

(4) No more than \$5,000 and no less than \$0 for a Section 7 violation, plus court costs.

In addition to the penalty described for such a violation, all intoxicating beverages confiscated from any person found to have violated this Ordinance shall be destroyed.

(c) In lieu of imposing a fine pursuant to subsection (b) above, the Peacemakers Court may employ the procedure provided in section 4-102(a), (b) of the Seneca Nation of Indians Civil Procedure Code.

(d) Any person found to have violated this Ordinance who is charged with a second subsequent violation may be referred to any other jurisdiction which the Peacemakers Court determines has concurrent jurisdiction over the charge.

(e) In addition to other remedies, the Peacemakers Court may enjoin any person in violation of this Ordinance.

Section 10.—Enforcement Within Seneca Nation Territory

The Marshals, the Seneca Nation Conservation Officers, and officers of the Seneca Nation Law Enforcement Department are authorized to enforce this Ordinance within the Seneca Nation Territory.

Section 11.—Unlawful Intoxicating Beverages Within Seneca Nation Territory to be Confiscated

The Marshals, the Seneca Nation Conservation Officers, and law enforcement officers shall confiscate and preserve as evidence all intoxicating beverages sold, introduced for purposes of sale, or possessed in violation of this Ordinance within the Seneca Nation Territory.

Section 12.—Lawful Purchase, Introduction, Sale, Possession and Consumption of Liquor on Lands Placed in Restricted Fee Status Pursuant to the Seneca Nation Land Claims Settlement Act of 1990

Pursuant to the inherent sovereignty of the Nation and in the exercise of the Nation powers for the purpose of protecting the welfare, health, peace, morals and safety of Nation members, the Nation adopts the following Seneca Nation Alcoholic Beverages Control Act for the purpose of regulating the purchase, introduction, sale, possession and consumption of liquor on lands placed in restricted fee status pursuant to the Seneca Nation Land Claims Settlement Act of 1990, 25 U.S.C. 1774f(c).

(1) *Title and Purpose.* This Seneca Nation Alcoholic Beverages Control Act is enacted for the purpose of regulating the purchase, introduction, sale,

possession, and consumption of liquor on lands placed in restricted fee status pursuant to the Seneca Nation Land Claims Settlement Act of 1990, 25 U.S.C. 1774f(c).

(2) *Definitions.* To the extent that definitions are consistent with Nation and federal law, terms used herein shall have the same meaning as defined in New York Consolidated Laws, Chapter 3-B (Alcoholic Beverage Control Law) and in Title 9, Subtitle B, Chapter I of the New York Regulations (Rules of the New York State Liquor Authority).

(a) *Alcohol.* Ethyl alcohol, hydrated oxide of ethyl or spirit of wine from whatever source or by whatever process produced.

(b) *Alcoholic Beverage.* Any liquid suitable for human consumption, which contains one-half of 1 percent or more of alcohol by volume.

(c) *Barter or Bartering.* The trading for any commodity, act or consideration whether or not there is intrinsic value in the item traded.

(d) *Beer.* Includes any fermented beverages of any name or description, manufactured from malt, wholly or in part, or from any substitute therefor.

(e) *Distilled Spirits.* Any alcoholic beverage that is not beer, wine, sparkling wine or alcohol.

(f) *Liquor.* Includes any and all distilled or rectified spirits, brandy, whiskey, rum, gin, cordials or similar distilled alcoholic beverages, including all dilutions and mixtures of one or more of the foregoing.

(g) *Minor.* Any person under 21 years of age.

(h) *Nation Council.* The duly elected governing body of the Seneca Nation of Indians, a federally recognized tribe.

(i) *Nation Enterprise.* For purposes of this Act only, this term shall mean those corporations chartered by the Nation and authorized to conduct Class III gaming and related commercial activities pursuant to the Seneca Nation Land Claims Settlement Act of 1990 and that is licensed by the Nation Council after paying the appropriate fee set forth by the Nation Council by Resolution at not less than two hundred (\$200) dollars and not more than five thousand (\$5,000) dollars annually.

(j) *Possession or Possessing.* The exercise of proprietorship or control over a thing or over property and includes constructive possession through control without regard to ownership.

(k) *Purchase.* The exchange, barter, traffic, receipt, with or without consideration, in any form.

(l) *Sale.* The exchange, barter, traffic, donation, with or without consideration, in addition to the selling,

supplying or distribution by any means, by any person to any person.

(m) *Transport.* The introduction of alcoholic beverage onto the Seneca Nation Territory by any means of conveyance for the purpose of sale, or distribution, to any licensed dealer.

(3) *Scope of Permissible Activity.* It shall be lawful for any Nation Enterprise, as defined by this Act, operating on lands placed in restricted fee status pursuant to the Seneca Nation Land Claims Settlement Act of 1990, 25 U.S.C. 1774f(c), to purchase liquor from duly licensed New York State wholesalers, to introduce and possess such liquor, and to sell such liquor on premises to persons over the age of 21. It shall also be lawful for persons over the age of 21 to possess and consume such liquor at any Nation Enterprise facility located on lands placed in restricted fee status pursuant to the Seneca Nation Land Claims Settlement Act of 1990, as set forth in this Act.

(4) *Prohibition.* The purchase, introduction, sale, possession and consumption of liquor on lands placed in restricted fee status pursuant to the Seneca Nation Land Claims Settlement Act of 1990, 25 U.S.C. 1774f(c), other than by a Nation Enterprise or person authorized pursuant to this Act is prohibited.

(5) *Penalties.* Any person or entity purchasing, introducing, possessing, selling, bartering, or otherwise trafficking in liquor in violation of this Act or any rule or regulation adopted pursuant to this ordinance shall be subject to a fine or forfeiture, as applicable, of not more than five thousand dollars (\$5,000) and may be barred from admission to a licensed Nation Enterprise facility or to Nation Territory or restricted fee lands through due process of law. In addition, persons or entities subject to the full jurisdiction of the Nation may be subject to such other appropriate actions as the Nation Council may determine. All contraband merchandise shall be confiscated by the Nation and disposed of as directed by the Nation Council.

(6) *Conformity With State Law.* Nation standards for the purchase, introduction, possession, sale and consumption of liquor on Seneca Nation Territory land pursuant to this Section 12 shall meet or exceed those required by the State of New York, pursuant to 18 U.S.C. 1161, including but not limited to:

(a) *Hours of Sale, Wine, Beer and Mixed Beverages.* A Nation Enterprise may sell or offer for sale wine, beer and mixed beverages at all times authorized.