLY

Submit to BOTH the President's Office and the Treasurer's Office for signatures once all other signatures have been obtained.

President or Chief of Staff Signature	Date
Treasurer or Deputy Chief of Staff Signature	Date
Clerk Signature	Date

***Please return this application to BPO once signatures above have been obtained**

