

CAYUGA NATION

AMENDED AND RESTATED

BUSINESS LICENSE AND REGULATION ORDINANCE

Pursuant to the authority vested in the Cayuga Nation (hereinafter referred to as the “Nation”) by virtue of its sovereignty and sovereign powers of self-government, the Nation hereby establishes the office of Director of Commerce (hereinafter sometimes referred to as the “Director”) and adopts this Amended and Restated Business License and Regulation Ordinance (this “Ordinance”) setting forth rules and procedures by which the Director shall issue licenses to persons who seek to engage in business on Nation land, and governing the manner in which businesses may be operated on Nation land.

Article I - Definitions

1. “business” means any trade, professional or commercial activity of any sort.
2. “Nation land” means any real property that is located within the boundaries of Nation’s federally-recognized reservation.
3. “person” means (except as otherwise provided herein) any member of the Cayuga Nation that is a human being or group of human beings or any entity recognized as a person under the law of any jurisdiction, including, but not limited to, sole proprietorships, partnerships, associations, joint ventures and corporations claiming to operate as a sovereign business enterprise; provided that “person” shall not include the Cayuga Nation, its affiliates, enterprises or authorized agents.
4. “principal” means any person with ownership or management responsibility for a business.
5. “applicant” means any person acting on his own behalf, or authorized to act on behalf of any other person, for the purpose of securing a license pursuant to this Ordinance.
6. “licensee” means the person to or for whom a license is issued pursuant to this Ordinance.

Article II - License Requirement

No person shall engage in any type of business on Nation land without a business license issued by the Nation pursuant to this Ordinance. A valid license shall entitle the licensee to engage in those business activities for which the Nation issued the license. Each place of business on Nation land requires a separate license, provided, however, those businesses without a fixed place of business may have only one license.

Article III – License Standard

No license shall issue to, or be held by, any person who the Director determines: (i) is engaging, or seeks to engage, in any business that, directly or indirectly, competes in whole or in part with any business conducted by the Nation or an entity or enterprise owned or controlled by the Nation, (ii) is occupying or using, or proposes to occupy or use, Nation land without having first received the express written approval of the Nation Council to do so, (iii) is engaging, or proposes to engage, in any business the operation of which would be contrary to the best interests of Nation, or (iv) who constitutes a threat to the effective regulation of commerce on Nation land or to the health, safety, welfare, morals, or well-being of the Nation, its members, residents, or neighbors. Any misrepresentation in an application for a license shall result in the denial of a license, and any person who engages in any business on Nation land without a license shall be subject to the fines, penalties and other enforcement actions set forth in Article X of this Ordinance.

Article IV - License Text

Each license issued by the Nation shall provide the full name of the licensee, the business for which the license is granted, the location at which such business is permitted to operate, the date upon which the license is issued and the date of its expiration.

Article V - License Posting and Duration

1. Posting – The holder of a valid business license from the Nation shall post the license in a conspicuous place at the business location listed on the license. The holder shall display a copy of that license on the windshield or dashboard of each vehicle used by the licensee for business on Nation lands. Any licensee without a place of business shall carry his license with him. The license and all copies thereof shall be accessible at all times for inspection by the Director of Commerce, his agents, and other agents of the Nation.

2. Duration – Each license issued pursuant to this Ordinance shall remain in effect for one (1) year from the date of issuance unless revoked by the Director of Commerce.

Article VI - Establishment of Director of Commerce

1. The Nation establishes the Office of the Director of Commerce of the Cayuga Nation to administer this Ordinance.

2. The Director shall be appointed by the Nation Council. Only Cayuga citizens are eligible to serve as Director. Further, the Nation Council may remove a sitting Director at any time and for any reason. If the Director is a member of the Nation Council, then the Director shall be required to recuse himself from any removal action initiated by the Nation Council.

3. The Director shall have those powers and duties common to offices of its kind. The Director may in his discretion promulgate regulations to implement this Ordinance, provided they are consistent with its terms.

4. In the event the Director is unable temporarily to serve, the Nation Council shall appoint a replacement for the Director to serve in his stead during that time.

5. The Director shall be assisted by such staff, other public bodies or offices of the Nation, and legal counsel from time to time as deemed necessary by the Nation Council to fulfill the purposes of the Ordinance.

Article VII - Licensing Procedures

1. Any person may apply for a business license from the Nation.

2. The application shall be accompanied by a ONE THOUSAND DOLLAR (\$1,000.00) non-refundable fee and shall include the following information:

- a. Name of the applicant;
- b. Form of the applicant's business (*e.g.*, a sole proprietorship, association, corporation, etc.) and, if a corporation, the name of the jurisdiction in which the corporation is registered;
- c. The business address and telephone number to which the license would apply;
- d. Nature of the applicant's business;
- e. Full name, birthdate, place of birth, citizenship, gender, driver's license number, address, and telephone number of the applicant, each owner, and each principal of the business;
- f. Number of employees during prior calendar year and the number anticipated for current calendar year (include identification of the actual and anticipated number of native employees);
- g. Name, address, and telephone number of an agent for the applicant who resides on Nation land and who is designated to accept service of process on behalf of the applicant;
- h. The name and address of any licensing body or regulatory agency, other than the Nation, with which the person has filed an application for a business or occupational license or permit, whether or not such license or permit was granted;
- i. Proof that the Nation Council has given written authorization to the applicant to occupy Nation land for the purpose of conducting the business activity that is the subject of the license application;

j. Such other information as may be necessary to properly evaluate the applicant; and

k. Statement by the applicant that: (i) the information provided in the application is true and complete, that the applicant will cooperate with the Nation and any of its agencies or representatives in any investigation deemed necessary regarding the fitness of the applicant to be licensed, and (ii) the applicant will abide by the laws and requirements, and submit to the jurisdiction, of the Cayuga Nation.

3. The Director shall not issue a license to any applicant who does not meet the requirements of Article III, above, and all other prerequisites of this Ordinance.

4. The Director shall issue or deny the license within ten (10) business days of receipt of the application, unless exceptional circumstances exist, in which case the

Director shall notify the applicant within ten (10) business days of receipt of the application of the reason for the delay, along with an estimate of the approximate amount of additional time needed to process the application.

Article VIII - Renewal and Transfer

1. Renewal – A person may renew a license by applying for a renewal at least thirty (30) days prior to the expiration of the license to be renewed. The renewal application shall be accompanied by a ONE THOUSAND DOLLAR (\$1,000.00) non-refundable fee. The Director of Commerce shall review a renewal application pursuant to the standards and procedures set forth in this Ordinance.

2. Assignment or Transfer – Although the business authorized by a license issued under this Ordinance may only be conducted and operated by the named licensee, such license may be assigned or transferred on application to the Director and upon: (i) satisfaction by the transferee of the standards and requirements applicable to the original license, (ii) approval by the Director of an application for assignment or transfer, (iii) payment of a ONE THOUSAND DOLLAR (\$1,000.00) non-refundable fee. The Director of Commerce shall sign each certification of assignment or transfer. The certification shall be displayed with the license at all times. Assignment or transfer shall not alter the expiration date set forth on the license.

3. Operation Under License by Others Prohibited – No person holding a valid license may allow any other person chargeable with a separate license to operate under his license.

Article IX - Appeal Procedure

If the Director denies or revokes a license, its renewal or its assignment or transfer, then the Director shall provide the applicant or licensee with written notice setting forth the reason(s) for the denial or revocation and allow the applicant or licensee to appeal the denial or revocation within ten (10) days of receipt of such notice. All appeals shall be

addressed to and heard by the Nation Council and its decision on appeal shall be final. Notwithstanding the foregoing appeal rights, if the Director denies or revokes a license or its renewal or its assignment or transfer, the applicant, licensee or proposed assignee may not conduct any unlicensed business or other commercial activity on Nation land unless and until the appeal is resolved in his favor or unless the Nation Council decides, as an interim measure, to stay the Director's decision to revoke a license or deny a license application or the assignment of an existing license.

Article X – Penalties and Enforcement

Any person who engages in or operates a business on Nation land without a business license issued pursuant to this Ordinance or otherwise violates any provision of this Ordinance shall be subject to the following fines, penalties and enforcement actions.

1. Revocation and Fines –

a. The Director may revoke the license of any licensee who breaches the license standard set forth in Article III, above, or any other provision of this Ordinance.

b. The Director may levy and collect appropriate civil fines, not to exceed \$1,000 a day, plus interest, against any person for any violation of any provision of this Ordinance, following notice to that person of the relevant violation(s). Each day that a violation continues shall constitute a separate violation for purposes of calculating fines.

c. Property of the person fined that is located on Nation land may be seized and used to satisfy the payment of such fine(s), and the Nation may also use any other means available to it under law to collect such fines.

d. The Director shall provide an opportunity for an appeal by the person against whom a fine is levied. An appeal, if made, shall be submitted to the Director within thirty (30) days of the imposition of the fine; however, such appeal shall not stay the Director from collecting the fine.

2. Closure – The Director may order the temporary closure of a business for violation of this Ordinance. Such order shall take effect upon issuance. The temporary closure order shall be made permanent within ten (10) days unless the owner or operator of the business requests a hearing before the Director during that time. A hearing, if requested, must occur within thirty (30) days after the date of the request, but the temporary closure order shall remain in effect until the hearing is held and the Director either resolves the matter in the appellant's or favor or rules against the appellant in which event the temporary closure order shall be made permanent.

3. Eviction and Seizure. The Director may evict and remove any person from Nation land who is operating a business or engaging in any activity in violation of this Ordinance. In addition, the Director of Commerce may seize any property on Nation land that is being used, directly or indirectly, to operate a business or engage in any activity in violation of this Ordinance. Before initiating any eviction or seizure action, the Director shall

notify the putative owner or operator of the business of the contemplated enforcement action who shall then have ten (10) calendar days to correct the violation(s) and present evidence to the Director that such violation(s) have been corrected. If the Director determines that the proffered evidence is insufficient and that such violations have not been corrected, he shall so notify the putative owner or operator of the business and shall thereafter be authorized to proceed immediately with the seizure and eviction.

4. Final Review – A person penalized or subjected to an enforcement action for violating this Ordinance may challenge such action by filing an appeal to the Nation Council within ten (10) days following the exhaustion of administrative remedies within the jurisdiction of the Director of Commerce. The Nation Council shall have full discretion to stay or permit the imposition of the penalty or enforcement action in question during the pendency of the appeal. The decision of the Nation Council on appeal shall be final.

Article XI - Interpretation

1. Sovereign Immunity – The Nation does not by enacting this Ordinance waive in any respect its sovereign immunity, or that of its enterprises, affiliates or agents, under either state or federal law or arising from native existence.

2. No Right of Action – This Ordinance does not create any right, cause of action or benefit enforceable at law or in equity by any person against the Nation, its enterprises, affiliates, agents, officers or employees, or any other person.

3. No Right of Use or Occupancy – This Ordinance does not create any right on the part of any Nation citizen or other person to use or occupy Nation land to conduct any business or for any other purpose, except as expressly provided herein.

4. Sole Procedure – This Ordinance establishes the sole procedure for a person to obtain a license and engage in business on Nation land. This Ordinance is not subject to review, enforcement, or modification in any state or federal court or by any authority outside the Nation.

5. Outstanding Fees or Penalties – No license shall be issued, renewed, or transferred if the person seeking the license has failed or refused to pay any fee or penalty imposed by this Ordinance. Provided, however, that, the Director in his discretion may, for cause shown and on such terms or conditions as he shall prescribe, waive the restriction of the previous sentence.

Article XII – Licensing of Nation-owned Businesses

Consistent with Article I, Section 3 of this Ordinance, any Nation-owned or operated business, enterprise, or entity may engage in commercial or other activities without first obtaining a license issued by the Nation pursuant to this Ordinance. The foregoing notwithstanding, either the Nation Representative or the Director of Commerce, may, in his discretion, issue a license to one or more such businesses, enterprises or entities on such terms and conditions as he deems appropriate, including, but not limited to, excusing the

Nation-owned or operated business, enterprise or entity from completing and submitting a license application or paying any fees.

Article XIII - Effective Date

This Ordinance is effective upon enactment. Enacted as of the 6th day of June, 2017. Amended and restated on the 18th day of July, 2017, Amended by a First Amendment effective as of the 1st day of August, 2019, and Amended by a Second Amendment as of the 12th day of October, 2021.