

Oneida Tribe of Indians of Wisconsin

Legislative Reference Office

P.O. Box 365
Oneida, WI 54155
(920) 869-4376
(800) 236-2214
<http://oneida-nsn.gov/LOC>



Committee Members

Brandon Stevens, Chairperson
Tehassi Hill, Vice Chairperson
Fawn Billie, Councilmember
Jennifer Webster, Councilmember

LEGISLATIVE OPERATING COMMITTEE MEETING AGENDA

Business Committee Conference Room-2nd Floor Norbert Hill Center

April 15, 2015 9:00 a.m.

- I. Call To Order and Approval of the Agenda**
- II. Minutes to be approved**
 - 1. April 3, 2015 LOC Meeting Minutes
- III. Current Business**
 - 1. Children's Code
 - 2. Furlough Policy
 - 3. ONGO Emergency Amendments
- IV. New Submissions**
- V. Additions**
- VI. Administrative Updates**
- VII. Executive Session**
- VIII. Recess/Adjourn**

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LEGISLATIVE OPERATING COMMITTEE MEETING MINUTES

Business Committee Conference Room-2nd Floor Norbert Hill Center

April 3, 2015 9:00 a.m.

PRESENT: Brandon Stevens, Tehassi Hill, Jennifer Webster

OTHERS PRESENT: Candice Skenandore, Taniquelle Thurner, Danelle Wilson, Jo Anne House, Michelle Mays, Jacob Metoxen, Mike Debraska (via SEOTS)

I. Call To Order and Approval of the Agenda

Brandon Stevens called the April 3, 2015 Legislative Operating Committee meeting to order at 9:09 a.m.

Motion by Tehassi Hill to approve the agenda; seconded by Jennifer Webster. Motion carried unanimously.

II. Minutes to be approved

1. March 18, 2015 LOC Meeting Minutes

Motion by Tehassi Hill to approve the March 18, 2015 LOC Meeting minutes; seconded by Jennifer Webster. Motion carried unanimously.

III. Current Business

1. GTC Meetings Law (01:50-03:27)

Motion by Jennifer Webster to forward the GTC Meetings Law to the Oneida Business Committee to put on the next GTC agenda; seconded by Tehassi Hill. Motion carried unanimously.

2. Motor Vehicle Law Amendments (03:28-04:27)

Motion by Tehassi Hill to forward the Motor Vehicle Law Amendments to the Oneida Business Committee for consideration; seconded by Jennifer Webster. Motion carried unanimously.

3. Investigative Leave Policy Amendments (04:29-21:20)

Motion by Jennifer Webster to make the changes as discussed and forward to an April 30th, 2015 Public Meeting; seconded by Tehassi Hill. Motion carried unanimously.

4. Removal Law Amendments (21:21-26:53)

Motion by Jennifer Webster to forward the Removal Law Amendments to an April 30th, 2015 Public Meeting; seconded by Tehassi Hill. Motion carried unanimously.

5. Pow-wow Committee Bylaws (26:54-27:45)

Motion by Jennifer Webster to approve the Pow-wow Committee Bylaws and forward to the Oneida Business Committee for consideration; seconded by Tehassi Hill. Motion carried unanimously.

IV. New Submissions

1. Petition: Genskow-Request Special GTC Meeting to Address 6 Resolutions (27:52-30:08)

Motion by Jennifer Webster to add the Petition: Genskow-Request Special GTC Meeting to Address 6 Resolutions to the active files list; seconded by Tehassi Hill. Motion carried unanimously.

Note: Jennifer Webster will be the sponsor.

Motion by Tehassi Hill to forward the Statements of Effect to the Oneida Business Committee for consideration; seconded by Jennifer Webster. Motion carried unanimously.

V. Additions

VI. Administrative Updates

1. LOC Sponsor List (30:12-30:55)

Motion by Jennifer Webster to accept the LOC Sponsor List as FYI; seconded by Tehassi Hill. Motion carried unanimously.

VII. Executive Session

VIII. Recess/Adjourn

Motion by Tehassi Hill to adjourn the April 3, 2015 Legislative Operating Committee Meeting at 9:40 a.m.; seconded by Jennifer Webster. Motion carried unanimously.



Legislative Operating Committee

April 15, 2015

Children's Code

Submission Date: September 17, 2014

Public Meeting:
 Emergency Enacted:

LOC Sponsor: Fawn Billie

Summary: *This item was carried over into the current term by the LOC. The proposal seeks to develop a Children's Code which would enable the Tribe to take jurisdiction of child welfare matters involving Tribal children. The proposal seeks establishment of a Child Welfare Office and the Oneida Child Protective Board, and would address child welfare proceedings including CHIPS; termination of parental rights; adoption; and foster home licensing.*

09/17/14 LOC: Motion by Fawn Billie to add the Children's Code to the Active Files List; seconded by Jennifer Webster. Motion carried unanimously.

Note: Fawn Billie will be the sponsor.

12/17/14 LOC: Motion by Jennifer Webster to move forward with requesting a fiscal analysis; seconded by Tehassi Hill.

Seconder withdraws the second, Motioner withdraws the motion; motion withdrawn.

Motion by Tehassi Hill to direct the Legislative Operating Committee Chair to work with the appropriate staff to develop a memorandum directing the Governmental Services Division Director to fulfill the Finance Department's request for information regarding the Children's Code in order to prepare the fiscal analysis; seconded by Fawn Billie. Motion carried unanimously.

1/28/15 OBC: Motion by Lisa Summers to direct the Law Office to create a policy statement and to request the Legislative Operating Committee consider the Children's Code a priority, seconded by Tehassi Hill. Motion carried unanimously.

2/18/15: Work meeting held with Social Services. Attendees include: Brandon Stevens, Fawn Billie, Tehassi Hill, Jessica Wallenfang, Fawn Cottrell, Taniquelle Thurner, Danelle Wilson, Michelle Mays, Rae Skenandore, Kathleen Laplant, Jennifer Kruse, Roxann Pazdera, Candice Skenandore, Lynn Franzmeier

Next Steps:

- Review the proposed Children's Code and direct that a legislative and fiscal analysis be prepared and brought back when ready.

Chapter 70 ONEIDA CHILDREN’S CODE

70.1	Purpose and Policy	70.6	Child in Need of Protection & Services (CHIPS).
70.2.1	Definitions	70.7	Termination of Parental Rights.
70.3	Jurisdiction	70.8	Petition.
70.4	Indian Child Welfare Act Policy	70.9	Application for License.
70.5	Establishment.	70.10	Records

SUB-CHAPTER I - GENERAL PROVISIONS

70.1 Purpose and Policy

70.1-1. *Purpose.* It is the purpose of this Law to:

- a) To preserve and protect the Tribe’s most precious resources—it’s Children.
- b) To provide for the welfare, care, and protection for children, preserving the unity of the family wherever possible.
- c) To divert children from the state court system whenever possible so as to handle matters regarding tribal children in the tribal court system.
- d) To preserve unity of the family, preferably by separating the child from his or her parents only when necessary.
- e) To take such actions as may be necessary and feasible to prevent the abuse, neglect, or abandonment of children.
- f) To respond to the needs of tribal children for care and treatment through reservation-derived programs and to keep children within a tribal context whenever possible.
- g) To the extent possible, to provide children in need of care with stable homes, with attention to special needs, and services to facilitate reunification of families.

70.1-2. *Policy.* It is the policy of the Tribe that this Code shall be liberally construed to the end that each tribal child shall receive such care, guidance and control, preferably in the child’s own home, as will be conducive to the child’s welfare and the best interest of the tribe and the tribal community. The Tribe commits to ensure that funding is always available to carry out the objectives of this Code.

70.2.1 Definitions

70.2-1. This section shall govern the definitions of words and phrases used within this law. All words not defined herein shall be used in their ordinary and everyday sense.

- (a) “Abuse” shall have the same definition as defined by Wisconsin Statutes section 48.02(1).
- (b) “Child” shall mean any unmarried person who is less than eighteen (18) years of age. The singular shall stand for the plural when more than one child is involved.
- (c) “Child Custody Proceeding” shall mean a proceeding for the determination of custody of a tribal child brought by a party other than the tribe’s Child Welfare Office pursuant to Chapter 79 of the Oneida Code of Laws.
- (d) “Child Welfare Proceeding” shall mean a proceeding brought by the tribe’s Child Welfare Office pursuant to Subchapter III herein.
- (e) “CHIPS” shall mean a child in need of protection and services.
- (f) “Court” shall mean the Oneida Tribal Judiciary, or any judicial system lawfully created by the Oneida Tribe.
- (g) “Day” shall mean business day.

- 40 (h) “Guardian” shall mean the person or agency named by the Court as having the duty and
41 authority of guardianship
- 42 (i) “Guardian ad Litem” shall mean a person who is appointed by the Court to advocate for
43 the best interests of the child in a Child Welfare proceeding.
- 44 (j) “Guardianship” shall mean a person lawfully appointed by a court of competent
45 jurisdiction charged with the duty to care for the person and property of a minor.
- 46 (k) “Indian Child Welfare Act” or “ICWA” shall mean codified at 25 USC 1901.
- 47 (l) “Interested Party” shall mean with respect to a child in need of protection or services, is
48 the child’s parent whose rights have not been terminated, a guardian, a legal custodian, a
49 physical custodian, the nearest relative of a deceased or absent parent whose rights have
50 not been terminated, and any person who is an Indian custodian as defined in the Indian
51 Child Welfare Act. Interested party shall also include the child who is the subject of
52 proceedings if such child is fourteen (14) years of age.
- 53 (m) “Legal Custody” shall mean legal status created by the order of a court which confers
54 the right and duty to protect, train and discipline the child, and to provide food, shelter, legal
55 services, education and ordinary medical and dental care, subject to the rights, duties and
56 responsibilities of the guardian of the child and subject to any existing parental rights and
57 responsibilities and the provisions of any court order. When used without qualification,
58 “custody” means legal custody.
- 59 (n) “Oneida Child Protective Board” shall mean the body created by the BC Resolution #
60 BC-9-25-1981 entitled Oneida Child Protective Board Ordinance and referenced in Section
61 70.5-8 of this Law.
- 62 (o) “Qualified Expert Witness” shall mean an enrolled Oneida tribal member who is
63 knowledgeable in the child rearing practices and customs of the Tribe.
- 64 (p) “Reservation” shall mean all the land and water within the exterior boundaries of the
65 Oneida Tribe of Wisconsin Indian Reservation as determined by the Treaty of 1838.
- 66 (q) “Tribe” shall mean the Oneida Tribe of Indians of Wisconsin.
- 67 (r) “Tribal Child” shall mean a child who is either;
- 68 (1) an enrolled member of the tribe; or
69 (2) eligible for enrollment in the tribe; or
70 (3) the biological child of an enrolled member of the tribe who is eligible
71 for membership in the tribe.
- 72 (s) “WICWA” shall mean the Wisconsin Indian Child Welfare Act at _____

74 **70.3 Jurisdiction**

75 *70.3-1. General Jurisdiction.*

- 76 (a) Jurisdiction is hereby vested in the Court over all matters pertaining to this
77 Code and all proceedings instituted hereunder.
- 78 (b) The Court may exercise jurisdiction over a Tribal Child, other Native
79 American child or a child of enrolled members of another Federally recognized
80 Indian Tribe.

81 *70.3-2. Concurrent Jurisdiction.* The Court shall have concurrent jurisdiction of a Tribal Child
82 who is in need of protection and services and who are subject to the jurisdiction of foreign courts.
83 In addition, Indian Child Welfare Act cases within foreign court systems may be transferred to the
84 Court, if the foreign court consents and upon acceptance of transfer by the Court.

85 *70.3-3. Jurisdiction Over Adults.*

- 86 (a) In any case in which a child has come within the jurisdiction of the Court, the
87 Court shall have authority to exercise jurisdiction over adults to the extent

88 necessary to make a proper disposition of the case, including authority to punish for
89 contempt either in or out of the Court’s presence.

90 (b) Any adult living off of the Tribe’s Reservation who obtains custody of a
91 child, however, designated, from the Court either personally or as a result of
92 association with an agency or institution to which custody has been awarded, shall
93 be deemed to have consented to the jurisdiction of the Court for all purposes or
94 action in any way related to custody of the child.

95 70.3-4. *Termination of Continuing Jurisdiction.* Jurisdiction obtained by the Court of a child
96 under this Law shall continue until the child becomes eighteen (18) years of age, the case is
97 dismissed, or the underlying order expires; at which time the continuing jurisdiction of the Court
98 shall terminate.

99

100 **70.4 Indian Child Welfare Act Policy**

101 70.4-1. The following shall constitute the policy of the Tribe with regard to the Indian Child
102 Welfare Act (ICWA) and the Wisconsin Indian Child Welfare Act (WICWA):

103 (a) The Tribe shall intervene in all ICWA/WICWA cases involving a tribal child
104 that reside unless such intervention would be impracticable under the circumstances
105 of the case.

106 (b) In ICWA /WICWA cases in which the Tribe is the “Indian Child’s
107 Tribe” within the meaning of **section 4(5)** of the ICWA and the child resides in
108 Brown or Outagamie County, Wisconsin, the Tribe shall petition for transfer of
109 the proceedings to the Court unless such transfer would be impracticable under
110 the circumstances of the case.

111 (c) The tribe hereby establishes the following hierarchy of placement preferences
112 should a child be placed outside the child’s home:

- 113 1) A member of the Child’s extended family/*family Clan members*
- 114 2) Another member of the Child’s Tribe
- 115 3) Another Native American Family
- 116 4) Other non-native American licensed foster home

117 (d) Within each placement preference category, preference shall be given to a placement on
118 the reservation.

119 (e) These placement preferences shall be applied by the court in all proceeding
120 pursuant to this code, and no deviation shall be made without a finding of good
121 cause. The provisions of subsection (c) constitute the establishment of a tribal order
122 of preference pursuant to **Section 105 (c) of the ICWA.**

123

124

125 SUB CHAPTER II: CHILD WELFARE OFFICE

126

127 **70.5 Establishment.**

128 70.5-1. *Establishment.* The primary responsibility for performing the duties and responsibilities of
129 the Tribe pursuant to this Code shall belong to the Tribe’s Indian Child Welfare Office. The
130 Oneida Child Welfare Office shall be administered by a Child Welfare Coordinator/Supervisor,
131 subject to the immediate supervision of the Social Services Director.

132 70.5-2. *Duties.* The Child Welfare Office shall have the following powers, duties and
133 responsibilities:

134 (a) Receive and process all notices sent to the Tribe pursuant to the ICWA, **intervene in**
135 **ICWA proceedings, petition for transfer of ICWA proceedings to tribal court where**

- 136 appropriate, and carry out all other duties and responsibilities of the tribe under the
137 ICWA.
- 138 (b) Receive and investigate reports of suspected child abuse and neglect involving tribal
139 children.
- 140 (c) Receive referral information, conduct intake inquiries, and determine whether to
141 initiate child welfare proceedings.
- 142 (d) Determine whether a tribal child should be held pursuant to the emergency provisions
143 of this ordinance, and provide crisis counseling during the intake process when such
144 counseling appears to be necessary.
- 145 (e) Make referrals of cases to the appropriate agency and share information with other
146 agencies if their assistance appears to be needed or desirable.
- 147 (f) In all cases in a foreign court for which the Tribe has intervened, make a
148 dispositional report to the Oneida Child Protective Board and state the recommendation
149 of the Oneida Child Protective Board to the court in child welfare proceedings, including
150 a plan of rehabilitation, treatment and care.
- 151 (g) Supervise and assist tribal children pursuant to Child Welfare proceeding
152 dispositions, offer family counseling, and make an affirmative effort to obtain
153 necessary or desired services for the tribal child and the child's family.
- 154 (h) Accept legal custody of tribal children when ordered by the court.
- 155 (i) Investigate and make recommendations with regard to child custody in child custody
156 proceedings, if directed to do so by the Court.
- 157 (j) Initiate petitions for the termination of parental rights or investigate and report to the
158 court on petitions to terminate parental rights brought by others.
- 159 (k) Make a home study, report and recommendation to the court with regard to adoption
160 petitions.
- 161 (l) Investigate, inspect, and license foster homes, and monitor and supervise foster homes
162 and tribal children in foster care.
- 163 (m) Perform any other functions ordered by the court in matters related to the Code.
- 164 (n) Develop case plans and conduct case plan reviews pursuant to dispositional orders.
- 165 (o) Negotiate agreements for services, record sharing, referral, and funding for child and
166 family service records within the Child Welfare Office.
- 167 (p) Provide measures and procedures for preserving the confidential nature of child and
168 family service records within the Child Welfare Office.
- 169 (q) Make and file such reports as may be required by this Code and by agreements with
170 other governmental agencies in furtherance of child and family services.
- 171 (r) In carrying out its powers, duties, and responsibilities under this Code, the Child
172 Welfare Office may use, and is encouraged to make liberal use of the psychiatric,
173 psychological, therapeutic, counseling and other social services available to the Tribe, both
174 from within and outside the Tribe, but in particular the services available through the
175 Youth and Family services of the Oneida Social Services.
- 176 70.5-3. *Case Plans.* For all matters in which a dispositional order other than dismissal is entered,
177 the Oneida Child Welfare office shall develop a written plan of service in consultation with the
178 child, if over fourteen (14) years of age, the parent(s), guardian, or custodian, and such other child
179 family service providers as may be appropriate to the case. Each case plan shall be designed to
180 achieve placement in a setting which most closely approximate a family and in which any special
181 needs may be met, and shall include the following features.
- 182 (a) A description of the type of home or child care institution in which the child is to be
183 placed.

- 184 (b) A discussion of the appropriateness of the placement for the particular child,
- 185 (c) A plan for assuring that:
- 186 (1) the child received proper care while in placement
- 187 (2) services are provided to the parent(s), child and foster parents to facilitate
- 188 the return of the child to his/her home or permanent placement; and
- 189 (3) the need for services of the child in foster placement is met and that the
- 190 services are appropriate.

191 70.5-4. *Reviews.* At no less than six (6) month intervals, the Child Welfare Office shall
192 review each case and plan, and develop written findings which address:

- 193 (a) Continuing need for protection or services and/or placement outside of the home;
- 194 (b) Appropriateness of services and/or placement to date;
- 195 (c) Compliance with the service plan;
- 196 (d) Progress made toward alleviating or mitigating the circumstances giving rise to the
- 197 dispositional order.
- 198 (e) Projection of a likely date by which the child may be returned home, placed in legal
- 199 guardianship, or placed for adoption.

200 Case reviews shall be conducted by a panel of the service providers, but also including at least
201 one person who is not responsible for management or delivery of services in the case. Case
202 review meetings shall be open to participation by the child, parents, guardian, or custodian or
203 their representative.

204 70.5-5. *Intake Inquiry.* Whenever any person gives information to the Child Welfare Office that a
205 tribal child falls within the provisions of this chapter and is a child in need of protection or
206 services, a preliminary intake inquiry shall be conducted to determine whether the interests of the
207 Tribe or the child require further action under this chapter be taken.

208 70.5-6. *Child Abuse and Neglect Reporting.* The provisions of Wis. Stat. 48.981 regarding the
209 reporting and investigation, of child abuse and neglect are hereby adopted except for the provision
210 contained therein relating to the central registry. The Child Welfare Office is the department
211 responsible for carrying out the tribal duties under this section.

212 70.5-7. *Child Protective Board.* The Oneida Child Protective Board is composed of seven (7)
213 members appointed by the Oneida Business Committee. The Oneida Child Protective Board
214 policies, procedures, and resolution establish the guidelines and conduct for the Board's
215 operations. The Indian Child Welfare Coordinator, Tribal Attorney and other Staff Aids
216 designated by the Board shall serve in advisory capacities to the Board. The Oneida Child
217 Protective Board shall have the authority to meet, consider and make recommendations for a child
218 alleged to be in need of protection and services who is under the jurisdiction of a foreign court.
219 The Oneida Child Protective Board is delegated the Tribe's authority under 25 U.S.C. § 1901, and
220 Wis. Stat. § 48.028 for those cases being heard in a foreign court.

221
222

223 SUB CHAPTER III CHILD WELFARE PROCEEDINGS

224

225 **70.6. Child in Need of Protection & Services (CHIPS).**

226 70.6-1. A tribal child is a child in need of protection and services and may be the subject of
227 a petition under this chapter if any of the following are true:

- 228 (a) The parent or any other person responsible for the care and maintenance of the child
- 229 refuses or neglects for reasons other than poverty to provide support or care necessary for
- 230 the child's health or welfare or causes or fails to prevent emotional or physical harm to the
- 231 child other than by accidental means.

232 (b) The child is abandoned by a parent or other custodian or is otherwise left without
233 proper care, custody, or guardianship.

234 (c) The parent, guardian, or other custodian of the child is unable to care for, control, or
235 provide necessary special care or special treatment for the child, or the child is habitually
236 truant from home or school.

237 (d) The child is the subject of a child custody proceeding under this code or the Indian
238 Child Welfare Act and the case has been transferred to the tribal court.

239 (e) The child has been the victim of sexual or physical abuse including injury which is
240 self-inflicted or inflicted by another other than by accidental means.

241 70.6-2. *Taking a Child into Custody.* A tribal child may be taken into custody in the case of an
242 emergency by any law enforcement officer, preferably a tribal law enforcement officer, *with* an
243 employee of the Child Welfare Office without a court order if there are reasonable grounds to
244 believe that:

245 (a) The child is in need of protection and services.

246 (b) The Child has run away from his or her parents, guardian, or other custodian
247 and is not in the care of an adequate custodian; or

248 (d) The child is suffering from illness or injury or is in immediate danger from his or her
249 surroundings and removal of the child from these surroundings is necessary.

250 70.6-3. A tribal child may be taken into the emergency custody of the Child Welfare Office upon
251 an ex parte order of the court if made upon satisfactory showing that the welfare of the child
252 demands that the child be immediately removed from his or her present custody.

253 70.6-4. A tribal child may be held in emergency custody for no more than 72 hours without a
254 tribal court order, and a petition pursuant to this chapter shall be filed with the court by the next
255 day following the taking of the child into custody, excluding Saturdays, Sundays, and Holidays.

256 (a) When a child is taken into custody as provided for in this section, the person taking
257 the child into custody shall immediately attempt to notify all interested parties. If the
258 interested parties have not been notified by the time the child is delivered into the custody
259 of the Child Welfare Office, that office shall diligently continue attempts at notification.

260 (b) The child Welfare Office shall determine the appropriate level of security necessary in
261 any emergency placement pending a hearing before the tribal court.

262 70.6-5. *Petition.* Proceedings pursuant to this chapter shall be initiated by the filing of a petition
263 in the Court. The petition shall be filed by the Child Welfare Office along with the Tribal attorney.
264 Proceedings initiated pursuant to this chapter shall be entitled: "In the interest of (child's name), a
265 tribal child." The petition shall be verified, but may be made on information and belief. The
266 petition shall contain the following information:

267 (a) The name, birth date and residence of the child.

268 (b) Information showing that the child is a tribal child.

269 (c) The name, address, and relationship to the child of each interested party.

270 (d) A plain factual statement showing why the child is a child in need of protection and
271 services.

272 70.6-6. *Service.* The petition shall be served upon each interested party by personal service or
273 certified or registered mail. Proof of service shall be filed with the court. If the whereabouts of
274 any interested party is unknown, substituted service shall be made in such manner as the court
275 directs.

276 70.6-7. *Transfer from State Court.* The court shall follow the procedures of this chapter with
277 regard to any case transferred to the court pursuant to the ICWA or WICWA, provided:

278 (a) If the original proceeding seeks the termination of parental rights, the procedures of
279 Subchapter V shall also be followed.

280 (b) A new petition need not be filed if the petition filed in state court alleges facts which
281 show the child to be a child in need of protection and services under this chapter.

282 70.6-8. *Initial Hearing; Basic Rights.* As soon as practicable after the filing of a petition the
283 Court shall hold an initial hearing and appoint a guardian ad litem for the child. At the initial
284 hearing the Court shall inform the interested parties of the following:

- 285 (a) The nature and possible consequences of the proceedings;
- 286 (b) The right to confront and question witnesses;
- 287 (c) The right to be represented by counsel at their own expense; and
- 288 (d) The right to notice and an opportunity to be heard at all proceedings.

289 After providing this information, the Court shall determine whether any interested party wishes to
290 contest the petition; whether the child should be placed outside the home pending disposition and, if
291 so, the placement necessary to protect the child.

292 70.6-9. *Fact-Finding Hearing.* If any interested party contests the petition, the Court shall hold a
293 fact-finding hearing to determine whether the allegations of the petition are true and whether the
294 child is a child in need of protection and services under s. 70.6-1. The hearing shall be
295 conducted expeditiously and fairly. The hearing may be conducted in an informal manner, but the
296 decision must be based solely upon the evidence produced at the hearing.

297 (a) If the Court finds by clear and convincing evidence that the child is a child in need of
298 protection and services, it shall enter an order so stating. If the court finds that the petition
299 is not substantiated, and the child is not a child in need of protection or services, it shall
300 dismiss the petition.

301 (b) The Court shall require a showing by any person advocating an out of home placement
302 that active efforts have been made and services extended in attempts to prevent or eliminate
303 the need for removal of the child from the home and to make it possible for the child to
304 return to the home.

305 70.6-10. *Disposition.* If the petition is not contested or if the Court finds the child to be a child in
306 need of protection or services at the fact-finding hearing, the court shall conduct a disposition
307 hearing and enter a disposition order. The disposition hearing may be combined with the fact-
308 finding hearing with the consent of the parties.

309 (a) The court shall order one of the following dispositions appropriate for the welfare of
310 the child and the tribe and it shall be as minimally intrusive upon the family as is possible
311 under the circumstances:

312 (1) Place the child under the supervision of the Child Welfare Office in the
313 child's home upon such terms and conditions, including reasonable rules of
314 conduct for interested parties that are deemed necessary for the welfare of
315 the child.

316 (2) Remove the child from the home and place the child in the custody of the
317 Child Welfare Office for placement in an environment more suitable for the
318 child's welfare, specifying the maximum level of placement and the efforts
319 which must be undertaken to return the child to the home.

320 (b) A dispositional order for out of home placement shall include specific findings as to
321 the appropriateness of returning the child to the home. If a child is removed from the
322 home, the Court may order such remedial treatment or services for the child and interested
323 parties as will facilitate the return of the child to his or her home.

324 (c) A dispositional order shall specify its duration, which shall not exceed one year.

325 70.6-11. *Periodic Review.* As a part of its dispositional order, the Court may order judicial review
326 of the child's circumstances and of the continued appropriateness of the disposition at any time or
327 at any interval before one year after entry of the dispositional order.

- 328 (a) If the Child Welfare Office wishes to extend the Court's jurisdiction over a child
329 beyond the expiration of a dispositional order, it shall file a petition for an extension of the
330 dispositional order with the Court no less than forty-five (45) days prior to the expiration
331 of the order. The Court shall thereupon hold a hearing to determine whether the
332 dispositional order should be extended or modified. If no petition to extend an order is
333 filed, the Court shall dismiss the proceedings at the expiration of the dispositional order.
- 334 b) Upon petition of the Child Welfare Office or an interested party, and for good cause
335 shown, the Court may hold a hearing to reconsider or modify the dispositional order at any
336 time during the duration of the order.
- 337 (c) No less than three (3) days prior to any hearing for the extension of a dispositional
338 order the Court shall require the Child Welfare Office to file a report, except to the extent
339 that the petition for extension contains such information, describing and discussing the
340 following:
- 341 (1) Continuing necessity for and appropriateness of placement.
 - 342 (2) Extent of compliance with permanency plan by parties and service
343 providers.
 - 344 (3) Efforts to meet special needs of child and parents.
 - 345 (4) Progress toward eliminating causes for dispositional order, returning child
346 home, or securing a permanent placement.
 - 347 (5) Projected date for return home, guardianship, placement for adoption, or
348 other permanent placement of the child.
 - 349 (6) Evaluation of permanency plan and of circumstances preventing
350 achievement of plan goals.
 - 351 (7) Proposed modifications of the permanency plan.
- 352 (d) The Court shall state the specific reasons for any extension that is ordered.

353 70.6-12. *Change of Placement.* The Child Welfare Office may, request a change of placement of
354 a child by filing such request together with the reasons therefore with the Court and providing
355 the interested parties with ten (10) days' notice by regular mail prior to the change. If no
356 objection to the change is filed by an interested party within the notice period, the Child Welfare
357 Office may make the change without Court order, and shall notify the Court when the change has
358 been completed. If an objection is filed within the notice period, the Court shall promptly hold a
359 hearing to determine whether the change of placement should be made.

360 (a) If emergency conditions necessitate an immediate change in placement of a child who
361 has been placed outside the home, the Child Welfare office may remove the child to a new
362 placement, whether or not authorized by the dispositional order, without the prior notice
363 required above. Notice of the change shall, however, be sent to interested parties and to the
364 Court by regular mail within forty-eight (48) hours after the change of placement. Any
365 interested party may thereafter demand a hearing on the change of placement.

366 (b) At the time of any hearing for change of placement the Court may require the Child
367 Welfare Office to file a report evaluating the appropriateness of the change of placement
368 and the effects upon the permanency plan caused by the change in placement.

369 70.6-13. *Closed Hearing.* Hearings conducted under this chapter shall be closed to the public,
370 and the proceedings shall remain confidential, except upon court order for good cause shown.

371 70.6-14. *Cost of Support.* If a child is removed from the home pursuant to this Law, the child's
372 parents or other legally responsible person may be ordered by the court to pay or contribute to
373 the costs of the child's support pursuant to the Tribe's Child Support Ordinance.

374

375 SUB CHAPTER IV TERMINATION OF PARENTAL RIGHTS.

376

377 **70.7 Termination of Parental Rights.**

378 *70.7-1 Voluntary Termination of Parental Rights.* The Court may enter an order terminating the
379 parental rights of a parent of a tribal child after the parent has given his or her consent pursuant to
380 this section.

381 (a) A consent to termination of parental rights shall be executed in writing and before the
382 Court. The consent shall be accompanied by a certification by the presiding judge that the
383 terms and consequences of the consent were fully explained in detail and were fully
384 understood by the parent.

385 (b) Any consent given prior to birth or within fifteen (15) days after the birth of a tribal-
386 child shall not be valid.

387 (c) The consent of a minor or incompetent person to the termination of his or her parental
388 rights shall not be accepted by the Court unless it is joined by the consent of his or her
389 guardian ad litem.

390 (d) The Court may allow admission by telephone in the event it is not feasible for the
391 parent to appear personally before the Court. The party that wishes to appear by phone
392 shall make arrangements to appear at a location where an independent third party may
393 verify the identification of the party on the phone call.

394 (e) Parents must enroll the child in the Tribe prior to voluntarily terminating their parental
395 rights.

396 (f) The Court shall ensure, prior to ordering a voluntary termination of parental rights,
397 that all efforts have been made to adjudicate the child's father.

398 Nothing under this section shall be construed to sever a child's relationship with his or her
399 extended family.

400 *70.7-2 Grounds for Involuntary Termination.* The following constitute grounds for involuntary
401 termination of parental rights:

402 (a) Abandonment.

403 (b) Continuing Need of Protection and Services.

404 (c) Continuing Parental Disability which prevents the parent from adequately caring for the
405 child.

406 (d) Continuing Denial of Periods of Physical Placement or Visitation by a court of
407 competent jurisdiction.

408 (e) Child Abuse.

409 (f) Failure to Assume Parental Responsibility.

410 (g) Incestuous Parenthood.

411 (h) Parenthood as a Result of Sexual Assault.

412 (i) Commission of a Serious Felony against one of the person's other children.

413 (j) Prior Involuntary Termination of Parental Rights.

414 *70.7-3. Standard of Evidence.* Unless consent has been given pursuant to s. 70.7-1(a), no
415 termination of parental rights may be ordered in the absence of a determination supported by
416 evidence beyond a reasonable doubt, including testimony of a qualified expert witnesses, that:

417 (a) Continuation of the child in the home of the parents would be contrary to the welfare
418 of the child and that active efforts have been made to prevent or eliminate the need to
419 remove the child from the home and to return the child home.

420 (b) The continued custody of the child by the parent is likely to result in serious emotional
421 or physical damage to the child, or that the parent has abandoned the child without making
422 adequate provision for the care of the child and has not maintained parental contact with
423 the child for over a year.

424 70.7-4. *Petition for Involuntary Termination.* A proceeding for the involuntary termination of
425 parental rights may be initiated by the petition of an interested party or the Child Welfare Office.

426 (a) The petition shall be entitled: "In the interest of (child's name), a tribal child," and shall
427 contain the following information:

428 (1) The name, birth date, and residence of the child;

429 (2) Information showing that the child is a tribal child;

430 (3) The name, address, and relationship to the child of all interested parties;
431 and

432 (4) A plain factual statement explaining the grounds for termination.

433 (b) Upon the filing of a petition, the clerk of court shall issue a summons to each parent
434 whose rights are sought to be terminated setting a date for an initial hearing and
435 commanding the appearance of the parent so summoned.

436 (c) The petitioner shall cause the summons and a copy of the petition to be served
437 personally. If the whereabouts of a parent or other interested person is unknown,
438 substituted service shall be made in such manner as the Court directs.

439 70.7-5. *Hearing.* Hearings under this ordinance shall be conducted in accordance with the Rules
440 of Civil Procedure of the Court and this Law.

441 70.7-6. *Investigation.* If the Child Welfare office is not the petitioner, it shall conduct an
442 investigation and make a report and recommendation to the Court on the petition. The Child
443 Welfare Office may intervene in any court proceedings under this chapter instituted by others in
444 order to assert and protect tribal interests.

445 70.7-7. *Disposition.* The Court shall dismiss the petition if it finds that the petitioner has not
446 sustained its burden of proof. If the Court finds that the petitioner has sustained its burden of proof
447 under sec. 70.7-3, it may enter an order terminating the parental rights of one or both parents.

448 If the rights of both parents or of the only living parent are terminated, the court shall either:

449 (a) Transfer guardianship and custody to a relative, the Child Welfare Office, or other
450 appropriate person or agency pending adoptive placement; or

451 (b) Transfer guardianship and custody to an adoption agency licensed by the Tribe, the
452 State of Wisconsin, or another state for adoptive placement. If an order terminating parental
453 rights is entered, the Court shall inform each birth parent whose rights have been terminated
454 of the provisions for filing medical or genetic information or parental identifying
455 information with the Wisconsin Department of Health and Social Services, and Oneida
456 Enrollment Department, and of the provision for release of such information pursuant to
457 Wis. Stat. s. 48.432 and s. 48.433.

458 70.7-8. *Effect of Termination.* An order terminating parental rights permanently severs all rights,
459 powers, privileges, immunities, duties and obligations between parent and child. A person
460 whose parental rights have been terminated is not an interested party with respect to such child
461 for any purpose under this Law. An order terminating parental rights shall have no effect on a
462 biological grandparent's rights to visitation under applicable law.

463 70.7-9. *Sustaining Care.* The Court may place a child in sustaining care whenever parental rights
464 in the child have been terminated and the court finds that the child is unlikely to be adopted or that
465 the adoption is not in the best interest of the child. Provision for such care shall be governed by
466 Wis. Stat. s. 48.428, which is hereby adopted by reference.

467

468

SUB CHAPTER V: ADOPTION

469

70.8 Petition.

471 70.8-1. *Who May be Adopted.* Any child whose parents have had their parental rights severed by

472 court action or whose parents are died may be adopted. The parental rights as to each parent must
473 be severed before a child may be adopted.

474 70.8-2. *Who May Petition.* Any person who wishes to adopt a tribal child may file a petition for
475 adoption with the Court. The spouse of any person who petitions must join the petition.

476 70.8-3. *Petition.* Proceedings for adoption shall be initiated by the filing of a petition with the
477 Court. Proceedings shall be entitled "In the interest of (child's name), a tribal child." The petition
478 shall be verified and shall contain the following information:

- 479 (a) The name, birth date, and residence of the child.
- 480 (b) Information showing that the child is a tribal child.
- 481 (c) The name, birth date, and residence of each petitioner.
- 482 (d) The tribal affiliation of each petitioner, if any.
- 483 (e) The relationship of each petitioner to the child.
- 484 (f) The name, addresses, and relationship to the child of all other interested parties.

485 70.8-4. *Service.* The petition shall be served personally or by registered or certified mail upon all
486 interested parties, including the Child Welfare Office and the Oneida Child Protective Board. Proof
487 of service shall be filed with the Court.

488 70.8-5. *Home Study and Report.* The Court shall direct the Child Welfare Office to make a home
489 study and report any recommendation to the court on whether the best interests of the child and the
490 Tribe would be served by the adoption. In making its report and recommendation, the Child
491 Welfare office shall consider and apply the placement preferences contained in s. 70.4-1(c) and the
492 desirability of the child remaining in a tribal context. The Child Welfare Office may intervene on
493 behalf of the tribe to protect the tribe's interests in the child.

494 70.8-6. *Documentation to be Filed.* Prior to the hearing on the petition, there shall be filed with
495 the court the following:

- 496 (a) A copy of any order terminating parental rights in the child.
- 497 (b) A consent to the adoption by the child's guardian or legal custodian.
- 498 (c) A copy of the child's birth certificate, if one exists, or other satisfactory proof of date
499 and place of birth.
- 500 (d) The home study report and recommendation of the Child Welfare Office.
- 501 (e) The recommendation of the Oneida Child Protective Board and evidence that the
502 Oneida Child Protective Board supports the adoption.

503 70.8-7. *Hearing.* The Court shall fairly and expeditiously conduct a hearing to determine whether
504 the petition should be granted. The hearing may be conducted in an informal manner, but the
505 decision shall be based solely upon the evidence produced at the hearing. The Court shall give
506 notice to all interested parties and the Child Welfare Office at least 60 days prior to the hearing.
507 If the child is 14 years of age or older, he or she shall appear at the hearing and consent to the
508 adoption. The guardian ad litem shall inform the Court of the child's wishes.

509 70.8-8. *Disposition.* If the Court finds that granting the petition would be in the best interests of
510 the child and the Tribe, the Court shall enter an order of adoption. If the Court does not so find, it
511 shall dismiss the petition.

512 70.8-9. *Special Conditions for Non-Member Petitioner.* An order of adoption granted to a
513 petitioner who is not a member of the Tribe shall be expressly conditioned upon the petitioner
514 apprising the child of his or her tribal heritage and the raising of the child insofar as possible
515 to foster the child's tribal identity and participation in tribal affairs and cultural heritage. The
516 Department shall make a packet of cultural information available to adoptive parents.

517 70.8-10. *Effect of Adoption.* After an order of adoption is entered the relation of parent and
518 child and all the rights, duties, and other legal consequences of the natural relation of child and
519 parent thereafter exists between the adopted person and the adoptive parents. An order of

520 adoption shall have no effect upon the adopted child's eligibility for membership in the Tribe.

521

522 SUB CHAPTER VI: FOSTER HOME LICENSING

523

524 **70.9 Application for License.**

525 70.9-1. *Application for License.* Any person seeking to possess a license to operate a foster home
526 shall apply for a license with the Tribe through the Child Welfare Office. Married persons living
527 together shall be preferred licensees and shall both be party to an application. Couples living
528 together but not married, or married and living apart, or single persons, may also apply for a
529 license. No applicant shall be issued a foster home license unless he or she meets the following
530 qualifications:

531 (a) Is at least twenty-one (21) years of age.

532 (b) Is a responsible, mature individual of reputable character who exercises sound
533 judgment and displays the capacity to provide good care for children.

534 (c) Is in such physical and mental health as will not adversely affect children or the
535 quality and manner of their care.

536 (d) Has submitted to a physical examination and presents a certified statement from a
537 physician that he or she is free from medical conditions that might endanger children.

538 (e) Has taken part or is willing to take part in such training programs as the Tribe may
539 arrange for or provide.

540 70.9-2. *License Renewal.* A foster home licensee shall make a renewal application when:

541 (a) The current license is about to expire;

542 (b) The licensee plans to move from the licensed address; or

543 (c) The licensee's legal status or relationship has changed, by divorce or otherwise.

544 70.9-3. *Foster Home Requirements.* The home shall be so constructed, arranged, and maintained
545 as to provide adequately for the health and safety of all occupants. It shall be of a size and space,
546 and shall have such furniture and equipment, to accommodate comfortably both the family and
547 foster children.

548 70.9-4. *Standard for Care of Children.* The Child Welfare Office shall develop standards for
549 care of children in foster care relating to supervision, discipline, work by children, education;
550 moral, religious, and cultural training, nutrition, clothing, visitation by parents and other
551 interested parties, records to be maintained, number of children in the home, and, such other
552 factors as affect the care of children.

553 70.9-5. *Investigation.* Upon receipt of an application, the Child Welfare Office shall conduct an
554 investigation to determine whether the requirements for licensing have been met.

555 70.9-6. *Inspection and Supervision.* Supervision of foster home licensees shall be the duty and
556 responsibility of the Child Welfare Office. The Child Welfare Office shall visit and inspect each
557 foster home no less than quarterly. The acceptance of a license pursuant to this chapter constitutes
558 consent by the licensee to unrestricted access to the home by the Child Welfare Office.

559 70.9-7. *Revocation of License.* A foster home license may be revoked by the Oneida Child Welfare
560 Office for violation of any of the provisions of this chapter or of the regulations regarding foster
561 homes adopted pursuant thereto by the Child Welfare Office. Written notice stating the grounds for
562 revocation shall be provided a licensee at least 20 days prior to the effective date of a revocation. If
563 the licensee requests a hearing in writing within that time period, the Oneida Child Protective
564 Board shall hold a hearing before revocation of the license. A decision on the revocation after a
565 hearing shall be in writing, shall state the grounds therefore, and shall be based solely on the
566 evidence produced at the hearing.

567 70.9-8. *Emergency Removal.* In unusual circumstances which affect the health, welfare, and safety

568 of a child, the Child Welfare Office may remove any child from a foster home to a place of safety
569 pending investigation of circumstances in the foster home.

570

571 CHAPTER VII: RECORDS AND RECORD KEEPING

572

573 **70.10. Records**

574 70.10-1. *Records.* Records kept by the Court and the Child Welfare Office relating to proceedings
575 governed by this Law, except for court records of proceedings, shall be confidential and the
576 information contained therein shall not be disclosed to nonparties unless authorized by this Law,
577 necessary to carry out duties imposed by this Law, or authorized by written order of the Court.

578 70.10-2. *State Records.* Whenever an order of the Court may affect records kept by a State or
579 subdivision thereof, such as a birth certificate, the clerk of court shall transmit a certified copy of
580 the Court order and shall ensure that the state or local record is changed accordingly.

581 70.10-3. *Cooperation with State and County.* The Court and the Child Welfare Office are hereby
582 authorized to negotiate agreements with the state and any county thereof to assist in and facilitate
583 the carrying out of the provisions of this code. Any such agreement shall require the approval of
584 the Oneida Business Committee by resolution before becoming effective.

585

586 *End.*



Legislative Operating Committee

April 15, 2015

Furlough Policy

Submission Date: October 15, 2014

Public Meeting: 02/05/15
 Emergency Enacted:

LOC Sponsor: Fawn Billie

Summary: *During the prior term, the OBC adopted a policy on an emergency basis that set out a process allowing tribal employees to be furloughed as a cost-containment measure. The emergency adoption/extension expired on October 15, 2014, however on October 8, 2014, the OBC directed the LOC to continue developing a permanent policy that allowed for furloughs.*

09/17/14 LOC: Motion by Jennifer Webster to not add the Furlough Policy Emergency Adoption to the Active Files List and to provide the Oneida Business Committee a memo stating that it is the intent of the Legislative Operating Committee to let the emergency adoption expire; seconded by Tehassi Hill. Motion carried unanimously.

10/8/14 OBC: Motion by Lisa Summers to accept the Legislative Operating Committee update with the following answers:
 3) With regard to the Furlough Policy, the Business Committee agrees that the LOC should move forward with the development of a permanent policy.
 seconded by Trish King. Motion carried unanimously.

10/15/14 LOC: Motion by Jennifer Webster to add the Furlough Policy to the Active Files List; seconded by Fawn Billie. Motion carried unanimously.

Note: Fawn Billie will be the sponsor for this item.

12/03/14 LOC: Motion by Jennifer Webster to direct that a fiscal impact statement and a legislative analysis be conducted on the Furlough Policy; seconded by Fawn Billie. Motion carried unanimously.

1/15/15 LOC: Motion by Jennifer Webster to approve the public meeting date of January 29, 2015 regarding the Furlough Policy; seconded by Tehassi Hill. Motion carried unanimously.

1/21/15 LOC: Motion by Jennifer Webster to ratify the Furlough Policy and Rules of Appellate Procedures Amendments Public Meeting Date E-poll; seconded by Tehassi Hill. Motion carried unanimously.

2/5/15: Public meeting held.

3/4/15 LOC: Motion by Jennifer Webster to accept the Furlough Policy public meeting comments and defer those comments to an LOC work meeting to be held immediately following the completion of this LOC meeting, seconded by Fawn Billie. Motion carried unanimously.

Work meeting held, attendees include: Brandon Stevens, Tani Thurner, Jennifer Webster, Jo Anne House, Tehassi Hill, Fawn Billie, Lynn Franzmeier, Candice Skenandore, Fawn Cottrell, Danelle Wilson, Rae Skenandore

Next Steps:

- Review draft and analysis and make any necessary changes or wait for fiscal impact statement before forwarding to the OBC for consideration.

Oneida Tribe of Indians of Wisconsin

Legislative Reference Office

P.O. Box 365

Oneida, WI 54155

(920) 869-4376

(800) 236-2214

<http://oneida-nsn.gov/LOC>



Committee Members

Brandon Stevens, Chairperson

Tehassi Hill, Vice Chairperson

Fawn Billie, Councilmember

Jennifer Webster, Councilmember

Memorandum

TO: Oneida Business Committee
FROM: Brandon Stevens, LOC Chairperson
DATE: April 22, 2015
RE: Furlough Policy

Please find attached the following for your consideration:

1. Resolution: Furlough Policy
2. Statement of Effect: Furlough Policy
3. Fiscal Impact: Furlough Policy
4. Legislative Analysis: Furlough Policy
5. Furlough Policy (clean)

Overview

During the prior term, the Oneida Business Committee (OBC) adopted a policy on an emergency basis that set out a process allowing Tribal employees to be furloughed as a cost-containment measure. The emergency adoption/extension expired on October 15, 2014; however, on October 8, 2014, the OBC directed the Legislative Operating Committee to continue developing a permanent policy that allowed for furloughs.

The Furlough Policy:

- Grants the OBC the ability to authorize a furlough period through resolution.
- Requires General Manager-level positions to develop furlough plans for their areas.
- Prohibits furloughs from being used for disciplinary reasons.

A public meeting on the proposed Furlough Policy was held on February 5, 2015 in accordance with the Legislative Procedures Act.

Requested Action

Approve the Resolution: Furlough Policy.

BC Resolution _____
Adoption of the Furlough Policy

1
2
3
4 **WHEREAS,** the Oneida Tribe of Indians of Wisconsin is a federally recognized Indian
5 government and a treaty tribe recognized by the laws of the United States of
6 America; and
7

8 **WHEREAS,** the Oneida General Tribal Council is the governing body of the Oneida Tribe of
9 Indians of Wisconsin; and
10

11 **WHEREAS,** the Oneida Business Committee has been delegated the authority of Article IV,
12 Section I of the Oneida Tribal Constitution by the Oneida General Tribal Council;
13 and
14

15 **WHEREAS,** the Oneida Business Committee identified financial constraints due to the 2013
16 United States Government shutdown which halted Federal funding for some
17 Tribal programs and services; and
18

19 **WHEREAS,** in order to manage the fiscal responsibility of the 2014 budget and to guarantee no
20 cuts in services and programs, the Oneida Business Committee adopted a
21 Furlough Policy on an emergency basis on October 15, 2013, to enable the Tribe
22 to provide a temporary reduction in work force; and
23

24 **WHEREAS,** the Legislative Procedures Act authorizes the Oneida Business Committee to
25 enact legislation on an emergency basis, to be in effect for a period of six (6)
26 months, renewable for an additional six (6) months; and
27

28 **WHEREAS,** the Furlough Policy was extended for an additional six (6) months and expired on
29 October 15, 2014; however, the Oneida Business Committee directed that the
30 Legislative Operating Committee continue to develop a permanent policy that
31 allowed for furloughs on October 8, 2015; and
32

33 **WHEREAS,** The Legislative Operating Committee continued development on the Furlough
34 Policy which enables the Tribe to implement a furlough as a tool to remedy an
35 operating budget deficit; and
36

37 **WHEREAS,** The Oneida Business Committee may authorize a furlough period through
38 resolution; and
39

40 **WHEREAS,** General Manager-level positions shall develop furlough plans for their areas; and
41

42 **WHEREAS,** Furloughs shall not be used for disciplinary reasons; and

43

44 **WHEREAS,** A public meeting on the proposed Furlough Policy on February 5, 2015 in
45 accordance with the Legislative Procedures Act.

46

47 **NOW THEREFORE BE IT RESOLVED,** that the attached Furlough Policy is hereby adopted.

48

49 **NOW THEREFORE BE IT FURTHER RESOLVED,** the Furlough Policy shall be effective
50 within 60 days of adoption

51

52 **NOW THEREFORE BE IT FINALLY RESOLVED,** that the Human Resources Department
53 is directed to complete the following within the next 60 days:

54

1. Review the Furlough Policy and create necessary documents for implementation.

55

2. Review existing work standards, standard operating procedures and interpretive
56 memorandums to address any conflicts or corrections that should be made to fully
57 implement the Furlough Policy.

58

3. Prepare a brief summary of the Furlough Policy for the organization and identify
59 where additional resources can be obtained in the event a furlough is approved.

60

4. Prepare necessary training videos to be used if a furlough is approved by the Oneida
61 Business Committee.

62

63

64 I, the undersigned, as Secretary of the Oneida Business Committee, hereby certify that the Oneida
65 Business Committee is composed of 9 members of whom 5 members constitute a quorum; ___ members
66 were presents at a meeting duly called, noticed and held on the ___ day of _____, 2015; that the
67 foregoing resolution was duly adopted at such meeting by a vote of ___ for; ___ members against, and
68 ___ members not voting; and that said resolution has not been rescinded or amended in any way.

69

70

Lisa Summers, Tribal Secretary
Oneida Business Committee

71

72

73

74 *According to the By-Laws, Article I, Section I, the Chair votes "only in the case of a tie."

Oneida Tribe of Indians of Wisconsin

Legislative Reference Office

P.O. Box 365
Oneida, WI 54155
(920) 869-4375
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Committee Members

Melinda J. Danforth
Vince DelaRosa
David P. Jordan
Paul Ninham
Brandon Stevens

Statement of Effect

Adoption of the Furlough Policy

Summary

This Resolution adopts the Furlough Policy which enables the Tribe to implement a furlough as a tool to remedy an operating budget deficit. According to the Resolution, the Furlough Policy will be effective within 60 days. In addition, the Resolution directs the Human Resources Department to review the Furlough Policy and create necessary documents for implementation; review existing work standards, standard operating procedures and interpretive memorandums to address any conflicts or corrections that should be made to fully implement the Furlough Policy; prepare a brief summary of the Furlough Policy for the organization and identify where additional resources can be obtained in the event a furlough is approved and prepare necessary training videos to be used if a furlough is approved by the Oneida Business Committee. The Resolution requires the Human Resources Department to complete these directives within the next 60 days.

Submitted by Candice E. Skenandore, Legislative Analyst, Legislative Reference Office

Analysis from Legislative Reference Office

In 2013, the United States Government had a shutdown which halted federal funding to some Tribal programs and services. Because of this shutdown, on October 15, 2015, the Oneida Business Committee (OBC) adopted a Furlough Policy on an emergency basis. The intent of the Furlough Policy was to manage the fiscal responsibility of the 2014 budget and to guarantee no cuts be made to Tribal services and programs. The OBC extended the Furlough Policy for an additional six (6) months and the Furlough Policy expired on October 15, 2014. However, on October 8, 2015, the OBC directed the Legislative Operating Committee to develop a permanent policy that allowed for furloughs.

The Legislative Operating Committee continued work on the Furlough Policy (Policy) and pursuant to this Policy, before a furlough is implemented, the OBC must adopt a resolution directing the General Manager level positions to implement a furlough. General Manager level positions cannot place employees on furlough without that directive.

Under the Policy, employees placed on furlough are not separated from employment with the Tribe. Rather, they are placed in an unpaid leave of absence. Furlough days must be taken on

days that an employee is scheduled to work, and the employee is not able to use their accrued personal or vacation time on any furlough days.

The Policy requires General Manager Level positions to develop furlough plans for their areas which shall set how each department or agency intends to implement a furlough. In addition, the Policy does not allow furloughs to be used as a form of discipline.

Conclusion

There are no legal bars to adopting this Resolution.

Furlough Policy

Article I. Purpose and Policy
 Article II. Adoption, Amendment, Repeal
 Article III. Definitions
 Article IV. Furlough

Article V. Furlough Plans
 Article VI. Supervisor Responsibilities
 Article VII. Appeal

<i>Analysis by the Legislative Reference Office</i>					
Title	The Furlough Policy ("The Policy")				
Requester	Oneida Business Committee (OBC)	Drafter	Lynn Franzmeier	Analyst	Tani Thurner
Reason for Request	On October 15, 2013, the Oneida Business Committee adopted a Furlough Policy on an emergency basis, which ultimately expired on October 9, 2014. During the 2011-2014 term, the Legislative Operating Committee (LOC) had been processing the Policy for permanent adoption, and this term, the OBC directed the LOC to continue processing the Policy for permanent adoption.				
Purpose	This Policy sets out a process for the Tribe to furlough employees (temporarily reducing their work hours) as a cost-saving measure.				
Authorized/ Affected Entities	General Manager Level Positions, Supervisors, Human Resources Department (HRD) and the OBC all have responsibilities; all employees could be affected.				
Due Process	The Policy expressly states that furlough decisions cannot be appealed under any Tribal law, policy or the personnel grievance process. [7-1]				
Related Legislation	Layoff Policy; Personnel Policies and Procedures				
Policy Mechanism	Resolution adopted by OBC; Furlough Plans				
Enforcement	None, but the Blue Book would govern any violations by Tribal employees.				

Overview

This is a new Policy that enables the Tribe to implement furloughs as a tool to remedy an operating budget deficit. [1-1] This policy applies to all employees of the Tribe, specifically including employees of Tribal programs and enterprises, and political appointees. Elected and appointed officials are specifically excluded; so they are not subject to furloughs. [1-2 and 3-1(a)]

What is a furlough?

A furlough is a temporary unpaid leave from work for a specified period of time. [3-1(b)] Employees may not use personal or vacation time while on furlough and are not eligible for back pay when they return to work [4-6 and 4-9].

- Employees must be furloughed on days they are normally scheduled to work, or on Tribal holidays, regardless of whether they were scheduled to work. [4-2]
- Employees on furlough cannot perform any work, including responding to work-related e-mail or voicemail and traveling on behalf of the Tribe. [4-4]
- A furlough does not constitute a break in continuous service. [4-4] Employees continue to receive all benefits as if they were on an unpaid leave of absence - except personal and vacation time do not accrue during a furlough. [4-6] This means that, depending on years of service, an employee will not accrue the following amount of personal/vacation time:
 - **0-3 years of service:** 0.554 hours for each full 8-hour day of furlough.
 - **4-7 years of service:** 0.708 hours for each full 8-hour day of furlough.
 - **8-14 years of service:** 0.923 hours for each full 8-hour day of furlough.
 - **15+ years of service:** 1.138 hours for each full 8-hour day of furlough.
- Employees are responsible for contacting the State to determine if they qualify for unemployment insurance benefits while furloughed. [4-5]

Draft 3
04/015/15

Impact on workplace

Furloughs must be scheduled in a way that allows departments to continue to provide a basic level of service. [5-2(b)] Temporary employees must be furloughed first; followed by any volunteers; and then all other employees are eligible to be furloughed. [5-2(a)] Furloughs cannot be used for disciplinary reasons. [4-8]

Employees cannot earn overtime during any pay period where another employee from the same department/agency is furloughed; and cannot earn additional duty pay for performing duties for furloughed employees from the same department/agency. [4-7(b)]

Furlough Plans

General Manager-Level positions (GM Positions) must develop furlough plans to be kept on file with HRD, setting forth how their respective departments /agencies intend to implement a furlough. A furlough plan must explain how employees will be selected and the estimated number of employees that would be affected; and must include a tentative schedule for a furlough and a summary of how the furlough will relieve budget shortfalls. This requirement is similar to the layoff plans that are required to be created in order to implement the Layoff Policy; except that furlough plans are not specifically required to be approved by the OBC; and HRD is not specifically given a role in helping to create furlough plans. [4-2(a), Article V]

Furlough Process

The Policy sets out the following process:

1. OBC identifies that a furlough is necessary due to a decrease/lapse in revenue/funding, or any other budget situation warranting an unpaid leave. [4-1]
2. OBC gives the appropriate GM-Level positions a directive by passing a Resolution. (A GM-Level position is defined as "the highest level in the chain of command under the Oneida Business Committee, and who is responsible for a Tribal Department and/or Division") The Resolution must include furlough start and end dates. [4-1]
3. GM-Level positions must immediately carry out the furlough plans for his/her areas; and must notify the supervisors in their areas that furloughs are necessary. [4-2 and 6-1]
4. Supervisor identifies employees who will be furloughed. [6-1(a)]
5. Supervisor notifies employees of the furlough and of their furlough dates. Employees must be notified at least 5 days before their position is furloughed. [6-1(b) and 4-3]
6. Supervisor notifies HRD of the employees who were chosen to be furloughed and of their furlough dates. [6-1(c)]

Miscellaneous

A Public Meeting was held on February 5, 2015, and the comments received from that meeting and during the public comment period have been reviewed and considered. Any changes made from that review have been incorporated into this draft.

Considerations

The following are remaining issues that the LOC may want to consider:

- 4-8 says furloughs shall not be used for disciplinary reasons, but 7-1 says that employees cannot appeal a furlough decision. 4-8 may be difficult to enforce because it doesn't seem that an employee can appeal a furlough decision that s/he feels was disciplinary.
- 4-6 says that furloughed employees continue to receive benefits as if they were on an unpaid leave of absence. This would be guided by HRD's Leave of Absence Work Standard, which should be reviewed to clarify how the Furlough Policy will be applied.

Draft 3
04/015/15

- 47 • The definition of employee includes “political appointees,” however that term is not
48 defined. Policy requires GM-level positions to create/implement furlough plans, but does
49 not identify who would be responsible for creating a plan for placing OBC assistants on
50 furlough; or the process for doing so.
- 51 • This Policy states that temporary employees will be furloughed first. The term
52 “temporary employee” is not defined in any Tribal law or policy. The Blue Book defines
53 “Limited Term Employee¹” and “Emergency Temp²” but it is not clear here which of
54 those is intended. It is recommended that the term “temporary employee” be replaced
55 with language that more specifically identifies which employees must be furloughed first;
56 otherwise, to request that HRD define this term.
- 57 • 4-5 states that furloughed employees “shall be responsible for contacting the...
58 Department of Workforce Development to determine if they qualify for unemployment
59 insurance benefits” – this reads like furloughed employees are required to contact the
60 state; and would be violating this policy if they failed to do so.
- 61 • 4-2 requires all GM-Level positions to “immediately carry out the furlough plans” for
62 their departments/agencies, but the Policy does not state exactly what they do. 6-1 says
63 that “upon notification from the appropriate [GM-Level] position that furloughs are
64 necessary, a supervisor shall” identify those employees to be furloughed, notify them,
65 and notify HRD – it appears that supervisors actually carry out the furlough plans.
- 66 • Under recent Tribal employee insurance plan changes, part-time and half-time employees
67 working an average of 30+ hours a week in a “designated six-month timeframe” in 2015
68 will be eligible for medical, dental and vision insurance the following year. It may be
69 beneficial to work with HRD to identify how an employee’s eligibility for health
70 insurance would be affected if their hours are reduced by a furlough, and to then
71 determine whether to address such situations in this Policy.
- 72 • The Tribe utilizes Indian preference in hiring and other employment-related decisions.
73 This policy does not incorporate that policy.

1 Utilized for long term assignments over 90 days, but no longer than 2 years.

2 Short term assignments - the length of employment will not exceed 90 days.

Furlough Policy

Article I. Purpose and Policy
Article II. Adoption, Amendment, Repeal
Article III. Definitions
Article IV. Furlough

Article V. Furlough Plans
Article VI. Supervisor Responsibilities
Article VII. Appeal

1 **Article I. Purpose and Policy**

2 1-1. *Purpose.* The purpose of this Policy is to enable the Tribe to implement a furlough as a tool
3 to remedy an operating budget deficit.

4 1-2. *Policy.* This Policy shall apply to all employees of the Tribe. To utilize a furlough, a
5 decrease or lapse of revenue or funding and/or any other budget situation warranting an unpaid
6 leave shall be identified.

7 **Article II. Adoption, Amendment, Repeal**

8 2-1. This Policy was adopted by the Oneida Business Committee by resolution BC _____.

9 2-2. This Policy may be amended or repealed by the Oneida Business Committee pursuant to the
10 procedures set out in the Legislative Procedures Act.

11 2-3. Should a provision of this Policy or the application thereof to any person or circumstances
12 be held as invalid, such invalidity shall not affect other provisions of this policy which are
13 considered to have legal force without the invalid portions.

14 2-4. In the event of a conflict between a provision of this Policy and a provision of another
15 policy, the provisions of this Policy shall control.

16 2-5. This Policy is adopted under authority of the Constitution of the Oneida Tribe of Indians of
17 Wisconsin.

18 **Article III. Definitions**

19 3-1. This Article shall govern the definitions of words or phrases as used within this Policy. All
20 words not defined herein shall be used in their ordinary and everyday sense.

21 (a) "Employee" shall mean any individual who is employed by the Tribe and is subject
22 to the direction and control of the Tribe with respect to the material details of the work
23 performed, or who has the status of an employee under the usual common law rules
24 applicable to determining the employer-employee relationship. "Employee" includes, but
25 is not limited to, an individual employed by any program or enterprise of the Tribe and
26 political appointees, but does not include elected or appointed officials.

27 (b) "Furlough" shall mean a temporary, unpaid leave from work for a specified period of
28 time.

29 (c) "General Manager Level position" shall mean the highest level in the chain of
30 command under the Oneida Business Committee and who is responsible for a Tribal
31 Department and/or Division.

32 (d) "Supervisor" shall mean a person who directly oversees the work and performance of
33 an employee on a daily basis.

34 (e) "Tribe" shall mean the Oneida Tribe of Indians of Wisconsin.

35 **Article IV. Furlough**

36 4-1. *Furlough Resolution.* If the Oneida Business Committee has identified the necessity for a
37 furlough, a directive by resolution shall be given to the appropriate General Manager Level
38 positions. The resolution shall direct the beginning and ending dates of the furlough.
39
40
41

For OBC consideration

04/22/15

42 4-2. *Implementation of Furlough Plans.* Upon the passage of a resolution directing that a
 43 furlough be implemented, all General Manager Level positions shall immediately carry out the
 44 furlough plans for his or her respective departments or agencies. An employee shall be
 45 furloughed on days that the employee is normally scheduled to work or on holidays recognized
 46 by the Tribe, whether the employee is normally scheduled to work or not.

47 4-3. *Notice.* A supervisor shall give an employee notice at least five (5) business days prior to a
 48 furlough being implemented for his or her position.

49 4-4. *Continuous Service.* A furlough shall not constitute a break in continuous service.
 50 Employees shall not perform any work for the Tribe while furloughed. This includes responding
 51 to work-related e-mail and voice mail, as well as traveling on behalf of the Tribe.

52 4-5. *Unemployment.* Eligibility for unemployment insurance benefits is determined by the State
 53 of Wisconsin. Furloughed employees shall be responsible for contacting the State of Wisconsin
 54 Department of Workforce Development to determine if they qualify for unemployment insurance
 55 benefits.

56 4-6. *Benefits.* Employees shall not use or accrue personal or vacation time when on furlough.
 57 Employees shall continue to receive other benefits during a furlough in the same manner as an
 58 employee on an unpaid leave of absence receives benefits.

59 4-7. *Overtime and Additional Duty Pay.* When a furlough is implemented in a department or
 60 agency, no employee in that department or agency shall be eligible for:

61 (a) overtime during the same pay period that another employee from the same
 62 department or agency is on furlough; or

63 (b) additional duty pay for performing duties for other employees in his or her
 64 department or agency who are on furlough.

65 4-8. *Discipline.* Furloughs shall not be used for disciplinary reasons.

66 4-9. *Back Pay.* Employees on furlough shall not be eligible for back pay awards upon return to
 67 work.

68

69 **Article V. Furlough Plans**

70 5-1. *Furlough Plans.* The General Manager Level positions shall develop furlough plans for
 71 their respective departments and agencies.

72 5-2. The furlough plans shall set forth how each department or agency intends to implement a
 73 furlough. The plan shall include, but not be limited to, the following:

74 (a) an explanation of how employees will be selected;

75 (1) Temporary employees shall be furloughed first, followed by employees who
 76 volunteer to be furloughed. All other employees shall then be eligible to be
 77 furloughed.

78 (b) a tentative schedule for a furlough;

79 (1) Furloughs shall be scheduled in a way that allows the departments to continue
 80 to provide a basic level of service.

81 (c) the estimated number of employees affected; and

82 (d) a summary of how the furlough will relieve budgetary shortfalls.

83 5-3. All furlough plans shall be kept on file with the Human Resources Department.

84

For OBC consideration
04/22/15

85 **Article VI. Supervisor Responsibilities**

86 6-1. Upon notification from the appropriate General Manager Level position that furloughs are
87 necessary, a supervisor shall:

- 88 (a) Identify those employees who will be furloughed.
89 (b) Notify those employees that they will be furloughed and their furlough dates;
90 (c) Notify the Human Resources Department of the chosen employees and their furlough
91 dates.

92

93 **Article VII. Appeal**

94 7-1. *Right to Appeal.* An employee who has been furloughed does not have the right to appeal
95 such a decision under any Tribal law, policy or the personnel grievance process.

96

97 *End.*

98

99 Emergency Adoption – BC-10-15-13-A

100 Emergency Adoption Extension BC-04-09-14-D



Legislative Operating Committee

April 15, 2015

ONGO Emergency Amendments

Submission Date: September 17, 2014

<input type="checkbox"/> Public Meeting: <input checked="" type="checkbox"/> Emergency Enacted: 10/1/14 Expires: 5/1/15

LOC Sponsor: Brandon Stevens

Summary: *Emergency amendments are being sought to amend the Law to ensure compliance with NIGC requirements.*

9/17/14 LOC: Motion by Jennifer Webster to add the Amendments to the Oneida Nation Gaming Ordinance to the Active Files List on an emergency basis; seconded by Fawn Billie. Motion carried unanimously.

Motion by Fawn Billie to direct the Legislative Reference Office to bring back an analysis, resolution and statement of effect for the October 1, 2014 LOC meeting; seconded by Tehassi Hill. Motion carried unanimously.

Note: Brandon Stevens will be the sponsor.

10/01/14 LOC: Motion by Tehassi Hill to approve the resolution with the change from seven years to three years, and to forward it to the Oneida Business Committee; seconded by Fawn Billie. Motion carried unanimously.

10/08/14 OBC: Motion by Tehassi Hill to adopt resolution 10-08-14-C Oneida Nation Gaming Ordinance Emergency Amendments, seconded by Fawn Billie. Motion carried unanimously.

03/25/15: Oneida Gaming Commission requests a six-month extension so that all appropriate revisions can be made prior to permanent ONGO revisions are adopted by the LOC/OBC.

Next Steps:

- Review the memorandum, resolution, statement of effect and drafts and request the OBC to extend the emergency amendments to ONGO.

Oneida Tribe of Indians of Wisconsin

Legislative Reference Office

P.O. Box 365
 Oneida, WI 54155
 (920) 869-4376
 (800) 236-2214
<http://oneida-nsn.gov/LOC>



Committee Members

Brandon Stevens, Chairperson
 Tehassi Hill, Vice Chairperson
 Fawn Billie, Councilmember
 Jennifer Webster, Councilmember

Memorandum

To: Oneida Business Committee
From: Brandon Stevens, LOC Chairperson
Date: April 22, 2015
Re: REQUEST FOR ACTION: Extension of the Oneida Nation Gaming Ordinance Emergency Amendments

Please find attached the following for your consideration:

1. Resolution: Extension of the Oneida Nation Gaming Ordinance Emergency Amendments
2. Statement of Effect: Extension of the Oneida Nation Gaming Ordinance Emergency Amendments
3. Oneida Nation Gaming Ordinance (redline)
4. Oneida Nation Gaming Ordinance (clean)

Overview

On September 15, 2014, the Legislative Operating Committee LOC received a request from the Oneida Gaming Commission (Commission) to process emergency amendments to the Oneida Nation Gaming Ordinance (ONGO) in order to comply with National Indian Gaming Commission (NIGC) regulations. These amendments:

- Require the identity of a person being interviewed for a background investigation to be kept confidential.
- Require the Commission to retain all applications, investigative reports and eligibility determinations for at least three years from the date the applicant's employment was terminated.
- Require the Commission to forward a copy of its decision to suspend, condition or revoke a license to NIGC within forty-five days of receiving NIGC's notification indicating that an employee is not eligible for a license.

The amendments were adopted on an emergency basis pursuant to OBC Resolution 10-08-14-C and became effective November 1, 2014 in order to meet the deadline for NIGC approval. Adoption of the attach resolution will extend these emergency amendments for an additional six months.

Requested Action

Approve the Resolution: Extension of the Oneida Nation Gaming Ordinance Emergency Amendments.

BC Resolution _____*Oneida Nation Gaming Ordinance Emergency Amendments*

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5 **WHEREAS**, the Oneida Tribe of Indians of Wisconsin is a federally recognized Indian
6 government and a treaty tribe recognized by the laws of the United States of
7 America; and
8

9 **WHEREAS**, the Oneida General Tribal Council is the governing body of the Oneida Tribe of
10 Indians of Wisconsin; and
11

12 **WHEREAS**, the Oneida Business Committee has been delegated the authority of Article IV of
13 the Oneida Tribal Constitution by the Oneida General Tribal Council; and
14

15 **WHEREAS**, the Oneida Nation Gaming Ordinance (ONGO) is currently in noncompliance
16 with National Indian Gaming Commission (NIGC) regulations; and
17

18 **WHEREAS**, a request for emergency amendments to ONGO was received to allow ONGO to
19 comply with NIGC regulations; and
20

21 **WHEREAS**, the emergency amendments would (1) add requirements to keep the identity of
22 each person interviewed in the course of a background investigation confidential;
23 (2) require certain documents from the Oneida Gaming Commission to be
24 retained for at least three years from the date of an employee's employment being
25 terminated; and (3) if the Oneida Gaming Commission suspends, conditions or
26 revokes a license based on information from NIGC, the Commission is required
27 to forward that decision to NIGC within forty-five days of NIGC's notification
28 that an employee is not eligible for a License; and
29

30 **WHEREAS**, the Legislative Procedures Act (LPA) authorizes the Oneida Business Committee
31 to enact legislation on an emergency basis, to be in effect for a period of six (6)
32 months, renewable for an additional six (6) months; and
33

34 **WHEREAS**, through Resolution BC 10-08-14-C, the Oneida Business Committee adopted
35 emergency amendments to ONGO; and
36

37 **WHEREAS**, extension of emergency amendments to ONGO is necessary for the immediate
38 preservation of the public health, safety, or general welfare of the reservation
39 population and amendments to ONGO are required sooner than would be possible
40 under the LPA.
41

42 **NOW THEREFORE BE IT RESOLVED**, that the attached ONGO is adopted on an
43 emergency basis for an additional six (6) months.
44

Resolution _____
Page 2

45 **BE IT FURTHER RESOLVED**, that the attached amendments shall be effective May 1, 2015
46 and remain in effect for six (6) months, or until permanent amendments are adopted, whichever
47 occurs first.

48
49 **BE IT FINALLY RESOLVED**, that the Oneida Gaming Commission shall present the final
50 amendments related to ONGO to the Legislative Operating Committee by May 20, 2015 to
51 ensure that revisions to ONGO have enough time to properly follow the process set forth in the
52 LPA.

53
54 **CERTIFICATION**
55 I, the undersigned, as Secretary of the Oneida Business Committee, hereby certify that the
56 Oneida Business Committee is composed of 9 members of whom 5 members constitute a
57 quorum. ___members were present at a meeting duly called, noticed and held on the ___ day
58 of _____, 2014; that the foregoing resolution was duly adopted at such meeting by a vote of
59 ___members for; ___ members against; and ___ members not voting; and that said
60 resolution has not been rescinded or amended in any way.

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66

Lisa Summers, Tribal Secretary
Oneida Business Committee

Oneida Tribe of Indians of Wisconsin Legislative Reference Office

Lynn A. Franzmeier, Attorney
Taniquele J. Thurner, Legislative Analyst
Candice E. Skenandore, Legislative Analyst



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(920) 869-4376
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Statement of Effect

Extension of the Oneida Nation Gaming Ordinance Emergency Amendments

Summary

This Resolution extends the adoption of emergency amendments to the Oneida Nation Gaming Ordinance (ONGO) for six months or when permanent amendments are adopted, whichever occurs first. This Resolution identifies an effect date of May 1, 2015. In addition, the Resolution requires the Oneida Gaming Commission (Commission) to present the final amendments to ONGO to the Legislative Operating Committee by May 20, 2015 to ensure that the amendments have enough time to go through the process set forth in the Legislative Procedures Act.

Submitted by: Candice E. Skenandore, Legislative Analyst, Legislative Reference Office

Analysis from Legislative Reference Office

On June 25, 2014, pursuant to GTC Resolution 07-01-13-A, revisions which replaced the term “Appeals Commission” with the “Judiciary” were made to ONGO and then sent to the Nation Indian Gaming Commission (NIGC) for approval. On September 9, 2014, NIGC sent back the revisions and requested further amendments be made after finding discrepancies between ONGO and NIGC regulations. NIGC gave an October 21, 2014 deadline for approving ONGO. Emergency amendments to ONGO were requested by the Commission to comply with the NIGC deadline. The Oneida Business Committee (OBC) adopted the requested amendments for six months on October 8, 2014; however, the adopting Resolution stated that the emergency amendments became effective November 1, 2014.

ONGO was in noncompliance with NIGC regulations due to the following discrepancies:

1. ONGO was missing the requirement to keep the identity of each person interviewed in the course of a background investigation confidential per 25 C.F.R. § 556.4(c).
2. ONGO retained all applications, background investigations, investigative reports, suitability determinations, findings and decisions of the Commission’s files for a period of at least seven years, but currently that period begins on the date of employment and not from the date of termination per 25 C.F.R. §558.3(e).
3. ONGO was missing the requirement per 25 C.F.R. §558.4(e) that a tribe notify the NIGC of its decision to revoke or reinstate a gaming license within forty-five days of receiving notification from the Commission that a key employee or primary management official is not eligible for employment under 25 C.F.R. §556.5.

To address the discrepancies, the following emergency amendments were made to ONGO to ensure compliance with NIGC regulations:

1. The identity of any person interviewed in order to conduct a background investigation shall be confidential *[see 21.10-2]*.
2. All applications, background investigations, investigative reports, suitability determinations, findings and decisions of the Commission shall be retained in the Commission's files for a period of at least three (3) years from the date the applicant's employment is terminated *[see 21.12-5(d)(4)]*.
3. If the license was suspended, conditioned or revoked based on information from the NIGC under 21.12-8(a)(1), the Commission shall forward a copy of its decision to NIGC within forty-five (45) days of NIGC's notification that an employee shall not be eligible for a license *[see 21.12-8(e)]*.

Section 16.9-5 of the Legislative Procedures Act (LPA) allows the OBC to take emergency action to amend a law where it is "necessary for the immediate preservation of the public health, safety, or general welfare of the reservation population" and when enactment or amendment of legislation is required sooner than would be possible under the LPA. Through the Resolution BC 10-08-14-C, the OBC issued a finding of an emergency and stated the necessity for these emergency amendments to ONGO. Adoption of this Resolution would extend those emergency amendments for an additional six months.

Conclusion

There are no legal bars to adopting the Resolution.

Chapter 21
Oneida Nation Gaming Ordinance
Thatiwi-ʔStunya·tha Olihwa·ke
 Matters of interest to where they make the money

- | | |
|--|---|
| 21.1. Purpose and Policy
21.2. Adoption, Amendment, Applicability, Repeal
21.3. Jurisdiction
21.4. Definitions
21.5. Oneida Business Committee: Powers and Duties
21.6. Oneida Gaming Commission
21.7. Gaming Surveillance: Powers, Duties and Limitations
21.8. [Reserved for future use.]
21.9. Gaming Security Department
21.10. Background Investigations | 21.11. Licenses, Generally
21.12. Gaming Employee License
21.13. Gaming Services Licensing and Non-Gaming Services Permitting
21.14. Gaming Facility License
21.15. Gaming Operator License
21.16. Games
21.17. Allocation of Gaming Funds
21.18. Audits
21.19. Enforcement and Penalties |
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<i>Analysis by the Legislative Reference Office</i>					
Title	Oneida Nation Gaming Ordinance (ONGO)				
Requester	Tamara Vanschyndel (Oneida Gaming Commission)	Drafter	Lynn Franzmeier	Analyst	Taniquelle Thurner
Reason for Request	<p>On June 25, 2014, the Oneida Business Committee (OBC) adopted minor terminology amendments to ONGO, which replaced references to the Oneida Appeals Commission/Tribal Judicial System with the Tribal Judiciary, and which will go into effect on November 1, 2014.</p> <p>As required, the ONGO amendments were submitted to the National Indian Gaming Commission (NIGC) for approval. However, NIGC returned the submission after three discrepancies were found between ONGO and federal law/NIGC regulations. These amendments are being proposed to ensure that ONGO complies with NIGC requirements. These amendments will be adopted on an emergency basis and would also become effective on November 1st.</p>				
Purpose	Governs Oneida Tribal gaming				
Authorized/Affected Entities	NIGC, Oneida Gaming Commission (OGC)				
Due Process	OGC hears appeals of licensing decisions, then Judiciary				
Related Legislation	Gaming SOPs, an HRD/OGC agreement for conducting background investigations (as required by ONGO 21.10-1)				
Policy Mechanism	Licensing				
Enforcement	Licensing Suspension, Revocation				

Overview

The amendments make three changes to ONGO:

1. Clarify that the identity of any person interviewed in order to conduct a background investigation, is confidential. [21.10-2]
2. Require OGC to retain various records for three years after a Gaming employee's employment is terminated, instead of for seven years after the employee begins employment. [21.12-5(d)(4)]
3. If OGC decides to suspend, place a condition on or revoke a license based on information provided by NIGC that an employee is not eligible for a license; OGC will now be required to forward a copy of this final decision to NIGC within 45 days of making the decision. [21.12-8(e)].

Proposed Amendments

Clarifying that the identity of any person interviewed in order to conduct a background investigation, is confidential.

Currently, ONGO does not address confidentiality; however, federal law requires Tribes and their agents to “promise to keep confidential the identity of each person interviewed in the course of” a background investigation.” [25 CFR 556.4(b)] The proposed amendments add a provision stating that the identity of any person interviewed “in order to conduct” a background investigation, shall be confidential. [21.10-2]

Retaining various records for Gaming employees for three years after the employee’s employment is terminated.

Under 25 CFR §558.3(e), certain records must be retained by the Tribe for at least three years after each Gaming employee’s employment is terminated. Currently, ONGO requires such records to be retained by the OGC for at least seven years after the employee begins employment. Under the proposed amendments, the OGC must instead retain those records for at least three years after the employee’s employment is terminated, which matches the Federal/NIGC requirements. [21.12-5(d)(4)]

The records that the OGC is required to retain under ONGO are slightly different from the requirements under 25 CFR 558.3(e). The following chart shows the difference:

Federal law (NIGC requirement) 25 CFR 558.3(e) requires the following to be retained:	Both the current and amended ONGO [21.12-5(d)(4)] require the following to be retained:
<ul style="list-style-type: none"> • Applications for licensing • Investigative reports • Eligibility determinations 	<ul style="list-style-type: none"> • Applications • Background Investigations • Investigative reports • Suitability determinations • Findings & decisions of the OGC

Notifying NIGC of a licensing decision after receiving information from NIGC

Under federal law, if NIGC provides reliable information to the OGC that certain employees do not meet ONGO’s qualifications for licensing, then within 45 days, OGC is required to hold a hearing and notify NIGC of their licensing decision. [25 CFR §558.4]

Currently, ONGO does not require the OGC to notify NIGC whenever any licensing decisions are made following NIGC notification about any Gaming employee. Under the amendments, a new provision requires NIGC to be notified within 45 days after NIGC provides the OGC with information about the employee. [21.12-8(a)]

However there are several differences between the Federal requirements and ONGO:

Federal Regulations (25 CFR 558.4)	ONGO 21.12-8
NIGC is only required to notify the OGC when NIGC receives reliable information that a key employee or primary management official does not meet qualifications set out in ONGO.	ONGO sets out a process for suspending any gaming employee’s license - whenever reliable information is received (from NIGC <u>or any other source</u>) about the employee.

<p>Once the OGC receives such information from NIGC, it must <u>immediately suspend</u> the key employee's or primary management official's license.</p>	<p>Once the OGC receives such information from NIGC <u>or any source</u>, the OGC must <u>issue a written notice of suspension</u>, for any employee. However, ONGO does not specifically require immediate suspension - immediate suspension may only occur if OGC feels the public interest, and effective regulation and control of gaming activities requires a licensee's immediate exclusion before a hearing could be conducted.</p>
<p>The licensee must be notified of the time and place set for a <u>revocation hearing</u>.</p>	<p>The licensee must be notified of the time and place set for a <u>hearing</u>. ONGO contains additional due process requirements as to what the licensee must be notified of, including the right to review/copy their file, request a hearing, and present documents and witness testimony; the specific grounds for the licensing action, and <u>citing any relevant laws /rules</u>.</p>
<p>After the hearing, the tribe must decide to <u>either revoke or reinstate</u> the gaming license. These are the only two actions authorized.</p>	<p>After a hearing, the OGC must decide whether to <u>suspend, uphold an immediate suspension, revoke, or take other action</u> concerning the License.</p>
<p>No timeline for issuing a decision.</p>	<p>A final written licensing decision must be <u>issued</u> within 15 business days after the hearing.</p>
<p>The Tribe must <u>notify</u> NIGC of their decision within 45 days, and the decision can only be to either revoke or reinstate the license.</p>	<p>OGC is required to <u>forward a copy</u> of their decision to NIGC within 45 days if the license <u>is suspended, conditioned or revoked based on information from NIGC</u>. This appears to mean that OGC would not need to forward a copy of their decision to NIGC if:</p> <ul style="list-style-type: none"> • The decision is to overturn a suspension or to take any other action besides suspending, conditioning or revoking a license. • The decision to suspend, condition, or revoke is not based on information from NIGC. • The information about the employee came from another source instead of NIGC.

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Emergency Adoption of Amendments

This item was added to the Active Files List at the September 17, 2014 LOC meeting, for processing on an emergency basis. In accordance with section 16.9-5 the Legislative Procedures Act (LPA), the OBC may temporarily enact an emergency law where necessary for the immediate preservation of the public health, safety or general welfare of the Reservation population and the enactment/amendment of legislation is required sooner than would be possible under the standard legislative process. Amendments adopted on an emergency basis would be in effect for up to six months, with a one-time extension of up to six additional months.

Consideration

Although both 25 CFR 558.4 and the amended ONGO require certain hearing decisions to be sent to NIGC within 45 days, ONGO 21.12-9 also provides that "Any person aggrieved by a licensing decision of the Commission may appeal the decision by filing a request for an original hearing" before the OGC, within 15 days after receiving OGC's decision. OGC must certify the record within 30 days, and issue a written decision within 120 days after receiving the

53 request. OGC's decision may be appealed to the Judiciary as an appeal of an original hearing
54 body. This timeline exceeds the 45 days and it is not clear whether any later decision would also
55 need to be submitted to NIGC.

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57

Miscellaneous

58 It is intended that various other (minor) revisions may be made when these proposed
59 amendments are processed for permanent adoption; however those do not require immediate,
60 emergency action, and so were not included with these amendments. Such revisions include:
61 deleting the reference to the Administrative Procedures Act [21.12-8(g)]; updating sections 21.2
62 and 21.4 for compliance with the format and language required by the LPA, and other spelling,
63 capitalization and formatting changes.

64 A public meeting has not been held.
65

66
67

Chapter 21 Oneida Nation Gaming Ordinance

68 Thatiwi'ꞥStunya'tha Olihwa'ke
69 Matters of interest to where they make the money
70

71

21.1. Purpose and Policy

72 21.1-1. *Purpose.* The purpose of this Ordinance is to set forth the laws of the Oneida Tribe of
73 Indians of Wisconsin regarding all Gaming Activities conducted within the jurisdiction set forth
74 in this Ordinance. It is intended to govern the Gaming Activities of all persons, Gaming
75 Employees, consultants, business entities, vendors, boards, committees, commissions and
76 hearing bodies. This Ordinance does not authorize the operation of Gaming by a private person
77 or private entity for gain. This Ordinance shall govern all Gaming Activities occurring on lands
78 under the jurisdiction set forth in this Ordinance and all individuals or entities engaged in
79 Gaming Activities, including those providing goods or services to any person or entity engaged
80 in Gaming Activities

81 21.1-2. *Policy.* It is the policy of this Ordinance to ensure that the Oneida Tribe is the primary
82 beneficiary of its Gaming Operations and has the sole proprietary interest, and that Gaming
83 Activities within the jurisdiction set forth in this Ordinance are conducted fairly and honestly,
84 and that all internal departments, enterprises, officials and employees of the Oneida Tribe work
85 cooperatively to advance the best interests of the Oneida Tribe to protect the Tribe's gaming
86 resources, protect the integrity of all gaming activities operated under the jurisdiction set forth in
87 this Ordinance and to ensure fairness of all games offered to the Tribe's gaming patrons.
88
89

21.2. Adoption, Amendment, Applicability, Repeal

90 21.2-1. *Adoption.* This Ordinance is adopted under the authority of the Constitution of the
91 Oneida Tribe of Indians of Wisconsin by Oneida General Tribal Council Resolution # 7-05-04-A
92 and amended by resolutions BC-10-06-04-D, BC-3-23-05-C, BC-9-23-09-D ~~and~~, BC-06-25-14-
93 C and.

94
95 21.2-2. *Amendment.* This Ordinance may be amended by the Oneida Business Committee or the
96 General Tribal Council in accordance with Tribal law.

97 21.2-3. *Severability.* Should a provision of this Ordinance or the application of this Ordinance
98 be held as invalid, the invalidity shall not effect other provisions of this Ordinance.

99 21.2-4. All other Oneida laws, policies, regulations, rules, resolutions, motions and all other
100 similar actions which are inconsistent with this law are hereby repealed unless specifically re-
101 enacted after adoption of this law. Specifically, the following resolutions are repealed by this
102 law:

- 103 (a) BC-4-21-89-D (Adoption of the Oneida Gaming Control Ordinance);
- 104 (b) GTC-03-04-91-A (Establishing 7 elected Gaming Commissioners and Bingo
105 standards);
- 106 (c) GTC-7-6-92-A (Amendments to Gaming SOP Manual);
- 107 (d) GTC-7-6-92-B (Adoption of the Comprehensive Gaming Ordinance);
- 108 (e) BC-3-16-94-A; (Comprehensive Gaming Ordinance Interpretation); and
- 109 (f) BC-4-5-95-D (Amendments to the Comprehensive Gaming Ordinance).

110 21.2-5. *Name*. This Ordinance shall be known as the Oneida Nation Gaming Ordinance or
111 ONGO.

112 21.2-6. *Preemptive Authority*. The Gaming Commission shall be the original hearing body
113 authorized to hear licensing decisions as set forth in this Ordinance.
114

115 **21.3. Jurisdiction**

116 21.3-1. *Territorial Jurisdiction*. This Ordinance extends to all land within the exterior
117 boundaries of the Reservation of the Tribe, as established pursuant to the 1838 Treaty with the
118 Oneida, 7 Stat. 566, and any lands added thereto pursuant to federal law.

119 21.3-2. *Subject Matter Jurisdiction*. This Ordinance applies to all Gaming conducted within the
120 territorial jurisdiction of the Oneida Tribe as set forth in section 21.3-1.

121 21.3-3. *Personal Jurisdiction*. This Ordinance shall govern:

- 122 (a) the Tribe;
- 123 (b) tribal members; and
- 124 (c) individuals and businesses leasing, occupying, or otherwise using Tribal fee land on
125 the Reservation and all Tribal Trust Lands.
126

127 **21.4. Definitions**

128 21.4-1. This section shall govern the definitions of words and phrases used in this Ordinance.
129 Words and phrases capitalized through out this document refer to the defined words and phrases
130 in this section. All words or phrases not defined in this section shall be interpreted based on their
131 plain ordinary and everyday meaning.

132 21.4-2. *Applicant* means any person or entity who has applied for a License from the Oneida
133 Gaming Commission or the Oneida Business Committee.

134 21.4-3. *Background Investigation* means a standard and thorough investigation conducted by the
135 Oneida Tribe in compliance with this Ordinance, Commission regulations, Oneida Gaming
136 Minimum Internal Controls, the IGRA and the Compact. Such investigations may be in
137 cooperation with federal, state, or Tribal law enforcement agencies.

138 21.4-4. *Class I Gaming* means social games solely for prizes of minimal value or traditional
139 forms of Indian gaming engaged in by individuals as a part of, or in connection with, Tribal
140 ceremonies or celebrations.

141 21.4-5. *Class II Gaming* means:

- 142 (a) The game of chance commonly known as bingo (whether or not electronic, computer
143 or other technological aids are used in connection therewith) in which:
 - 144 (1) The game is played for prizes, including monetary prizes, with cards bearing

- 145 numbers or other designations.
- 146 (2) The holder of the card covers such numbers or designations when objects,
147 similarly numbered or designated, are drawn or electronically determined.
- 148 (3) The game is won by the first person covering a previously designated
149 arrangement of numbers or designation on such cards, including (if played in the
150 same location) pull-tabs, lotto, punch boards, tip jars, instant bingo and other
151 games similar to bingo.
- 152 (b) Card games that:
- 153 (1) Are explicitly authorized by the laws of the State; or
- 154 (2) Are not explicitly prohibited by the laws of the State and are played at any
155 location in the State, but only if such card games are played in conformity with
156 laws and regulations (if any) of the State regarding hours or periods of operation
157 of such card games or limitations on wagers or pot sizes in such card games.
158 Class II Gaming does not include any banking card games, including baccarat,
159 chemin de fer, or blackjack (twenty-one), or electronic or electro-mechanical
160 facsimiles of any game of chance or slot machines of any kind.
- 161 21.4-6. *Class III Gaming* means all forms of Gaming that are not Class I or Class II.
- 162 21.4-7. *Commission* means the Oneida Gaming Commission as established by this Ordinance.
- 163 21.4-8. *Commissioner* means a duly elected member of the Oneida Gaming Commission.
- 164 21.4-9. *Compact* means the 1991 Tribe-State Gaming Compact between the Tribe and the State
165 of Wisconsin as amended and any future amendments or successor compact entered into by the
166 Tribe and State and approved by the Secretary of the United States Department of Interior.
- 167 21.4-10. *Compliance Certificate* means a certificate issued by an agency with the authority and
168 responsibility to enforce applicable environmental, health or safety standards, which states that a
169 Gaming Facility complies with these standards.
- 170 21.4-11. *Environmental Assessment* means a document prepared and issued in compliance with
171 the National Environmental Policy Act of 1969, 42 U.S.C. sec. 4321 et seq., and all related
172 Federal regulations.
- 173 21.4-12. *Fraud* means any act of trickery or deceit used to or intended to gain control or
174 possession of the property of another.
- 175 21.4-13. *Games, Gaming, or Gaming Activity* means all forms of any activity, operation, or
176 game of chance that is considered Class II or Class III Gaming, provided that this definition does
177 not include Class I Gaming.
- 178 21.4-14. *Gaming Employee* means any person employed by a Gaming Operation.
- 179 21.4-15. *Gaming Facility* or *Gaming Facilities* means any location or structure, stationary or
180 movable, wherein Gaming is permitted, performed, conducted, or operated. Gaming Facility
181 does not include the site of a fair, carnival, exposition, or similar occasion.
- 182 21.4-16. *Gaming Operation* means the conduct of Gaming Activities and related business
183 activities in Gaming Facilities and areas where Gaming Employees are employed or assigned.
- 184 21.4-17. *Gaming Operator* means the Tribe, an enterprise owned by the Tribe, or such other
185 entity of the Tribe as the Tribe may from time to time designate as the wholly-owned entity
186 having full authority and responsibility for the operation and management of Gaming
187 Operations.
- 188 21.4-18. *Gaming Services* means the provision of any goods and services, except legal services
189 and accounting services, to a Gaming Operation, including, but not limited to, equipment,
190 transportation, food, linens, janitorial supplies, maintenance, or security services.

- 191 21.4-19. *Indian Gaming Regulatory Act* or *IGRA* means Public Law 100-497, 102 Stat. 2426, 25
192 U.S.C. sec. 2701, *et seq.*, as amended.
- 193 21.4-20. “Judiciary” means the judicial system that was established by Oneida General Tribal
194 Council resolution GTC #1-07-13-B to administer the judicial authorities and responsibilities of
195 the Tribe.
- 196 21.4-21. *License* means a certificate or other document that represents the grant of a revocable
197 authorization to conduct the licensed activity. A license must be supported by a physical
198 document, badge, certification or other physical manifestation of the issuance of the revocable
199 authorization to conduct the licensed activity.
- 200 21.4-22. *Licensee* means a person or entity issued a valid License.
- 201 21.4-23. *NIGC* means the National Indian Gaming Commission.
- 202 21.4-24. *Oneida Business Committee* means the elected governing body of the Tribe exercising
203 authority delegated from the Oneida General Tribal Council of the Oneida Tribe of Indians of
204 Wisconsin under Article IV of the Constitution and By-laws for the Oneida Tribe of Indians of
205 Wisconsin, approved December 21, 1936, as thereafter amended.
- 206 21.4-25. *Oneida General Tribal Council* means the governing body of the Oneida Tribe of
207 Indians of Wisconsin as determined by the Tribe’s Constitution.
- 208 21.4-26. *Ordinance or ONGO* means the Oneida Nation Gaming Ordinance as it may from time
209 to time be amended.
- 210 21.4-27. *Regulatory Incident* means the occurrence of any event giving rise to a potential or
211 alleged non-compliance with a gaming regulation, ordinance, law or policy involving any person
212 or Licensee on the premises of a Gaming Facility.
- 213 21.4-28. *Remediation* means efforts taken to reduce the source and migration of environmental
214 contaminants at a site.
- 215 21.4-29. *Reservation* means all lands within the exterior boundaries of the Reservation of the
216 Oneida Tribe of Indians of Wisconsin, as created pursuant to the 1838 Treaty with the Oneida, 7
217 Stat. 566, and any lands added thereto pursuant to federal law.
- 218 21.4-30. *Senior Gaming Management* means the gaming general manager, assistant gaming
219 general managers, gaming directors and assistant gaming directors.
- 220 21.4-31. *State* means the State of Wisconsin, its authorized officials, agents and representatives.
- 221 21.4-32. *Tribe* means the Oneida Tribe of Indians of Wisconsin.
- 222 21.4-33. *Tribal Fee Land* means all land to which the Tribe holds title in fee simple.
- 223 21.4-34. *Tribal Trust Land* means all land to which the United States holds title for the benefit
224 of the Tribe pursuant to federal law.

- 225
- 226 **21.5. Oneida Business Committee: Powers and Duties**
- 227 21.5-1. The Oneida Business Committee retains the power and duty to enter into agreements or
228 compacts with the State under the Indian Gaming Regulatory Act.
- 229 21.5-2. The Oneida Business Committee retains the power and duty to enter into agreements
230 with local governments and other Tribal governments for services or cooperative ventures for the
231 Gaming Operations.
- 232 21.5-3. The Oneida Business Committee has the exclusive power and duty to enter into
233 contracts and agreements affecting the assets of the Tribe, except for those assets that were
234 placed under the responsibility of the Oneida Land Commission under Chapter 67, Real Property
235 Law.
- 236 21.5-4. The Oneida Business Committee delegates to the Commission, as set out in section 21.6-

237 14, certain authorities and responsibilities for the regulation of Gaming Activities, Gaming
238 Operations, Gaming Operators, Gaming Employees, Gaming Facilities, Gaming Services, and
239 enforcement of laws and regulations, as identified in this Ordinance.

240 21.5-5. The Oneida Business Committee retains the duty and responsibility to safeguard all
241 funds generated by the Gaming Operations and all other authorities and responsibilities not
242 delegated by a specific provision of this Ordinance.

243 21.5-6. The Chairperson of the Tribe shall be the designated and registered agent to receive
244 notice of violations, orders, or determinations which are issued pursuant to the Indian Gaming
245 Regulatory Act and the Compact.

246

247 **21.6. Oneida Gaming Commission**

248 21.6-1. *Establishment and Purpose.* The Oneida Business Committee has established the Oneida
249 Gaming Commission for the purpose of regulating all Gaming Activities. The Commission is an
250 elected body comprised of four (4) members, provided that, the Oneida Business Committee
251 may, upon request of the Commission, increase the number of Commissioners by resolution
252 without requiring amendment of this Ordinance.

253 21.6-2. *Location and Place of Business.* The Commission shall maintain its offices and principal
254 place of business within the Reservation.

255 21.6-3. *Duration and Attributes.* The Commission shall have perpetual existence and succession
256 in its own name, unless dissolved by Tribal law. Operations of the Commission shall be
257 conducted on behalf of the Tribe for the sole benefit of the Tribe and its members. The Tribe
258 reserves unto itself the right to bring suit against any person or entity in its own right, on behalf
259 of the Tribe, or on behalf of the Commission, whenever the Tribe considers it necessary to
260 protect the sovereignty, rights, and interests of the Tribe or the Commission.

261 21.6-4. *Sovereign Immunity of the Tribe.*

262 (a) All inherent sovereign rights of the Tribe with regard to the existence and activities of
263 the Commission are hereby expressly reserved.

264 (b) The Tribe confers upon the Commission sovereign immunity from suit as set forth in
265 the Tribe's Sovereign Immunity Ordinance.

266 (c) Nothing in this Ordinance nor any action of the Commission shall be construed to be
267 a waiver of its sovereign immunity or that of the Tribe, or consent by the Commission or
268 the Tribe to the jurisdiction of the Judiciary, the United States, any state, or any other
269 tribe, or consent by the Tribe to any suit, cause of action, case or controversy, or the levy
270 of any judgment, lien, or attachment upon any property of the Commission or the Tribe.

271 21.6-5. *Requirements of Commission Membership.*

272 (a) *Qualifications.* Candidates for election or appointment to the Commission shall be at
273 least twenty-one (21) years of age on the day of the election or on the day of
274 appointment. In addition, Candidates for election to the Commission shall meet the
275 following qualifications within five (5) business days after a caucus for elected positions
276 on the Commission. Candidates for appointment to the Commission shall meet the
277 following qualifications on the day of appointment to a vacancy on the Commission
278 under 21.6-13:

279 (1) Be an enrolled member of the Tribe;

280 (2) Have a minimum of three (3) years of education experience, employment
281 experience and/or regulatory experience in Gaming Operations related to Gaming
282 Activity, Gaming law, Gaming control or regulation, or Gaming accounting or of

- 283 any combination of the foregoing; and
284 (3) Meet all other qualifications set forth in this Ordinance.
- 285 (b) *Conflict of Interest*. No person shall be considered for election or appointment as a
286 Commissioner until the candidate has disclosed all conflicts of interest as defined by the
287 Oneida Conflict of Interest Policy.
- 288 (c) *Background Investigation*. No person shall be considered for election or appointment
289 as a Commissioner until a preliminary background investigation has been completed and
290 the person has been found to meet all qualifications.
- 291 (d) Swearing into office is subject to a Background Investigation regarding the
292 qualifications set forth in sections 21.6-5 and 21.6-6 upon being elected or appointed to
293 office.
- 294 21.6-6. Unless pardoned for activities under subsection (a) and/or (d) by the Tribe, or pardoned
295 for an activity under subsection (a) and/or (d) by another Federally-recognized Indian Tribe for
296 an action occurring within the jurisdiction of the Federally-recognized Indian Tribe, or pardoned
297 for an activity under subsection (a) and/or (d) by the State or Federal government, no individual
298 shall be eligible for election or appointment to, or to continue to serve on, the Commission, who:
299 (a) Has been convicted of, or entered a plea of guilty or no contest to, any of the
300 following:¹
- 301 (1) Any gambling-related offense;
 - 302 (2) Any offense involving Fraud or misrepresentation;
 - 303 (3) Any offense involving a violation of any provision of chs. 562 or 565, Wis.
304 Stats., any rule promulgated by the State of Wisconsin Department of
305 Administration, Division of Gaming or any rule promulgated by the Wisconsin
306 Racing Board;
 - 307 (4) A felony not addressed in paragraphs 1, 2, or 3, during the immediately
308 preceding ten (10) years; or
 - 309 (5) Any offense involving the violation of any provision of Tribal law regulating
310 the conduct of Gaming Activities, or any rule or regulation promulgated pursuant
311 thereto.
- 312 (b) Has been determined by the Tribe to be a person whose prior activities, criminal
313 record if any, or reputation, habits, and associations pose a threat to the public interest or
314 to the effective regulation and control of Gaming, or create or enhance the dangers of
315 unsuitable, unfair, or illegal practices, methods, or activities in the operation of Gaming
316 or the carrying on of the business and financial arrangements incidental thereto;
- 317 (c) Possesses a financial interest in or management responsibility for any Gaming
318 Activity or Gaming Services vendor;
- 319 (d) Has been convicted of a crime involving theft, Fraud, or conversion against the
320 Tribe;
- 321 (e) Has been removed from any office pursuant to the Oneida Removal Law within the
322 past five (5) years; or
- 323 (f) Is a sitting Commissioner whose term is not concluded at the time of that election or

¹ This section taken substantially from Section IX of the Tribe-State Gaming Compact.

324 appointment action.

325 21.6-7. *Term of Office.* Commissioners shall serve five (5) year terms and shall serve until a
326 successor takes the oath of office. Terms of office shall be staggered.

327 21.6-8. *Official Oath.* Each Commissioner shall take the official oath at a regular or special
328 Oneida Business Committee meeting prior to assuming office. Upon being administered the oath
329 of office, a Commissioner shall assume the duties of office and shall be issued a security card
330 setting forth his or her title and term of office.

331 21.6-9. *Full-time Status.* The Commission shall identify the appropriate work schedule for its
332 members. Each Commissioner shall perform his or her duties and responsibilities on a full-time
333 basis and will devote his or her entire work and professional time, attention and energies to
334 Commission business, and will not, during his or her tenure in office, be engaged in any other
335 profession or business activity that may impede the Commissioner's ability to perform duties on
336 behalf of the Commission or that competes with the Tribe's interests.

337 21.6-10. *By-laws.* The Commission shall adopt bylaws subject to review and approval by the
338 Oneida Business Committee.

339 21.6-11. *Budget and Compensation.* The Commission shall function pursuant to an annual
340 budget. The Oneida Business Committee shall submit the operating budget of the Commission
341 for approval in the same fashion as all other Tribal budgets. Compensation of Commissioners
342 shall not be subject to the Tribe's Comprehensive Policy Governing Boards, Committees, and
343 Commissions, but shall be established by the Commission in a manner consistent with the
344 Commission's internal rules and by-laws. The Commission shall adopt internal rules consistent
345 with the existing Tribal accounting practices to verify its budgetary expenditures.

346 21.6-12. *Removal.* Removal of Commissioners shall be pursuant to the Oneida Removal Law.

347 21.6-13. *Vacancies.* Any vacancy in an unexpired term of office, however caused, shall be
348 filled by appointment by the Oneida Business Committee of a person qualified pursuant to
349 sections 21.6-5 and 21.6-6.

350 21.6-14. *Authority and Responsibilities.* Subject to any restrictions contained in this Ordinance
351 or other applicable law, the Commission is vested with powers including, but not limited to the
352 following:

353 (a) To exercise all power and authority necessary to effectuate the gaming regulatory
354 purposes of this Ordinance, IGRA, Oneida Gaming Minimum Internal Controls, and the
355 Compact. Unless otherwise indicated in this Ordinance or Commission regulation, or
356 authorized by majority vote of the Commission, no Commissioner shall act independently
357 of the Commission. Any such action may constitute grounds for removal.

358 (b) To promote and ensure the integrity, security, honesty, and fairness of the regulation
359 and administration of Gaming.

360 (c) To draft, and approve, subject to review and adoption by the Oneida Business
361 Committee, regulations pursuant to this Ordinance for the regulation of all Gaming
362 Activity, including processes for enforcement of such regulations consistent with Tribal
363 law.

364 (d) To draft, and approve, subject to review and adoption by the Oneida Business
365 Committee, the Rules of Play and Oneida Gaming Minimum Internal Controls; provided
366 that, Rules of Play and Oneida Gaming Minimum Internal Controls shall require review
367 and comment by the Gaming Operation prior to approval by the Commission, and those
368 comments shall be included in any submission to the Oneida Business Committee. Rules
369 of Play and Oneida Gaming Minimum Internal Controls are adopted and approved

- 370 industry standards for Gaming Operations.
- 371 (e) To prepare proposals, including budgetary and monetary proposals, which might
- 372 enable the Tribe to carry out the purpose and intent of this Ordinance, and to submit the
- 373 same for consideration by the Oneida Business Committee; provided, however, that no
- 374 such proposal shall have any force or effect unless it is approved by the Oneida Business
- 375 Committee.
- 376 (f) To monitor and enforce all laws and regulations governing the operation and conduct
- 377 of all Gaming Activities, including the ongoing monitoring of Licenses, subject to this
- 378 Ordinance and/or regulations setting forth hearing or enforcement processes.
- 379 (g) To monitor and investigate all Gaming Operators for compliance with internal audits,
- 380 and external audits.
- 381 (h) To inspect, examine, and photocopy all papers, books, and records of Gaming
- 382 Activities and any other matters necessary to carry out the duties pursuant hereto,
- 383 provided that, all photocopies of documents shall be maintained in a confidential manner
- 384 or in the same manner as the original.
- 385 (i) To grant, deny, revoke, condition, suspend or reinstate the Licenses of Gaming
- 386 Employees, Gaming Services vendors, and Gaming Operators.
- 387 (j) To conduct hearings relating to Licenses issued under this Ordinance by the
- 388 Commission.
- 389 (k) To review all vendors doing business with the Gaming Operator to verify that such
- 390 persons or entities hold a valid License, where required, to do business with a Gaming
- 391 Operator.
- 392 (l) To retain professional advisors such as attorneys, law enforcement specialists, and
- 393 Gaming professionals consistent with Tribal law and practices.
- 394 (m) To arbitrate, negotiate, or settle any dispute to which it is a party and which relates
- 395 to its authorized activities.
- 396 (n) To act as the designated agent to receive all regulatory notices not included in section
- 397 21.5-6.
- 398 (o) To investigate all Regulatory Incidents.
- 399 (p) To issue warnings or notices of violation, in accordance with regulations, to Gaming
- 400 Operators and Licensees for non-compliance with the Compact, Oneida Gaming
- 401 Minimum Internal Controls, Rules of Play, IGRA, or this Ordinance.
- 402 (q) To make determinations regarding suitability for licensing.
- 403 (r) To establish an administrative structure by regulation to carry out its authority and
- 404 responsibilities.
- 405 (s) To establish, where needed, additional processes for conducting licensing hearings by
- 406 regulation.
- 407 (t) To establish and collect fees for processing license applications by regulation.
- 408 (u) To establish and impose a point system for findings of regulatory violations by any
- 409 Gaming Employee by regulation.
- 410 (v) To establish and impose a fine system for findings of regulatory violations by any
- 411 Gaming Services vendor or permittee by regulation.
- 412 (w) To approve procedures that provide for the fair and impartial resolution of patron
- 413 complaints.
- 414 21.6-15. *Reporting Requirements.* The Commission shall adhere to the following reporting
- 415 requirements:

- 416 (a) A true, complete and accurate record of all proceedings of the Commission shall be
417 kept and maintained;
- 418 (b) Complete and accurate minutes of all Commission meetings shall be filed with the
419 Secretary of the Oneida Business Committee within thirty (30) days of their approval by
420 the Commission;
- 421 (c) Quarterly, or as may be directed by the Oneida Business Committee, reports of the
422 Commission's activities, including information regarding funding, income and expenses
423 and any other matters to which the parties may agree, shall be submitted to the Oneida
424 Business Committee.

425 21.6-16. *Oneida Gaming Commission Personnel.* The Commission shall hire an Executive
426 Director who shall be responsible for hiring and managing the personnel of the Commission. The
427 Executive Director shall hire such personnel as is necessary to assist the Commission to fulfill its
428 responsibilities under this Ordinance, the IGRA, and the Compact, and all regulations including
429 the Oneida Gaming Minimum Internal Controls. The Executive Director and personnel of the
430 Commission shall be hired through the Tribe's regular personnel procedure and shall be subject
431 to its personnel policies and salary schedules. The Executive Director and personnel shall be
432 required to meet the requirements set forth in section 21.12-3 at hiring and during employment.
433

434 **21.7. Gaming Surveillance: Powers, Duties and Limitations**

435 21.7-1. *Purpose.* The purpose of Gaming Surveillance is to observe and report Regulatory
436 Incidents to the Commission and Gaming General Manager to provide for the regulation,
437 operation, and compliance of Gaming Activities under this Ordinance. Gaming Surveillance is a
438 department within the Commission's administrative structure and supervision shall be identified
439 within the organizational chart adopted by the Commission, provided that nothing in the
440 designation of supervisory responsibility shall be deemed to prohibit the responsibility of
441 Gaming Surveillance to provide information and/or video and/or audio records to the parties
442 identified in section 21.7-3.

443 21.7-2. Gaming Surveillance shall be responsible for all Gaming surveillance activities
444 including, but not limited to, equipment and maintenance of equipment, observation and
445 reporting of all persons to include Gaming Employees, customers, consultants, and Gaming
446 Services vendors.

447 21.7-3. Surveillance personnel shall provide to Senior Gaming Management, the Commission,
448 or Gaming Security a copy of any time-recorded video and accompanying audio (if available)
449 within twenty-four (24) hours of request.

450 21.7-4. Gaming Surveillance shall:

- 451 (a) Develop, implement and maintain written policies and procedures for the conduct and
452 integrity of the Surveillance Department.
- 453 (b) Develop, implement and maintain additional procedures governing the use and
454 release of the surveillance recordings or reports.
- 455 (c) Work cooperatively with the Gaming Security Department to carry out its official
456 duties and to coordinate its activities in order to effectuate the protection of patrons and
457 the assets of the Gaming Operation.
- 458 (d) Develop, implement and maintain written policies and procedures for implementation
459 of duties and responsibilities identified with the Oneida Gaming Minimum Internal
460 Controls, subject to approval by the Commission.
461

462 **21.8. [Reserved for future use.]**

463

464 **21.9. Gaming Security Department**

465 21.9-1. *Purpose.* The Gaming Security Department is a department within the Oneida Police
466 Department. The purpose of the Gaming Security Department is to protect Gaming assets,
467 patrons and Gaming Employees from an activity, repeat activity, or ongoing activities which
468 could injure or jeopardize Gaming assets, patrons and Gaming Employees and report these
469 activities to the Oneida Police Department for further review and/or investigation. Provided that,
470 all reports of the Gaming Security Department shall be copied to the Commission.

471 21.9-2. *Reporting.* The Oneida Police Department, Gaming General Manager and the
472 Commission shall enter into an agreement, subject to ratification by the Oneida Business
473 Committee, which describes their responsibilities and reporting requirements under this law.

474 21.9-3. The Gaming Security Department shall:

475 (a) Develop, implement and maintain written policies and procedures for the conduct and
476 integrity of Gaming Security, as identified in the Oneida Gaming Minimum Internal
477 Controls and subject to approval by the Commission.

478 (b) Develop, implement and maintain additional procedures governing the use and
479 release of the investigation reports.

480 (c) Work cooperatively with Gaming Surveillance to carry out its official duties and to
481 coordinate activities between the departments.

482 21.9-4. *Investigations.* This Section is intended to authorize report gathering, information
483 gathering, and preliminary review, to be conducted by the Gaming Security Department.

484

485 **21.10. Background Investigations**

486 21.10-1. The Human Resources Department and the Commission shall enter into an agreement,
487 subject to ratification by the Oneida Business Committee, for carrying out Background
488 Investigations for employees as required under this law.

489 21.10-2. Background Investigations shall be conducted on all persons or entities as specified
490 under this law. All Background Investigations shall be conducted to ensure that the Tribe in its
491 Gaming Operations shall not employ or contract with persons whose prior activities, or
492 reputation, habits and associations pose a threat to the public interest or to the effective
493 regulation of gaming, or create or enhance the dangers of unsuitable, unfair or illegal practices
494 and methods in the conduct of such gaming. The identity of any person interviewed in order to
495 conduct a Background Investigation shall be confidential.

496

497 **21.11. Licenses, Generally**

498 21.11-1. The Commission shall adopt procedures that ensure the efficient and orderly processing
499 of all applications for a License. All Gaming Employees, Gaming Services vendors, and
500 Gaming Operators shall apply for a License from the Commission prior to their participation in
501 any Gaming Activity. All Gaming Facilities must be licensed by the Oneida Business
502 Committee.

503 21.11-2. *Temporary License.* All Applicants, upon receipt by the Commission of a completed
504 application for a License and completion of a preliminary Background Investigation, may
505 receive a temporary license for a ninety (90) day period, unless a Background Investigation of
506 the application demonstrates grounds to disqualify the Applicant. Such temporary license, as
507 defined in this section, shall permit the Licensee to engage in such activities and pursuant to any

508 terms and conditions imposed and specified by the Commission. The temporary license shall be
509 valid until either replaced by a License, the ninety (90) day temporary license period has
510 concluded, or the temporary license is cancelled by the Commission, whichever occurs first.

511 21.11-3. *Revocable*. A License is revocable only in accordance with the procedures set forth in
512 this Ordinance. A Licensee shall have only those rights and protections regarding a License
513 granted in this Ordinance.

514 21.11-4. All Applicants:

515 (a) Consent to the release of any information relevant to the Applicant's Background
516 Investigation by any person or entity in possession of such information.

517 (b) Consent to the jurisdiction of the Tribe and are subject to all applicable Tribal,
518 Federal, and State laws, regulations, and policies.

519 21.11-5. All Licensees are subject to ongoing review at least every two (2) years by the
520 Commission.

521 21.11-6. *Status of Licenses*. The Commission shall notify the Gaming Operation of the status of
522 all Licenses, whether temporary or permanent, including all Commission action to revoke,
523 suspend, or condition a License.

524 21.11-7. *Commission Licensing Actions*. The Commission may grant, deny, revoke, condition,
525 suspend or reinstate all Licenses, except for Gaming Facilities Licenses, in accordance with this
526 Ordinance. Authority to place conditions on a license may be exercised only upon promulgation
527 of regulations.

528 21.11-8. *Noncompliance*. The Commission may issue a notice of noncompliance when the
529 Commission has developed regulations that identify procedures that notices of noncompliance
530 may be issued to Licensees and permittees which provide an opportunity to correct actions. Such
531 regulations shall include procedures for appeal of such notices. Regulations may include the
532 ability to issue fines not to exceed one thousand dollars (\$1000.00) per violation for Gaming
533 Services vendors and permittees.

534

535 **21.12. Gaming Employee License**

536 21.12-1. *Scope of Section*. This Section applies only to Gaming Employee Licenses and
537 licensing actions.

538 21.12-2. *License Application*. Every Applicant for a License shall file with the Commission a
539 written application in the form prescribed by the Commission, duly executed and verified, which
540 shall certify:

541 (a) Applicant's full name and all other names used (oral or written), Social Security
542 Number(s), place of birth, date of birth, citizenship, gender, and all languages (spoken or
543 written).

544 (b) Currently, and for the previous five (5) years: business and employment positions
545 held, ownership interests in those businesses, business and residence addresses, and
546 driver's license number(s).

547 (c) The names and current addresses, of at least three (3) personal references, including
548 one (1) personal reference, who were acquainted with the Applicant during each period of
549 residence listed in subsection (b) above.

550 (d) Current business and residence telephone numbers.

551 (e) A description of any existing and previous business relationships with Indian Tribes,
552 including ownership interest in those businesses.

553 (f) A description of any existing and previous business relationship with the Gaming

- 554 industry generally, including ownership interest in those businesses.
- 555 (g) The name and address of any licensing or regulatory agency with which the
556 Applicant has filed an application for a license or permit related to gaming, whether or
557 not such licenses or permit was granted.
- 558 (h) The name and address of any licensing or regulatory agency with which the
559 Applicant has filed an application for an occupational license or permit, whether or not
560 such licenses or permit was granted.
- 561 (i) For each felony conviction or ongoing prosecution or conviction, the charge, the
562 name and address of the court involved, and the date and disposition if any.
- 563 (j) For each misdemeanor or ongoing misdemeanor prosecution (excluding violations for
564 which jail time is not part of the potential sentence) within ten (10) years of the date of
565 the application, the name and address of the court involved, and the date and disposition.
- 566 (k) For each criminal charge (excluding charges for which jail time is not part of the
567 potential sentence) whether or not there is a conviction, if such criminal charge is within
568 ten (10) years of the date of the application and is not otherwise listed pursuant to
569 subsections (i) or (j) of this section, the criminal charge, the name and address of the
570 court involved and the date and disposition.
- 571 (l) A photograph.
- 572 (m) Fingerprints consistent with procedures adopted by the Commission which meet the
573 criteria set forth in 25 C.F.R. section 522.2(h).
- 574 (n) Any other information the Commission deems relevant for a Gaming Employee
575 License.
- 576 (o) A statement that each Applicant has read and understands notices and NIGC
577 requirements relating to:
- 578 (1) The Privacy Act of 1974;
579 (2) Fraud and False Statements Act; and
580 (3) Fair Credit Reporting Act.
- 581 21.12-3. *License Qualifications.* No License shall be granted if the Applicant:
- 582 (a) Is under the age of eighteen (18).
- 583 (b) Unless pardoned for activities under this subsection by the Tribe, or pardoned for
584 activities under this subsection by another Federally-recognized Indian Tribe for an
585 action occurring within the jurisdiction of the Federally-recognized Indian Tribe, or
586 pardoned for activities under this subsection by the state or Federal government, has been
587 convicted of, or entered a plea of guilty or no contest to, any of the following:
- 588 (1) Any gambling-related offense;
589 (2) Any offense involving Fraud or misrepresentation;
590 (3) Any offense involving a violation of any provision of chs. 562 or 565, Wis.
591 Stats., any rule promulgated by the State of Wisconsin Department of
592 Administration, Division of Gaming or any rule promulgated by the Wisconsin
593 Racing Board;
594 (4) A felony not addressed in paragraphs (1), (2), or (3), during the immediately
595 preceding ten (10) years; or
596 (5) Any offense involving the violation of any provision of Tribal law regulating
597 the conduct of Gaming Activities, or any rule or regulation promulgated pursuant
598 thereto.
- 599 (c) Is determined to be a person whose prior activities, criminal record, reputation,

600 habits, or associations pose a threat to the public interest or to the effective regulation and
601 control of Gaming or create or enhance the dangers of unsuitable, unfair, or illegal
602 practices, methods, or activities in the operation of Gaming Activities or the carrying on
603 of the business and financial arrangements incidental thereto.

604 (d) Possesses a financial interest in or management responsibility for any Gaming
605 Activity or Gaming Services vendor, or he or she has any personal, business, or legal
606 relationship which places him or her in a conflict of interest as defined in this Ordinance
607 or the Conflict of Interest Policy.

608 (e) Each person Licensed as a Gaming Employee shall have a continuing obligation to
609 inform the Commission immediately upon the existence of any circumstance or the
610 occurrence of any event which may disqualify him or her from being licensed as a
611 Gaming Employee. Failure to report any such occurrence may result in suspension or
612 revocation of the Gaming Employee's License.

613 21.12-4. *Initial Eligibility Determination.*

614 (a) Based on the results of the preliminary Background Investigation, the Commission
615 shall make an initial determination regarding an Applicant's eligibility and either:

- 616 (1) Grant a temporary license, with or without conditions, to the Applicant; or
617 (2) Deny the license application and provide notice to the Applicant that he or
618 she may request a hearing regarding the decision consistent with subsection (b)
619 below.

620 (b) If the Commission determines that an Applicant is ineligible for a License, the
621 Commission shall notify the Applicant. The Commission shall set forth regulations for
622 an Applicant to review any information discovered during the preliminary Background
623 Investigation prior to scheduling a hearing under section 21.12-9. The suspension or
624 revocation hearing provisions set forth at section 21.12-8 do not apply to Initial
625 Eligibility Determinations.

626 21.12-5. *NIGC Review.* When a Gaming Employee begins employment at a Gaming Operation,
627 the Commission shall:

628 (a) Forward to the NIGC a completed application for employment that contains the
629 notices and information listed in section 21.12-2 and any other necessary reports.

630 (b) Review the Background Investigation of the Applicant. Based upon the results of the
631 Background Investigation, the Commission shall determine the eligibility of the
632 Applicant to receive a License.

633 (c) Determine eligibility for a License within sixty (60) days after an Applicant begins
634 work at a Gaming Facility under a temporary license.

635 (d) Forward, after determination of eligibility, a report to the NIGC within sixty (60)
636 days after the Applicant begins employment at a Gaming Facility.

637 (1) During a thirty (30) day period, beginning when the NIGC receives a report
638 submitted pursuant to subsection (d) above, the Chairman of the NIGC may
639 request additional information from the Commission concerning the Applicant.
640 Such a request shall suspend the thirty (30) day period until the Chairman
641 receives the additional information.

642 (2) If, within the thirty (30) day period described in subsection (1) above, the
643 NIGC notifies the Commission that it has no objection to the issuance of a
644 License, the Commission may grant the License to the Applicant.

645 (3) If, within the thirty (30) day period described in subsection (1) above, the

646 NIGC provides the Commission with a statement itemizing objections to the
647 issuance of a License, the Commission shall reconsider the application, taking
648 into account the objections itemized by the NIGC. The Commission shall make
649 the final decision whether to issue a License to the Applicant.

650 (4) All applications, Background Investigations, investigative reports, suitability
651 determinations, findings and decisions of the Commission shall be retained in the
652 Commission's files for a period of at least ~~seven (7)~~three (3) years from the date
653 the Gaming Employee's employment is terminated.

654 21.12-6. *License Issuance.* Any Gaming Employee License issued under this section shall be
655 effective from the date of issuance and shall contain the Gaming Employee's photograph, the
656 Gaming Employee's name, and the date that the License became effective. If a Gaming
657 Employee is promoted, transferred, reassigned, or the position is reclassified, the Gaming
658 Employee shall notify in writing the Commission, and the Commission shall review the Gaming
659 Employee's License. The Commission retains the right to grant, deny, revoke, condition,
660 suspend, or reinstate Licenses subject to the right to appeal the decision under the processes set
661 forth in this Ordinance.

662 21.12-7. *Requirement to Wear License.* During working hours, all Licensees shall wear their
663 License in a conspicuous place that is plainly visible by all employees, the Nation's gaming
664 patrons and surveillance.

665 21.12-8. *Suspension or Revocation of Licenses.* Except as provided in section 21.12-8(c), no
666 License can be suspended or revoked except after notice and opportunity for hearing.

667 (a) *Basis for Licensing Action.* The Commission may suspend, condition, or revoke any
668 License issued under this Ordinance if:

669 (1) After the issuance of a License, the Commission receives from the NIGC or
670 other source reliable information indicating that a Gaming Employee is not
671 eligible for a License under section 21.12-3 or such information would justify the
672 denial of the renewal of any License, the Commission shall issue a written notice
673 of suspension;

674 (2) The Commission issues a written notice of suspension demonstrating that the
675 Licensee:

676 (A) Has knowingly made a materially false or misleading statement in
677 any application for a License, in any amendment thereto, or in response to
678 a request by the Commission for supplemental information or in
679 connection with any investigation of the Commission;

680 (B) Has knowingly promoted, played, or participated in any gaming
681 activity operated in violation of the Compact, Tribal or federal law, and
682 this Ordinance;

683 (C) Has bribed or attempted to bribe, or has received a bribe from, a
684 Commissioner or any other person in an attempt to avoid or circumvent
685 any applicable law;

686 (D) Has falsified any books or records relating to any transaction
687 connected with the operation of Gaming Activity;

688 (E) Has refused to comply with any lawful directive of the Tribe, the
689 Federal government, or any court of competent jurisdiction; or

690 (F) Has been convicted of, or entered a plea of guilty or no contest to, a
691 crime involving the sale of illegal narcotics or controlled substances.

692 (b) *Suspension Notice.* The Commission's notice of suspension shall be in writing and
693 shall, at a minimum, notify the Licensee of the following:

694 (1) The Licensee's right to review a file prior to any hearing regarding the notice
695 of suspension, and to make copies of any documents contained in that file;

696 (2) The Licensee's right to request a hearing on the proposed licensing action, to
697 present documents and witness testimony at that hearing to be represented by
698 counsel;

699 (3) The specific grounds upon which the proposed licensing action is based,
700 including citations to relevant sections of this Ordinance, the IGRA, any
701 applicable Regulations and/or the Compact; and

702 (4) The time and place set by the Commission for the Licensee's hearing.

703 (c) *Immediate Suspension.* If, in the judgment of the Commission, the public interest,
704 and effective regulation and control of Gaming Activities requires the immediate
705 exclusion of a Licensee, the Commission may immediately suspend a License prior to the
706 conduct of a hearing on the matter. Such an immediate suspension may take effect upon
707 service of the notice of immediate suspension.

708 (d) Any notice of suspension or notice of immediate suspension shall set forth the times
709 and dates for when the Licensee may review their file review and the date for a hearing
710 on any proposed licensing action.

711 (e) Within fifteen (15) business days after a hearing, the Commission shall issue a final
712 written licensing decision and decide whether to suspend, uphold an immediate
713 suspension, revoke, or take other action concerning a License. If the License was
714 suspended, conditioned or revoked based on information from the NIGC under 21.12-
715 8(a)(1), the Commission shall forward a copy of its decision to NIGC within forty-five
716 (45) days of receiving NIGC's notification indicating that a Gaming Employee is not
717 eligible for a License.

718 (f) If a Licensee fails to appear for his or her hearing before the Commission, that right
719 shall be deemed to have been waived and the Commission will proceed on the proposed
720 licensing action by default.

721 (g) Unless identified in this Ordinance or regulations of the Commission, the hearing
722 processes set forth in the Oneida Administrative Procedures Act shall apply.

723 21.12-9. *Original Hearing Body.* Any person aggrieved by a licensing decision of the
724 Commission may appeal the decision by filing a request for an original hearing before the
725 Commission. The Licensee must file any such request with the Commission in writing on or
726 before the fifteenth (15th) day following receipt of the Commission's decision. The Commission
727 shall certify the record, developed in 21.12-4 or 21.12-8(a), within thirty (30) days of the date of
728 the filing of the request for an original hearing. The Commissioners serving on the original
729 hearing body shall not include the Commissioners who participated in the licensing decision
730 from which the original hearing is scheduled. The Commission may determine to review the
731 decision solely on the licensing decision record and briefs filed regarding the request for
732 reconsideration. The Commission may also, in its sole discretion, grant oral argument. The
733 Commission shall issue a written decision within one hundred twenty (120) days from receipt of
734 the request for the original hearing. The Commission's decision shall be considered an original
735 hearing decision and an appeal may be made to the Judiciary as an appeal of an original hearing
736 body.

737 21.12-10. *Notice to Oneida Business Committee.* Prior to any suspension or revocation of a

738 License of the gaming general manager, the Commission shall provide notice to the Oneida
739 Business Committee twenty-four (24) hours prior to the issuance of the suspension or revocation.

740 21.12-11. *Record of Proceedings.* The Commission shall maintain a complete and accurate
741 record of all Licensure proceedings.

742 21.12-12. Revocation of a License is solely limited to the licensing matter. Employment related
743 processes resulting from revocation of a license are determined solely through the personnel
744 processes and procedures of the Tribe and are not licensing matters governed by this Ordinance.
745

746 **21.13. Gaming Services Licensing and Non-Gaming Services Permitting**

747 21.13-1. *Scope of Section.* This section applies to all individuals and entities providing Gaming
748 Services. The requirements of this Section are in addition to, and do not alter or amend any
749 requirements imposed by the Oneida Vendor Licensing Law.²

750 21.13-2. *Gaming Services License or Non-Gaming Services Permit Required.*

751 (a) *Gaming Services License.* Any Gaming Services vendor providing gaming related
752 contract goods or services as defined under Article VII(A) of the Compact to the Gaming
753 Operation must possess a valid Gaming Services License.

754 (b) *Non-Gaming Services Permit.* Any vendor providing non-gaming related goods or
755 services to the Gaming Operation must possess a valid Non-Gaming Services permit.

756 (c) Determinations regarding the issuance of a License or permit under this section shall
757 be made by the Commission which may be subject to requests for reconsideration by the
758 Gaming Services vendor within fourteen (14) business days of receipt by the Gaming
759 Services vendor of the notice of License or permit determination.

760 21.13-3. *Approved Gaming Services Vendor List.* The Commission shall maintain an updated
761 and complete list of all Gaming Services vendors that possess current and valid Gaming Services
762 Licenses or Non-Gaming Services permits from the Commission, which shall be known as the
763 Approved License and Permit List. Gaming Operations may only do business with vendors that
764 possess valid and current Gaming Services Licenses or Non-Gaming Services permits and who
765 appear on the Approved License and Permit List.

766 21.13-4. *Gaming Services License/Permit Application.* Every Applicant for a License or permit
767 shall file with the Commission a written application in the form prescribed by the Commission,
768 duly executed and verified which shall provide and certify the following. Provided that, non-
769 gaming services vendors with less than two thousand five hundred dollars (\$2,500.00) in services
770 for the prior fiscal year shall only be required to file a notice of doing business with the
771 Commission.

772 (a) The Applicant's name and mailing address;

773 (b) The names and addresses of each officer or management official of the Applicant;

774 (c) A copy of the Applicant's articles of incorporation and by-laws, or if not a
775 corporation, the Applicant's organizational documents;

776 (d) Identification of an agent of service for the Applicant;

777 (e) The name and address of each person having a direct or indirect financial interest in
778 the Applicant;

² See also Appendix 1. Vendor Licensing/Permit.

- 779 (f) The nature of the License or permit applied for, describing the activity to be engaged
780 in under the License or permit;
- 781 (g) Explicit and detailed disclosure of any criminal record, including any delinquent
782 taxes owed to the United States, or any state, of the Applicant, any person involved in the
783 organization, and any person of interest whose name appears or is required to appear on
784 the application;
- 785 (h) Whether the Applicant is or has been licensed by the state of Wisconsin Office of
786 Indian Gaming Regulation and Compliance and, if applicable, proof of current licensure;
- 787 (i) Whether the Applicant has been licensed in the state of New Jersey, Nevada, or by
788 any other gaming jurisdiction, including any Indian Tribe or Tribal governmental
789 organization and, if so, proof of such licensure and the status of any such license;
- 790 (j) Whether the Applicant has been denied a license by any gaming jurisdiction and, if
791 so, the identity of the jurisdiction, the date of such decision and the circumstances
792 surrounding that decision;
- 793 (k) Whether any license held by the Applicant has been refused renewal, conditioned,
794 suspended or revoked by an issuing authority and, if so, the circumstances surrounding
795 that action;
- 796 (l) A statement of waiver allowing the Tribe to conduct a Background Investigation of
797 the Applicant and any person whose name appears or is required to appear on the
798 application;
- 799 (m) Whether the Applicant or any person whose name appears or is required to appear
800 on the application has or has had any business with the Tribe or any business or personal
801 relationship with any of the Tribe's officers or employees;
- 802 (n) The name and contact information for all Tribes or Tribal organizations with whom
803 the Applicant or any person whose name appears or is required to appear on the
804 application has done business;
- 805 (o) Whether the Applicant or any person whose name appears or is required to appear on
806 the application maintains any involvement in the business of wholesale distribution of
807 alcoholic beverages;
- 808 (p) A statement that the Applicant has read and understands notices and NIGC
809 requirements relating to:
- 810 (1) The Privacy Act of 1974;
- 811 (2) False statements; and
- 812 (3) The Fair Credit Reporting Act.
- 813 (q) All additional information necessary to allow the Commission to investigate the
814 Applicant and any person whose name appears or is required to appear on the application.
- 815 21.13-5. *Signature on Application.* Applications for Licenses or permits must be signed by the
816 following person:
- 817 (a) For companies and corporations (both for profit and non-profit), the highest ranking
818 official of the corporation, or another person to whom the authority to execute the
819 Application has been properly delegated.
- 820 (b) For a sole proprietorship, the principal owner.
- 821 (c) For a partnership, all partners.
- 822 (d) For a limited partnership, the general partner or partners.
- 823 21.13-6. *Incomplete Applications.* Applications that do not contain all information requested,
824 including proper signatures, will be considered incomplete. Incomplete applications will not be

825 considered by the Commission. The Commission shall notify an Applicant if an application is
826 incomplete and what additional information is necessary to complete the application. If an
827 Applicant who has submitted an incomplete application, and been notified of the deficiency in
828 that application, fails to provide the information requested by the Commission, the application
829 will be returned to the Applicant and the file closed.

830 21.13-7. *Supplemental Information.* The Commission may, in its discretion, request
831 supplemental information from the Applicant. Supplemental information requested by the
832 Commission shall be promptly submitted by the Applicant. An Applicant's failure or refusal to
833 submit supplemental information requested by the Commission may constitute grounds for the
834 denial of the application.

835 21.13-8. *Continuing Duty to Provide Information.* Applicants, permittees, and Licensees owe a
836 continuing duty to provide the Commission with information and materials relevant to the
837 Applicant's, permittee's, or Licensee's character or fitness to be licensed, including but not
838 limited to any change in the licensing or permitting status of the Applicant, permittee, or
839 Licensee in any foreign jurisdiction. An Applicant's, permittee's, or Licensee's failure to notify
840 the Commission promptly of inaccuracies on an application or new information or materials
841 relevant to the Applicant may constitute grounds to deny, suspend or revoke a License or permit.

842 21.13-9. *Background Investigations.* Background Investigations for Gaming Services vendors
843 shall be conducted as follows.

844 (a) *Gaming Related Equipment Gaming Services Vendors under Fifty Thousand Dollars*
845 *(\$50,000.00) in Goods and/or Services Annually.* The Commission shall conduct the
846 Background Investigations that are sufficient to determine the eligibility for licensing of
847 all Gaming Services vendors that provide or anticipate providing under fifty thousand
848 dollars (\$50,000.00) in goods and services annually.

849 (b) *Gaming Related Equipment Gaming Services Vendors over Fifty Thousand Dollars*
850 *(\$50,000.00) in Goods and/or Services Annually.* The Commission shall review the
851 background investigation conducted by the Wisconsin Office of Indian Gaming
852 Regulation, and shall conduct any necessary additional Background Investigation to
853 ensure that the state background investigation is complete and current.

854 (c) *Other Non-Gaming Related Goods and/or Services Gaming Services Vendors.* The
855 Commission shall conduct Background Investigations on a sufficient number of
856 randomly selected applications in order to verify the accuracy of all applications. The
857 random selection process shall be identified by regulation of the Commission.

858 21.13-10. *Licensing Action in a Foreign Jurisdiction.* If the states of Wisconsin, New Jersey,
859 Nevada or any other gaming jurisdiction refuses to renew a license or permit or conditions,
860 suspends, or revokes the license or permit of an Applicant, permittee, or Licensee, such action
861 may constitute grounds for similar action by the Commission.

862 21.13-11. *Claim of Privilege.* At any time during the licensing or permitting process, the
863 Applicant may claim any privilege afforded by law. An Applicant's claim of privilege with
864 respect to the production of requested information or documents or the provision of required
865 testimony or evidence may constitute grounds for the denial, suspension or revocation of a
866 license or permit.

867 21.13-12. *Withdrawal of an Application.* An Applicant may request to withdraw an application
868 by submitting a written request to the Commission. The Commission retains the right, in its
869 exclusive discretion, to grant or deny a request for withdrawal. An Applicant who withdraws an
870 application shall be precluded from reapplying for a Gaming Services License or Non-Gaming

871 Services permit for a period of one (1) year from the date the application was withdrawn.
872 21.13-13. *Suspension or Revocation of Gaming Services Licenses or Permits.* Except as
873 provided in section 21.13-13(c), no License or permit can be suspended or revoked except after
874 notice and opportunity for hearing.

875 (a) *Basis for Licensing or Permitting Action.* The Commission may suspend, modify, or
876 revoke any Gaming Services License or Non-Gaming Services permit issued under this
877 Ordinance if, after issuance of the License or permit, the Commission receives reliable
878 information that would justify denial of the issuance or renewal of a License or permit, or
879 if the Commission determines that the Licensee or permittee has:

880 (1) Knowingly made a materially false or misleading statement in any application
881 for a License or permit, in any amendment thereto, or in response to a request by
882 the Commission for supplemental information or in connection with any
883 investigation of the Commission;

884 (2) Knowingly promoted, played, or participated in any Gaming Activity
885 operated in violation of the Compact, or any Tribal or other applicable law;

886 (3) Bribed or attempted to bribe a Commissioner or any other person in an
887 attempt to avoid or circumvent any applicable law;

888 (4) Falsified any books or records relating to any transaction connected with
889 operation of Gaming Activity;

890 (5) Refused to comply with a lawful directive of the Tribe, the federal
891 government, or any court of competent jurisdiction; or

892 (6) Been convicted of, or entered a plea of guilty or no contest to, a crime
893 involving the sale of illegal narcotics or controlled substances.

894 (b) *Suspension Notice.* The Commission shall provide a Licensee or permittee with
895 written notice of suspension, which shall, at a minimum, notify the Licensee or permittee
896 of the following:

897 (1) The Licensee's or permittee's right to conduct a file review prior to any
898 hearing regarding the notice of suspension, and to make copies of any documents
899 in that file;

900 (2) The Licensee's or permittee's right to present documents and witness
901 testimony at the hearing and to be represented by counsel;

902 (3) The specific grounds upon which the suspension is based, including citations
903 to relevant sections of this Ordinance, the IGRA, any applicable regulations
904 and/or the Compact; and

905 (4) The time and place set by the Commission for the Licensee's or permittee's
906 file review and hearing.

907 (c) *Immediate Suspension.* If, in the judgment of the Commission, the public interest,
908 and effective regulation and control of others require the immediate exclusion of a
909 Licensee or permittee, the Commission may immediately suspend a License or permit
910 prior to a hearing on the matter. Such an immediate suspension shall take effect upon
911 service of the notice of immediate suspension.

912 (d) *File Review and Hearing.* Any notice of suspension or notice of immediate
913 suspension shall set forth the time and date for the Licensee or permittee to conduct a file
914 review and for a hearing.

915 (e) *Final Written Decision.* Within fifteen (15) business days after a hearing, the
916 Commission shall issue a final written decision and decide whether to suspend, uphold an

917 immediate suspension, revoke, or take other action concerning a License or permit.
918 (f) *Default.* If a Licensee or permittee fails to appear for his or her hearing before the
919 Commission, that right shall be deemed to have been waived and the Commission will
920 proceed on the proposed licensing action by default.

921 (g) Unless identified in this Ordinance or regulations of the Commission, the hearing
922 processes set forth in the Oneida Administrative Procedures Act shall apply.

923 21.13-14. *Original Hearing Body.* Any person aggrieved by a licensing or permitting decision
924 of the Commission may appeal the decision by filing a request for an original hearing before the
925 Commission. The Applicant, Licensee or permittee must file such request with the Commission
926 in writing on or before the fifteenth (15th) day following the receipt of the Commission's
927 decision. The Commission shall certify the record, developed in 21.13-9 or 21.13-13(a), within
928 thirty (30) days of the date of the filing on the request for an original hearing. The
929 Commissioners participating in the initial licensing or permitting decision shall not participate in
930 the original hearing. The Commission may determine to review the decision solely on the
931 licensing or permitting decision record and briefs filed regarding the request for reconsideration.
932 The Commission may also, in its sole discretion, grant oral argument. The Commission shall
933 issue a written decision within one hundred twenty (120) days from receipt of the request for the
934 original hearing. The Commission's decision shall be considered an original hearing decision
935 and an appeal may be made to the Judiciary as an appeal of an original hearing body.

936

937 **21.14. Gaming Facility License**

938 21.14-1. The construction and maintenance of any Gaming Facility, and the operation of
939 Gaming Activities, shall be conducted in a manner which adequately protects the environment
940 and the public health and safety, and shall comply with requirements of the Compact and all
941 other applicable health, safety, and environmental standards.

942 21.14-2. The Oneida Business Committee shall receive, review and grant or deny any
943 application for licensing any Gaming Facilities located within the Reservation. Applicants shall
944 provide the Oneida Business Committee sufficient information to show the following:

945 (a) The Gaming Facility meets all applicable Federal and Tribal health and safety
946 standards.

947 (1) To show compliance with applicable health and safety standards, Gaming
948 Operator shall submit certified copies of Compliance Certificates issued by the
949 agencies responsible for the enforcement of the health and safety standards.

950 (2) If health and safety standards are not met, proof must be submitted by
951 Gaming Operator that the Gaming Facility is in the process of improvements
952 which will place the Gaming Facility in compliance with the applicable standards.

953 (b) The Gaming Facility meets applicable federal and Tribal environmental standards.

954 (1) To show compliance with applicable environmental standards, Gaming
955 Operator shall submit certified copies of an Environmental Assessment of the
956 Gaming Facility which were prepared by the agency responsible for the
957 enforcement of applicable environmental standards.

958 (2) If the applicable environmental standards are not met, proof must be
959 submitted by Gaming Operator that remediation of the Gaming Facility is being
960 actively sought which will place the Gaming Facility in compliance with the
961 applicable standards.

962 21.14-3. Upon receipt and review of the above information, the Oneida Business Committee

963 shall deliberate and either grant or deny for failure to meet the requirements of protecting the
964 health and safety of patrons, public and employees of a Gaming Facility License to the
965 Applicant. The Oneida Business Committee shall submit to the NIGC a copy of each Gaming
966 Facility License issued.

967 21.14-4. If the Oneida Environmental, Health and Safety Department notifies the Oneida
968 Business Committee that a Gaming Facility will be closed by a governmental agency with proper
969 authority due to environmental, health or safety concerns, the Oneida Business Committee shall
970 suspend the License of the Gaming Facility. The Oneida Business Committee shall re-License
971 the Gaming Facility after receiving the information required in section 21.14-2.
972

973 **21.15. Gaming Operator License**

974 21.15-1. *Consent to Jurisdiction.* The application for License and the conduct of Gaming within
975 the jurisdiction of the Tribe shall be considered consent to the jurisdiction of the Tribe in all
976 matters arising from the conduct of Gaming, and all matters arising under any of the provisions
977 of this Ordinance or other Tribal laws.

978 21.15-2. *License Required.* No Gaming Operator shall conduct Gaming Activity unless such
979 entity holds a valid and current Gaming Operator License issued by the Commission.

980 21.15-3. *Types of Licenses.* The Commission may issue each of the following types of Gaming
981 Operator Licenses:

982 (a) *Tribally-Owned or Tribally-Operated Class II.* This License shall be required of all
983 Tribally-owned or Tribally-operated Gaming Operations operating one or more Class II
984 Gaming Activities.

985 (b) *Tribally-Owned or Tribally-Operated Class III.* This License shall be required for all
986 Tribally-owned or Tribally-operated Gaming Operations operating one or more Class III
987 Gaming Activities.

988 21.15-4. *Gaming Operator License Qualifications.* The Commission shall issue a Gaming
989 Operator License to any Gaming Operation if:

990 (a) The Gaming Operation is to be located within the Reservation, or land taken into
991 trust after October 17, 1988, for Gaming purposes;

992 (b) The Gaming Activity proposed to be played at the Gaming Operation is Class II or
993 Class III Gaming as defined by this Ordinance and IGRA; and

994 (c) The proposed Gaming Operation is authorized by a resolution of the Oneida Business
995 Committee.

996 21.15-5. *Provisions of General Applicability to All Gaming Operators.*

997 (a) *Site and Gaming Operator Specified.* Each Gaming Operator License shall be
998 applicable only to one (1) Gaming Operation and the Gaming Facility named on the
999 License.

1000 (b) *License Not Assignable.* No Gaming Operator License shall be sold, lent, assigned or
1001 otherwise transferred.

1002 (c) *Regulations Posted or Available.* Each Gaming Operator shall have a copy of this
1003 Ordinance and any regulations promulgated thereunder available for inspection by any
1004 person at each Gaming Facility.

1005 (d) *Display of License.* Each Gaming Operator shall prominently display its License at
1006 each Gaming Facility.

1007 21.15-6. *Grandfathered Gaming Facilities.* All Gaming Operators operating on the effective
1008 date of July 5, 2007, are hereby granted a License under this section.

1009 21.15-7. *License Application Fees and License Taxes.* No application fees or License taxes shall
1010 be required by the Tribe for a Gaming Operator License.

1011 21.15-8. *Closure of a Gaming Operation.* If the Commission finds that any Gaming Operation
1012 is operating in violation of this Ordinance, or otherwise presents a threat to the public, the
1013 Commission shall immediately notify the Oneida Business Committee. The Oneida Business
1014 Committee may close any Gaming Operation temporarily or permanently at any time with or
1015 without cause, at its sole discretion.

1016

1017 **21.16. Games**

1018 21.16-1. Class II and Class III Games are hereby authorized by this Ordinance.

1019 21.16-2. *Gaming Procedures.* Games operated under this Ordinance shall be consistent with the
1020 Compact and any amendments thereto and the Internal Control Standards and Rules of Play of
1021 the Gaming Operation.

1022 21.16-3. *Who May Not Play.* It is the policy of the Tribe that particular Gaming Employees,
1023 employees of the Gaming Commission, particular governmental officials, and consultants who
1024 directly advise the Commission or employees at Gaming Facilities regarding gaming related
1025 activities may not participate in Gaming Activities conducted at Gaming Operations. At a
1026 minimum, members of the Oneida Business Committee, the Commission, the gaming general
1027 manager, assistant gaming general managers, directors of individual Games and assistant
1028 directors of individual Games may not participate in any Gaming Activity within the
1029 Reservation.

1030 (a) The Oneida Business Committee may identify by resolution additional positions
1031 restrictions on Gaming Activity conducted at Gaming Facilities. Such resolution shall be
1032 on file with the Commission.

1033 (b) The Commission and Senior Gaming Management shall each develop and maintain
1034 their own standard operating procedure identifying other positions and any applicable
1035 restrictions on Gaming Activity conducted at Gaming Facilities. The standard operating
1036 procedure and the list of positions shall be on file with the Commission.

1037

1038 **21.17. Allocation of Gaming Funds**

1039 21.17-1. Net Gaming revenues may only be used for the following purposes:

1040 (a) To fund Tribal government operations, programs, or services.

1041 (b) To provide for the general welfare of the Tribe and its members.

1042 (c) To promote Tribal economic development.

1043 (d) To contribute to charitable organizations.

1044 (e) To assist in funding operations of other local governments.

1045 (f) To fund programs designed to provide education, referrals, and treatment of Gaming
1046 addiction disorders.

1047 (g) Any other purpose as determined by the Oneida General Tribal Council or the
1048 Oneida Business Committee which is not inconsistent with the Constitution of the Tribe
1049 and IGRA.

1050

1051 **21.18. Audits**

1052 21.18-1. *Annual Audit.* An annual audit of each Gaming Operation shall be conducted by an
1053 independent, certified public accounting firm according to generally accepted accounting
1054 principles. Copies of the annual audit will be provided to the Oneida Business Committee, the

1055 Oneida Audit Committee, the Commission, and the NIGC by said certified public accounting
1056 firm.

1057 (a) All contracts for supplies, services, or concessions for the Gaming Operations in
1058 excess of twenty-five thousand dollars (\$25,000.00) are subject to audit as prescribed in
1059 this section. Contracts for legal services and accounting services are exempt from this
1060 requirement.

1061 21.18-2. *Other Audits.* All audits, other than the annual audit under section 21.18-1, shall be
1062 conducted pursuant to the Oneida Audit Law or any other applicable law of the Tribe, and other
1063 audits authorized under the Compact.

1064 21.18-3. *Request for Audits.* Any audit, except the annual audit which is mandated by IGRA,
1065 may be authorized at any time by the Oneida General Tribal Council, the Oneida Business
1066 Committee or the Oneida Audit Committee.

1067

1068 **21.19. Enforcement and Penalties**

1069 21.19-1. No individual or entity may own or operate a Gaming Facility unless specifically
1070 authorized to do so pursuant to this Ordinance.

1071 21.19-2. *Violations/Prosecutions.* Violators of this Ordinance may be subject to disciplinary
1072 action and civil and/or criminal prosecutions.

1073 21.19-3. *Remedies.* The Oneida Business Committee may authorize commencement of an
1074 action in any court of competent jurisdiction to recover losses, restitution, and forfeitures
1075 resulting from violations of this Ordinance.

1076

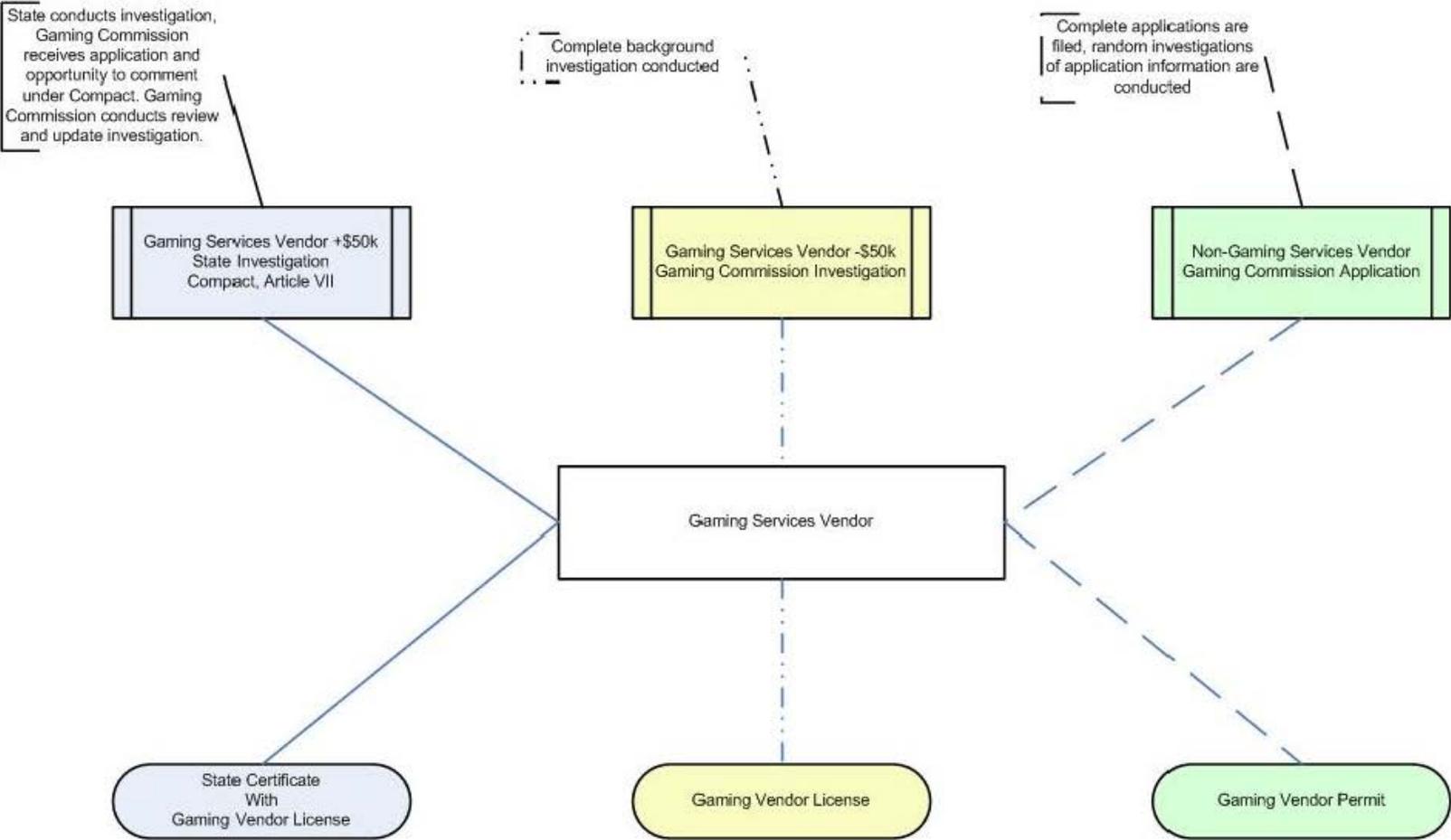
1077 *End.*

~~1078~~

1080	Adopted	GTC-7-05-04-A
1081	Emergency Amendment	BC-7-14-04-A
1082	Amendment	BC-10-06-04-D
1083	Emergency Amendment	BC-11-03-04-A
1084	Permanent Adoption	BC-3-23-05-C
1085	Amended	BC-9-23-09-D
1086	Amended	BC-06-25-14-C (effective 11 01 2014)

For OBC consideration (redline)
04/22/15

Appendix 1. Vendor License/Permit



Chapter 21
Oneida Nation Gaming Ordinance
Thatiwi·ʔStunya·tha Olihwa·ke
Matters of interest to where they make the money

21.1. Purpose and Policy	21.11. Licenses, Generally
21.2. Adoption, Amendment, Applicability, Repeal	21.12. Gaming Employee License
21.3. Jurisdiction	21.13. Gaming Services Licensing and Non-Gaming Services Permitting
21.4. Definitions	21.14. Gaming Facility License
21.5. Oneida Business Committee: Powers and Duties	21.15. Gaming Operator License
21.6. Oneida Gaming Commission	21.16. Games
21.7. Gaming Surveillance: Powers, Duties and Limitations	21.17. Allocation of Gaming Funds
21.8. [Reserved for future use.]	21.18. Audits
21.9. Gaming Security Department	21.19. Enforcement and Penalties
21.10. Background Investigations	

21.1. Purpose and Policy

21.1-1. *Purpose.* The purpose of this Ordinance is to set forth the laws of the Oneida Tribe of Indians of Wisconsin regarding all Gaming Activities conducted within the jurisdiction set forth in this Ordinance. It is intended to govern the Gaming Activities of all persons, Gaming Employees, consultants, business entities, vendors, boards, committees, commissions and hearing bodies. This Ordinance does not authorize the operation of Gaming by a private person or private entity for gain. This Ordinance shall govern all Gaming Activities occurring on lands under the jurisdiction set forth in this Ordinance and all individuals or entities engaged in Gaming Activities, including those providing goods or services to any person or entity engaged in Gaming Activities

21.1-2. *Policy.* It is the policy of this Ordinance to ensure that the Oneida Tribe is the primary beneficiary of its Gaming Operations and has the sole proprietary interest, and that Gaming Activities within the jurisdiction set forth in this Ordinance are conducted fairly and honestly, and that all internal departments, enterprises, officials and employees of the Oneida Tribe work cooperatively to advance the best interests of the Oneida Tribe to protect the Tribe's gaming resources, protect the integrity of all gaming activities operated under the jurisdiction set forth in this Ordinance and to ensure fairness of all games offered to the Tribe's gaming patrons.

21.2. Adoption, Amendment, Applicability, Repeal

21.2-1. *Adoption.* This Ordinance is adopted under the authority of the Constitution of the Oneida Tribe of Indians of Wisconsin by Oneida General Tribal Council Resolution # 7-05-04-A and amended by resolutions BC-10-06-04-D, BC-3-23-05-C, BC-9-23-09-D, BC-06-25-14-C and _____.

21.2-2. *Amendment.* This Ordinance may be amended by the Oneida Business Committee or the General Tribal Council in accordance with Tribal law.

21.2-3. *Severability.* Should a provision of this Ordinance or the application of this Ordinance be held as invalid, the invalidity shall not effect other provisions of this Ordinance.

21.2-4. All other Oneida laws, policies, regulations, rules, resolutions, motions and all other similar actions which are inconsistent with this law are hereby repealed unless specifically re-enacted after adoption of this law. Specifically, the following resolutions are repealed by this law:

- (a) BC-4-21-89-D (Adoption of the Oneida Gaming Control Ordinance);
- (b) GTC-03-04-91-A (Establishing 7 elected Gaming Commissioners and Bingo standards);

- 36 (c) GTC-7-6-92-A (Amendments to Gaming SOP Manual);
- 37 (d) GTC-7-6-92-B (Adoption of the Comprehensive Gaming Ordinance);
- 38 (e) BC-3-16-94-A; (Comprehensive Gaming Ordinance Interpretation); and
- 39 (f) BC-4-5-95-D (Amendments to the Comprehensive Gaming Ordinance).

40 21.2-5. *Name*. This Ordinance shall be known as the Oneida Nation Gaming Ordinance or
41 ONGO.

42 21.2-6. *Preemptive Authority*. The Gaming Commission shall be the original hearing body
43 authorized to hear licensing decisions as set forth in this Ordinance.

44
45 **21.3. Jurisdiction**

46 21.3-1. *Territorial Jurisdiction*. This Ordinance extends to all land within the exterior
47 boundaries of the Reservation of the Tribe, as established pursuant to the 1838 Treaty with the
48 Oneida, 7 Stat. 566, and any lands added thereto pursuant to federal law.

49 21.3-2. *Subject Matter Jurisdiction*. This Ordinance applies to all Gaming conducted within the
50 territorial jurisdiction of the Oneida Tribe as set forth in section 21.3-1.

51 21.3-3. *Personal Jurisdiction*. This Ordinance shall govern:
52 (a) the Tribe;
53 (b) tribal members; and
54 (c) individuals and businesses leasing, occupying, or otherwise using Tribal fee land on
55 the Reservation and all Tribal Trust Lands.

56
57 **21.4. Definitions**

58 21.4-1. This section shall govern the definitions of words and phrases used in this Ordinance.
59 Words and phrases capitalized through out this document refer to the defined words and phrases
60 in this section. All words or phrases not defined in this section shall be interpreted based on their
61 plain ordinary and everyday meaning.

62 21.4-2. *Applicant* means any person or entity who has applied for a License from the Oneida
63 Gaming Commission or the Oneida Business Committee.

64 21.4-3. *Background Investigation* means a standard and thorough investigation conducted by the
65 Oneida Tribe in compliance with this Ordinance, Commission regulations, Oneida Gaming
66 Minimum Internal Controls, the IGRA and the Compact. Such investigations may be in
67 cooperation with federal, state, or Tribal law enforcement agencies.

68 21.4-4. *Class I Gaming* means social games solely for prizes of minimal value or traditional
69 forms of Indian gaming engaged in by individuals as a part of, or in connection with, Tribal
70 ceremonies or celebrations.

71 21.4-5. *Class II Gaming* means:
72 (a) The game of chance commonly known as bingo (whether or not electronic, computer
73 or other technologic aids are used in connection therewith) in which:
74 (1) The game is played for prizes, including monetary prizes, with cards bearing
75 numbers or other designations.
76 (2) The holder of the card covers such numbers or designations when objects,
77 similarly numbered or designated, are drawn or electronically determined.
78 (3) The game is won by the first person covering a previously designated
79 arrangement of numbers or designation on such cards, including (if played in the
80 same location) pull-tabs, lotto, punch boards, tip jars, instant bingo and other
81 games similar to bingo.

- 82 (b) Card games that:
- 83 (1) Are explicitly authorized by the laws of the State; or
- 84 (2) Are not explicitly prohibited by the laws of the State and are played at any
- 85 location in the State, but only if such card games are played in conformity with
- 86 laws and regulations (if any) of the State regarding hours or periods of operation
- 87 of such card games or limitations on wagers or pot sizes in such card games.
- 88 Class II Gaming does not include any banking card games, including baccarat,
- 89 chemin de fer, or blackjack (twenty-one), or electronic or electro-mechanical
- 90 facsimiles of any game of chance or slot machines of any kind.
- 91 21.4-6. *Class III Gaming* means all forms of Gaming that are not Class I or Class II.
- 92 21.4-7. *Commission* means the Oneida Gaming Commission as established by this Ordinance.
- 93 21.4-8. *Commissioner* means a duly elected member of the Oneida Gaming Commission.
- 94 21.4-9. *Compact* means the 1991 Tribe-State Gaming Compact between the Tribe and the State
- 95 of Wisconsin as amended and any future amendments or successor compact entered into by the
- 96 Tribe and State and approved by the Secretary of the United States Department of Interior.
- 97 21.4-10. *Compliance Certificate* means a certificate issued by an agency with the authority and
- 98 responsibility to enforce applicable environmental, health or safety standards, which states that a
- 99 Gaming Facility complies with these standards.
- 100 21.4-11. *Environmental Assessment* means a document prepared and issued in compliance with
- 101 the National Environmental Policy Act of 1969, 42 U.S.C. sec. 4321 et seq., and all related
- 102 Federal regulations.
- 103 21.4-12. *Fraud* means any act of trickery or deceit used to or intended to gain control or
- 104 possession of the property of another.
- 105 21.4-13. *Games, Gaming, or Gaming Activity* means all forms of any activity, operation, or
- 106 game of chance that is considered Class II or Class III Gaming, provided that this definition does
- 107 not include Class I Gaming.
- 108 21.4-14. *Gaming Employee* means any person employed by a Gaming Operation.
- 109 21.4-15. *Gaming Facility* or *Gaming Facilities* means any location or structure, stationary or
- 110 movable, wherein Gaming is permitted, performed, conducted, or operated. Gaming Facility
- 111 does not include the site of a fair, carnival, exposition, or similar occasion.
- 112 21.4-16. *Gaming Operation* means the conduct of Gaming Activities and related business
- 113 activities in Gaming Facilities and areas where Gaming Employees are employed or assigned.
- 114 21.4-17. *Gaming Operator* means the Tribe, an enterprise owned by the Tribe, or such other
- 115 entity of the Tribe as the Tribe may from time to time designate as the wholly-owned entity
- 116 having full authority and responsibility for the operation and management of Gaming
- 117 Operations.
- 118 21.4-18. *Gaming Services* means the provision of any goods and services, except legal services
- 119 and accounting services, to a Gaming Operation, including, but not limited to, equipment,
- 120 transportation, food, linens, janitorial supplies, maintenance, or security services.
- 121 21.4-19. *Indian Gaming Regulatory Act* or *IGRA* means Public Law 100-497, 102 Stat. 2426, 25
- 122 U.S.C. sec. 2701, et seq., as amended.
- 123 21.4-20. "Judiciary" means the judicial system that was established by Oneida General Tribal
- 124 Council resolution GTC #1-07-13-B to administer the judicial authorities and responsibilities of
- 125 the Tribe.
- 126 21.4-21. *License* means a certificate or other document that represents the grant of a revocable
- 127 authorization to conduct the licensed activity. A license must be supported by a physical

- 128 document, badge, certification or other physical manifestation of the issuance of the revocable
129 authorization to conduct the licensed activity.
- 130 21.4-22. *Licensee* means a person or entity issued a valid License.
- 131 21.4-23. *NIGC* means the National Indian Gaming Commission.
- 132 21.4-24. *Oneida Business Committee* means the elected governing body of the Tribe exercising
133 authority delegated from the Oneida General Tribal Council of the Oneida Tribe of Indians of
134 Wisconsin under Article IV of the Constitution and By-laws for the Oneida Tribe of Indians of
135 Wisconsin, approved December 21, 1936, as thereafter amended.
- 136 21.4-25. *Oneida General Tribal Council* means the governing body of the Oneida Tribe of
137 Indians of Wisconsin as determined by the Tribe's Constitution.
- 138 21.4-26. *Ordinance or ONGO* means the Oneida Nation Gaming Ordinance as it may from time
139 to time be amended.
- 140 21.4-27. *Regulatory Incident* means the occurrence of any event giving rise to a potential or
141 alleged non-compliance with a gaming regulation, ordinance, law or policy involving any person
142 or Licensee on the premises of a Gaming Facility.
- 143 21.4-28. *Remediation* means efforts taken to reduce the source and migration of environmental
144 contaminants at a site.
- 145 21.4-29. *Reservation* means all lands within the exterior boundaries of the Reservation of the
146 Oneida Tribe of Indians of Wisconsin, as created pursuant to the 1838 Treaty with the Oneida, 7
147 Stat. 566, and any lands added thereto pursuant to federal law.
- 148 21.4-30. *Senior Gaming Management* means the gaming general manager, assistant gaming
149 general managers, gaming directors and assistant gaming directors.
- 150 21.4-31. *State* means the State of Wisconsin, its authorized officials, agents and representatives.
- 151 21.4-32. *Tribe* means the Oneida Tribe of Indians of Wisconsin.
- 152 21.4-33. *Tribal Fee Land* means all land to which the Tribe holds title in fee simple.
- 153 21.4-34. *Tribal Trust Land* means all land to which the United States holds title for the benefit
154 of the Tribe pursuant to federal law.

155 **21.5. Oneida Business Committee: Powers and Duties**

- 156 21.5-1. The Oneida Business Committee retains the power and duty to enter into agreements or
157 compacts with the State under the Indian Gaming Regulatory Act.
- 158 21.5-2. The Oneida Business Committee retains the power and duty to enter into agreements
159 with local governments and other Tribal governments for services or cooperative ventures for the
160 Gaming Operations.
- 161 21.5-3. The Oneida Business Committee has the exclusive power and duty to enter into
162 contracts and agreements affecting the assets of the Tribe, except for those assets that were
163 placed under the responsibility of the Oneida Land Commission under Chapter 67, Real Property
164 Law.
- 165 21.5-4. The Oneida Business Committee delegates to the Commission, as set out in section 21.6-
166 14, certain authorities and responsibilities for the regulation of Gaming Activities, Gaming
167 Operations, Gaming Operators, Gaming Employees, Gaming Facilities, Gaming Services, and
168 enforcement of laws and regulations, as identified in this Ordinance.
- 169 21.5-5. The Oneida Business Committee retains the duty and responsibility to safeguard all
170 funds generated by the Gaming Operations and all other authorities and responsibilities not
171 delegated by a specific provision of this Ordinance.
- 172 21.5-6. The Chairperson of the Tribe shall be the designated and registered agent to receive
173

174 notice of violations, orders, or determinations which are issued pursuant to the Indian Gaming
175 Regulatory Act and the Compact.

176

177 **21.6. Oneida Gaming Commission**

178 21.6-1. *Establishment and Purpose.* The Oneida Business Committee has established the Oneida
179 Gaming Commission for the purpose of regulating all Gaming Activities. The Commission is an
180 elected body comprised of four (4) members, provided that, the Oneida Business Committee
181 may, upon request of the Commission, increase the number of Commissioners by resolution
182 without requiring amendment of this Ordinance.

183 21.6-2. *Location and Place of Business.* The Commission shall maintain its offices and principal
184 place of business within the Reservation.

185 21.6-3. *Duration and Attributes.* The Commission shall have perpetual existence and succession
186 in its own name, unless dissolved by Tribal law. Operations of the Commission shall be
187 conducted on behalf of the Tribe for the sole benefit of the Tribe and its members. The Tribe
188 reserves unto itself the right to bring suit against any person or entity in its own right, on behalf
189 of the Tribe, or on behalf of the Commission, whenever the Tribe considers it necessary to
190 protect the sovereignty, rights, and interests of the Tribe or the Commission.

191 21.6-4. *Sovereign Immunity of the Tribe.*

192 (a) All inherent sovereign rights of the Tribe with regard to the existence and activities of
193 the Commission are hereby expressly reserved.

194 (b) The Tribe confers upon the Commission sovereign immunity from suit as set forth in
195 the Tribe's Sovereign Immunity Ordinance.

196 (c) Nothing in this Ordinance nor any action of the Commission shall be construed to be
197 a waiver of its sovereign immunity or that of the Tribe, or consent by the Commission or
198 the Tribe to the jurisdiction of the Judiciary, the United States, any state, or any other
199 tribe, or consent by the Tribe to any suit, cause of action, case or controversy, or the levy
200 of any judgment, lien, or attachment upon any property of the Commission or the Tribe.

201 21.6-5. *Requirements of Commission Membership.*

202 (a) *Qualifications.* Candidates for election or appointment to the Commission shall be at
203 least twenty-one (21) years of age on the day of the election or on the day of
204 appointment. In addition, Candidates for election to the Commission shall meet the
205 following qualifications within five (5) business days after a caucus for elected positions
206 on the Commission. Candidates for appointment to the Commission shall meet the
207 following qualifications on the day of appointment to a vacancy on the Commission
208 under 21.6-13:

209 (1) Be an enrolled member of the Tribe;

210 (2) Have a minimum of three (3) years of education experience, employment
211 experience and/or regulatory experience in Gaming Operations related to Gaming
212 Activity, Gaming law, Gaming control or regulation, or Gaming accounting or of
213 any combination of the foregoing; and

214 (3) Meet all other qualifications set forth in this Ordinance.

215 (b) *Conflict of Interest.* No person shall be considered for election or appointment as a
216 Commissioner until the candidate has disclosed all conflicts of interest as defined by the
217 Oneida Conflict of Interest Policy.

218 (c) *Background Investigation.* No person shall be considered for election or appointment
219 as a Commissioner until a preliminary background investigation has been completed and

220 the person has been found to meet all qualifications.
221 (d) Swearing into office is subject to a Background Investigation regarding the
222 qualifications set forth in sections 21.6-5 and 21.6-6 upon being elected or appointed to
223 office.

224 21.6-6. Unless pardoned for activities under subsection (a) and/or (d) by the Tribe, or pardoned
225 for an activity under subsection (a) and/or (d) by another Federally-recognized Indian Tribe for
226 an action occurring within the jurisdiction of the Federally-recognized Indian Tribe, or pardoned
227 for an activity under subsection (a) and/or (d) by the State or Federal government, no individual
228 shall be eligible for election or appointment to, or to continue to serve on, the Commission, who:

229 (a) Has been convicted of, or entered a plea of guilty or no contest to, any of the
230 following:¹

- 231 (1) Any gambling-related offense;
- 232 (2) Any offense involving Fraud or misrepresentation;
- 233 (3) Any offense involving a violation of any provision of chs. 562 or 565, Wis.
234 Stats., any rule promulgated by the State of Wisconsin Department of
235 Administration, Division of Gaming or any rule promulgated by the Wisconsin
236 Racing Board;
- 237 (4) A felony not addressed in paragraphs 1, 2, or 3, during the immediately
238 preceding ten (10) years; or
- 239 (5) Any offense involving the violation of any provision of Tribal law regulating
240 the conduct of Gaming Activities, or any rule or regulation promulgated pursuant
241 thereto.

242 (b) Has been determined by the Tribe to be a person whose prior activities, criminal
243 record if any, or reputation, habits, and associations pose a threat to the public interest or
244 to the effective regulation and control of Gaming, or create or enhance the dangers of
245 unsuitable, unfair, or illegal practices, methods, or activities in the operation of Gaming
246 or the carrying on of the business and financial arrangements incidental thereto;

247 (c) Possesses a financial interest in or management responsibility for any Gaming
248 Activity or Gaming Services vendor;

249 (d) Has been convicted of a crime involving theft, Fraud, or conversion against the
250 Tribe;

251 (e) Has been removed from any office pursuant to the Oneida Removal Law within the
252 past five (5) years; or

253 (f) Is a sitting Commissioner whose term is not concluded at the time of that election or
254 appointment action.

255 21.6-7. *Term of Office.* Commissioners shall serve five (5) year terms and shall serve until a
256 successor takes the oath of office. Terms of office shall be staggered.

257 21.6-8. *Official Oath.* Each Commissioner shall take the official oath at a regular or special
258 Oneida Business Committee meeting prior to assuming office. Upon being administered the oath
259 of office, a Commissioner shall assume the duties of office and shall be issued a security card
260 setting forth his or her title and term of office.

¹ This section taken substantially from Section IX of the Tribe-State Gaming Compact.

261 21.6-9. *Full-time Status.* The Commission shall identify the appropriate work schedule for its
262 members. Each Commissioner shall perform his or her duties and responsibilities on a full-time
263 basis and will devote his or her entire work and professional time, attention and energies to
264 Commission business, and will not, during his or her tenure in office, be engaged in any other
265 profession or business activity that may impede the Commissioner's ability to perform duties on
266 behalf of the Commission or that competes with the Tribe's interests.

267 21.6-10. *By-laws.* The Commission shall adopt bylaws subject to review and approval by the
268 Oneida Business Committee.

269 21.6-11. *Budget and Compensation.* The Commission shall function pursuant to an annual
270 budget. The Oneida Business Committee shall submit the operating budget of the Commission
271 for approval in the same fashion as all other Tribal budgets. Compensation of Commissioners
272 shall not be subject to the Tribe's Comprehensive Policy Governing Boards, Committees, and
273 Commissions, but shall be established by the Commission in a manner consistent with the
274 Commission's internal rules and by-laws. The Commission shall adopt internal rules consistent
275 with the existing Tribal accounting practices to verify its budgetary expenditures.

276 21.6-12. *Removal.* Removal of Commissioners shall be pursuant to the Oneida Removal Law.

277 21.6-13. *Vacancies.* Any vacancy in an unexpired term of office, however caused, shall be
278 filled by appointment by the Oneida Business Committee of a person qualified pursuant to
279 sections 21.6-5 and 21.6-6.

280 21.6-14. *Authority and Responsibilities.* Subject to any restrictions contained in this Ordinance
281 or other applicable law, the Commission is vested with powers including, but not limited to the
282 following:

283 (a) To exercise all power and authority necessary to effectuate the gaming regulatory
284 purposes of this Ordinance, IGRA, Oneida Gaming Minimum Internal Controls, and the
285 Compact. Unless otherwise indicated in this Ordinance or Commission regulation, or
286 authorized by majority vote of the Commission, no Commissioner shall act independently
287 of the Commission. Any such action may constitute grounds for removal.

288 (b) To promote and ensure the integrity, security, honesty, and fairness of the regulation
289 and administration of Gaming.

290 (c) To draft, and approve, subject to review and adoption by the Oneida Business
291 Committee, regulations pursuant to this Ordinance for the regulation of all Gaming
292 Activity, including processes for enforcement of such regulations consistent with Tribal
293 law.

294 (d) To draft, and approve, subject to review and adoption by the Oneida Business
295 Committee, the Rules of Play and Oneida Gaming Minimum Internal Controls; provided
296 that, Rules of Play and Oneida Gaming Minimum Internal Controls shall require review
297 and comment by the Gaming Operation prior to approval by the Commission, and those
298 comments shall be included in any submission to the Oneida Business Committee. Rules
299 of Play and Oneida Gaming Minimum Internal Controls are adopted and approved
300 industry standards for Gaming Operations.

301 (e) To prepare proposals, including budgetary and monetary proposals, which might
302 enable the Tribe to carry out the purpose and intent of this Ordinance, and to submit the
303 same for consideration by the Oneida Business Committee; provided, however, that no
304 such proposal shall have any force or effect unless it is approved by the Oneida Business
305 Committee.

306 (f) To monitor and enforce all laws and regulations governing the operation and conduct

- 307 of all Gaming Activities, including the ongoing monitoring of Licenses, subject to this
308 Ordinance and/or regulations setting forth hearing or enforcement processes.
- 309 (g) To monitor and investigate all Gaming Operators for compliance with internal audits,
310 and external audits.
- 311 (h) To inspect, examine, and photocopy all papers, books, and records of Gaming
312 Activities and any other matters necessary to carry out the duties pursuant hereto,
313 provided that, all photocopies of documents shall be maintained in a confidential manner
314 or in the same manner as the original.
- 315 (i) To grant, deny, revoke, condition, suspend or reinstate the Licenses of Gaming
316 Employees, Gaming Services vendors, and Gaming Operators.
- 317 (j) To conduct hearings relating to Licenses issued under this Ordinance by the
318 Commission.
- 319 (k) To review all vendors doing business with the Gaming Operator to verify that such
320 persons or entities hold a valid License, where required, to do business with a Gaming
321 Operator.
- 322 (l) To retain professional advisors such as attorneys, law enforcement specialists, and
323 Gaming professionals consistent with Tribal law and practices.
- 324 (m) To arbitrate, negotiate, or settle any dispute to which it is a party and which relates
325 to its authorized activities.
- 326 (n) To act as the designated agent to receive all regulatory notices not included in section
327 21.5-6.
- 328 (o) To investigate all Regulatory Incidents.
- 329 (p) To issue warnings or notices of violation, in accordance with regulations, to Gaming
330 Operators and Licensees for non-compliance with the Compact, Oneida Gaming
331 Minimum Internal Controls, Rules of Play, IGRA, or this Ordinance.
- 332 (q) To make determinations regarding suitability for licensing.
- 333 (r) To establish an administrative structure by regulation to carry out its authority and
334 responsibilities.
- 335 (s) To establish, where needed, additional processes for conducting licensing hearings by
336 regulation.
- 337 (t) To establish and collect fees for processing license applications by regulation.
- 338 (u) To establish and impose a point system for findings of regulatory violations by any
339 Gaming Employee by regulation.
- 340 (v) To establish and impose a fine system for findings of regulatory violations by any
341 Gaming Services vendor or permittee by regulation.
- 342 (w) To approve procedures that provide for the fair and impartial resolution of patron
343 complaints.
- 344 21.6-15. *Reporting Requirements.* The Commission shall adhere to the following reporting
345 requirements:
- 346 (a) A true, complete and accurate record of all proceedings of the Commission shall be
347 kept and maintained;
- 348 (b) Complete and accurate minutes of all Commission meetings shall be filed with the
349 Secretary of the Oneida Business Committee within thirty (30) days of their approval by
350 the Commission;
- 351 (c) Quarterly, or as may be directed by the Oneida Business Committee, reports of the
352 Commission's activities, including information regarding funding, income and expenses

353 and any other matters to which the parties may agree, shall be submitted to the Oneida
354 Business Committee.

355 21.6-16. *Oneida Gaming Commission Personnel.* The Commission shall hire an Executive
356 Director who shall be responsible for hiring and managing the personnel of the Commission. The
357 Executive Director shall hire such personnel as is necessary to assist the Commission to fulfill its
358 responsibilities under this Ordinance, the IGRA, and the Compact, and all regulations including
359 the Oneida Gaming Minimum Internal Controls. The Executive Director and personnel of the
360 Commission shall be hired through the Tribe's regular personnel procedure and shall be subject
361 to its personnel policies and salary schedules. The Executive Director and personnel shall be
362 required to meet the requirements set forth in section 21.12-3 at hiring and during employment.
363

364 **21.7. Gaming Surveillance: Powers, Duties and Limitations**

365 21.7-1. *Purpose.* The purpose of Gaming Surveillance is to observe and report Regulatory
366 Incidents to the Commission and Gaming General Manager to provide for the regulation,
367 operation, and compliance of Gaming Activities under this Ordinance. Gaming Surveillance is a
368 department within the Commission's administrative structure and supervision shall be identified
369 within the organizational chart adopted by the Commission, provided that nothing in the
370 designation of supervisory responsibility shall be deemed to prohibit the responsibility of
371 Gaming Surveillance to provide information and/or video and/or audio records to the parties
372 identified in section 21.7-3.

373 21.7-2. Gaming Surveillance shall be responsible for all Gaming surveillance activities
374 including, but not limited to, equipment and maintenance of equipment, observation and
375 reporting of all persons to include Gaming Employees, customers, consultants, and Gaming
376 Services vendors.

377 21.7-3. Surveillance personnel shall provide to Senior Gaming Management, the Commission,
378 or Gaming Security a copy of any time-recorded video and accompanying audio (if available)
379 within twenty-four (24) hours of request.

380 21.7-4. Gaming Surveillance shall:

381 (a) Develop, implement and maintain written policies and procedures for the conduct and
382 integrity of the Surveillance Department.

383 (b) Develop, implement and maintain additional procedures governing the use and
384 release of the surveillance recordings or reports.

385 (c) Work cooperatively with the Gaming Security Department to carry out its official
386 duties and to coordinate its activities in order to effectuate the protection of patrons and
387 the assets of the Gaming Operation.

388 (d) Develop, implement and maintain written policies and procedures for implementation
389 of duties and responsibilities identified with the Oneida Gaming Minimum Internal
390 Controls, subject to approval by the Commission.
391

392 **21.8. [Reserved for future use.]**

393

394 **21.9. Gaming Security Department**

395 21.9-1. *Purpose.* The Gaming Security Department is a department within the Oneida Police
396 Department. The purpose of the Gaming Security Department is to protect Gaming assets,
397 patrons and Gaming Employees from an activity, repeat activity, or ongoing activities which
398 could injure or jeopardize Gaming assets, patrons and Gaming Employees and report these

399 activities to the Oneida Police Department for further review and/or investigation. Provided that,
400 all reports of the Gaming Security Department shall be copied to the Commission.

401 21.9-2. *Reporting.* The Oneida Police Department, Gaming General Manager and the
402 Commission shall enter into an agreement, subject to ratification by the Oneida Business
403 Committee, which describes their responsibilities and reporting requirements under this law.

404 21.9-3. The Gaming Security Department shall:

405 (a) Develop, implement and maintain written policies and procedures for the conduct and
406 integrity of Gaming Security, as identified in the Oneida Gaming Minimum Internal
407 Controls and subject to approval by the Commission.

408 (b) Develop, implement and maintain additional procedures governing the use and
409 release of the investigation reports.

410 (c) Work cooperatively with Gaming Surveillance to carry out its official duties and to
411 coordinate activities between the departments.

412 21.9-4. *Investigations.* This Section is intended to authorize report gathering, information
413 gathering, and preliminary review, to be conducted by the Gaming Security Department.

414

415 **21.10. Background Investigations**

416 21.10-1. The Human Resources Department and the Commission shall enter into an agreement,
417 subject to ratification by the Oneida Business Committee, for carrying out Background
418 Investigations for employees as required under this law.

419 21.10-2. Background Investigations shall be conducted on all persons or entities as specified
420 under this law. All Background Investigations shall be conducted to ensure that the Tribe in its
421 Gaming Operations shall not employ or contract with persons whose prior activities, or
422 reputation, habits and associations pose a threat to the public interest or to the effective
423 regulation of gaming, or create or enhance the dangers of unsuitable, unfair or illegal practices
424 and methods in the conduct of such gaming. The identity of any person interviewed in order to
425 conduct a Background Investigation shall be confidential.

426

427 **21.11. Licenses, Generally**

428 21.11-1. The Commission shall adopt procedures that ensure the efficient and orderly processing
429 of all applications for a License. All Gaming Employees, Gaming Services vendors, and
430 Gaming Operators shall apply for a License from the Commission prior to their participation in
431 any Gaming Activity. All Gaming Facilities must be licensed by the Oneida Business
432 Committee.

433 21.11-2. *Temporary License.* All Applicants, upon receipt by the Commission of a completed
434 application for a License and completion of a preliminary Background Investigation, may
435 receive a temporary license for a ninety (90) day period, unless a Background Investigation of
436 the application demonstrates grounds to disqualify the Applicant. Such temporary license, as
437 defined in this section, shall permit the Licensee to engage in such activities and pursuant to any
438 terms and conditions imposed and specified by the Commission. The temporary license shall be
439 valid until either replaced by a License, the ninety (90) day temporary license period has
440 concluded, or the temporary license is cancelled by the Commission, whichever occurs first.

441 21.11-3. *Revocable.* A License is revocable only in accordance with the procedures set forth in
442 this Ordinance. A Licensee shall have only those rights and protections regarding a License
443 granted in this Ordinance.

444 21.11-4. All Applicants:

445 (a) Consent to the release of any information relevant to the Applicant's Background
446 Investigation by any person or entity in possession of such information.

447 (b) Consent to the jurisdiction of the Tribe and are subject to all applicable Tribal,
448 Federal, and State laws, regulations, and policies.

449 21.11-5. All Licensees are subject to ongoing review at least every two (2) years by the
450 Commission.

451 21.11-6. *Status of Licenses.* The Commission shall notify the Gaming Operation of the status of
452 all Licenses, whether temporary or permanent, including all Commission action to revoke,
453 suspend, or condition a License.

454 21.11-7. *Commission Licensing Actions.* The Commission may grant, deny, revoke, condition,
455 suspend or reinstate all Licenses, except for Gaming Facilities Licenses, in accordance with this
456 Ordinance. Authority to place conditions on a license may be exercised only upon promulgation
457 of regulations.

458 21.11-8. *Noncompliance.* The Commission may issue a notice of noncompliance when the
459 Commission has developed regulations that identify procedures that notices of noncompliance
460 may be issued to Licensees and permittees which provide an opportunity to correct actions. Such
461 regulations shall include procedures for appeal of such notices. Regulations may include the
462 ability to issue fines not to exceed one thousand dollars (\$1000.00) per violation for Gaming
463 Services vendors and permittees.

464

465 **21.12. Gaming Employee License**

466 21.12-1. *Scope of Section.* This Section applies only to Gaming Employee Licenses and
467 licensing actions.

468 21.12-2. *License Application.* Every Applicant for a License shall file with the Commission a
469 written application in the form prescribed by the Commission, duly executed and verified, which
470 shall certify:

471 (a) Applicant's full name and all other names used (oral or written), Social Security
472 Number(s), place of birth, date of birth, citizenship, gender, and all languages (spoken or
473 written).

474 (b) Currently, and for the previous five (5) years: business and employment positions
475 held, ownership interests in those businesses, business and residence addresses, and
476 driver's license number(s).

477 (c) The names and current addresses, of at least three (3) personal references, including
478 one (1) personal reference, who were acquainted with the Applicant during each period of
479 residence listed in subsection (b) above.

480 (d) Current business and residence telephone numbers.

481 (e) A description of any existing and previous business relationships with Indian Tribes,
482 including ownership interest in those businesses.

483 (f) A description of any existing and previous business relationship with the Gaming
484 industry generally, including ownership interest in those businesses.

485 (g) The name and address of any licensing or regulatory agency with which the
486 Applicant has filed an application for a license or permit related to gaming, whether or
487 not such licenses or permit was granted.

488 (h) The name and address of any licensing or regulatory agency with which the
489 Applicant has filed an application for an occupational license or permit, whether or not
490 such licenses or permit was granted.

- 491 (i) For each felony conviction or ongoing prosecution or conviction, the charge, the
492 name and address of the court involved, and the date and disposition if any.
- 493 (j) For each misdemeanor or ongoing misdemeanor prosecution (excluding violations for
494 which jail time is not part of the potential sentence) within ten (10) years of the date of
495 the application, the name and address of the court involved, and the date and disposition.
- 496 (k) For each criminal charge (excluding charges for which jail time is not part of the
497 potential sentence) whether or not there is a conviction, if such criminal charge is within
498 ten (10) years of the date of the application and is not otherwise listed pursuant to
499 subsections (i) or (j) of this section, the criminal charge, the name and address of the
500 court involved and the date and disposition.
- 501 (l) A photograph.
- 502 (m) Fingerprints consistent with procedures adopted by the Commission which meet the
503 criteria set forth in 25 C.F.R. section 522.2(h).
- 504 (n) Any other information the Commission deems relevant for a Gaming Employee
505 License.
- 506 (o) A statement that each Applicant has read and understands notices and NIGC
507 requirements relating to:
- 508 (1) The Privacy Act of 1974;
509 (2) Fraud and False Statements Act; and
510 (3) Fair Credit Reporting Act.
- 511 21.12-3. *License Qualifications.* No License shall be granted if the Applicant:
- 512 (a) Is under the age of eighteen (18).
- 513 (b) Unless pardoned for activities under this subsection by the Tribe, or pardoned for
514 activities under this subsection by another Federally-recognized Indian Tribe for an
515 action occurring within the jurisdiction of the Federally-recognized Indian Tribe, or
516 pardoned for activities under this subsection by the state or Federal government, has been
517 convicted of, or entered a plea of guilty or no contest to, any of the following:
- 518 (1) Any gambling-related offense;
519 (2) Any offense involving Fraud or misrepresentation;
520 (3) Any offense involving a violation of any provision of chs. 562 or 565, Wis.
521 Stats., any rule promulgated by the State of Wisconsin Department of
522 Administration, Division of Gaming or any rule promulgated by the Wisconsin
523 Racing Board;
524 (4) A felony not addressed in paragraphs (1), (2), or (3), during the immediately
525 preceding ten (10) years; or
526 (5) Any offense involving the violation of any provision of Tribal law regulating
527 the conduct of Gaming Activities, or any rule or regulation promulgated pursuant
528 thereto.
- 529 (c) Is determined to be a person whose prior activities, criminal record, reputation,
530 habits, or associations pose a threat to the public interest or to the effective regulation and
531 control of Gaming or create or enhance the dangers of unsuitable, unfair, or illegal
532 practices, methods, or activities in the operation of Gaming Activities or the carrying on
533 of the business and financial arrangements incidental thereto.
- 534 (d) Possesses a financial interest in or management responsibility for any Gaming
535 Activity or Gaming Services vendor, or he or she has any personal, business, or legal
536 relationship which places him or her in a conflict of interest as defined in this Ordinance

537 or the Conflict of Interest Policy.
538 (e) Each person Licensed as a Gaming Employee shall have a continuing obligation to
539 inform the Commission immediately upon the existence of any circumstance or the
540 occurrence of any event which may disqualify him or her from being licensed as a
541 Gaming Employee. Failure to report any such occurrence may result in suspension or
542 revocation of the Gaming Employee's License.

543 21.12-4. *Initial Eligibility Determination.*

544 (a) Based on the results of the preliminary Background Investigation, the Commission
545 shall make an initial determination regarding an Applicant's eligibility and either:

- 546 (1) Grant a temporary license, with or without conditions, to the Applicant; or
547 (2) Deny the license application and provide notice to the Applicant that he or
548 she may request a hearing regarding the decision consistent with subsection (b)
549 below.

550 (b) If the Commission determines that an Applicant is ineligible for a License, the
551 Commission shall notify the Applicant. The Commission shall set forth regulations for
552 an Applicant to review any information discovered during the preliminary Background
553 Investigation prior to scheduling a hearing under section 21.12-9. The suspension or
554 revocation hearing provisions set forth at section 21.12-8 do not apply to Initial
555 Eligibility Determinations.

556 21.12-5. *NIGC Review.* When a Gaming Employee begins employment at a Gaming Operation,
557 the Commission shall:

558 (a) Forward to the NIGC a completed application for employment that contains the
559 notices and information listed in section 21.12-2 and any other necessary reports.

560 (b) Review the Background Investigation of the Applicant. Based upon the results of the
561 Background Investigation, the Commission shall determine the eligibility of the
562 Applicant to receive a License.

563 (c) Determine eligibility for a License within sixty (60) days after an Applicant begins
564 work at a Gaming Facility under a temporary license.

565 (d) Forward, after determination of eligibility, a report to the NIGC within sixty (60)
566 days after the Applicant begins employment at a Gaming Facility.

567 (1) During a thirty (30) day period, beginning when the NIGC receives a report
568 submitted pursuant to subsection (d) above, the Chairman of the NIGC may
569 request additional information from the Commission concerning the Applicant.
570 Such a request shall suspend the thirty (30) day period until the Chairman
571 receives the additional information.

572 (2) If, within the thirty (30) day period described in subsection (1) above, the
573 NIGC notifies the Commission that it has no objection to the issuance of a
574 License, the Commission may grant the License to the Applicant.

575 (3) If, within the thirty (30) day period described in subsection (1) above, the
576 NIGC provides the Commission with a statement itemizing objections to the
577 issuance of a License, the Commission shall reconsider the application, taking
578 into account the objections itemized by the NIGC. The Commission shall make
579 the final decision whether to issue a License to the Applicant.

580 (4) All applications, Background Investigations, investigative reports, suitability
581 determinations, findings and decisions of the Commission shall be retained in the
582 Commission's files for a period of at least three (3) years from the date the

583 Gaming Employee's employment is terminated.
584 21.12-6. *License Issuance.* Any Gaming Employee License issued under this section shall be
585 effective from the date of issuance and shall contain the Gaming Employee's photograph, the
586 Gaming Employee's name, and the date that the License became effective. If a Gaming
587 Employee is promoted, transferred, reassigned, or the position is reclassified, the Gaming
588 Employee shall notify in writing the Commission, and the Commission shall review the Gaming
589 Employee's License. The Commission retains the right to grant, deny, revoke, condition,
590 suspend, or reinstate Licenses subject to the right to appeal the decision under the processes set
591 forth in this Ordinance.

592 21.12-7. *Requirement to Wear License.* During working hours, all Licensees shall wear their
593 License in a conspicuous place that is plainly visible by all employees, the Nation's gaming
594 patrons and surveillance.

595 21.12-8. *Suspension or Revocation of Licenses.* Except as provided in section 21.12-8(c), no
596 License can be suspended or revoked except after notice and opportunity for hearing.

597 (a) *Basis for Licensing Action.* The Commission may suspend, condition, or revoke any
598 License issued under this Ordinance if:

599 (1) After the issuance of a License, the Commission receives from the NIGC or
600 other source reliable information indicating that a Gaming Employee is not
601 eligible for a License under section 21.12-3 or such information would justify the
602 denial of the renewal of any License, the Commission shall issue a written notice
603 of suspension;

604 (2) The Commission issues a written notice of suspension demonstrating that the
605 Licensee:

606 (A) Has knowingly made a materially false or misleading statement in
607 any application for a License, in any amendment thereto, or in response to
608 a request by the Commission for supplemental information or in
609 connection with any investigation of the Commission;

610 (B) Has knowingly promoted, played, or participated in any gaming
611 activity operated in violation of the Compact, Tribal or federal law, and
612 this Ordinance;

613 (C) Has bribed or attempted to bribe, or has received a bribe from, a
614 Commissioner or any other person in an attempt to avoid or circumvent
615 any applicable law;

616 (D) Has falsified any books or records relating to any transaction
617 connected with the operation of Gaming Activity;

618 (E) Has refused to comply with any lawful directive of the Tribe, the
619 Federal government, or any court of competent jurisdiction; or

620 (F) Has been convicted of, or entered a plea of guilty or no contest to, a
621 crime involving the sale of illegal narcotics or controlled substances.

622 (b) *Suspension Notice.* The Commission's notice of suspension shall be in writing and
623 shall, at a minimum, notify the Licensee of the following:

624 (1) The Licensee's right to review a file prior to any hearing regarding the notice
625 of suspension, and to make copies of any documents contained in that file;

626 (2) The Licensee's right to request a hearing on the proposed licensing action, to
627 present documents and witness testimony at that hearing to be represented by
628 counsel;

629 (3) The specific grounds upon which the proposed licensing action is based,
630 including citations to relevant sections of this Ordinance, the IGRA, any
631 applicable Regulations and/or the Compact; and

632 (4) The time and place set by the Commission for the Licensee's hearing.

633 (c) *Immediate Suspension.* If, in the judgment of the Commission, the public interest,
634 and effective regulation and control of Gaming Activities requires the immediate
635 exclusion of a Licensee, the Commission may immediately suspend a License prior to the
636 conduct of a hearing on the matter. Such an immediate suspension may take effect upon
637 service of the notice of immediate suspension.

638 (d) Any notice of suspension or notice of immediate suspension shall set forth the times
639 and dates for when the Licensee may review their file review and the date for a hearing
640 on any proposed licensing action.

641 (e) Within fifteen (15) business days after a hearing, the Commission shall issue a final
642 written licensing decision and decide whether to suspend, uphold an immediate
643 suspension, revoke, or take other action concerning a License. If the License was
644 suspended, conditioned or revoked based on information from the NIGC under 21.12-
645 8(a)(1), the Commission shall forward a copy of its decision to NIGC within forty-five
646 (45) days of receiving NIGC's notification indicating that a Gaming Employee is not
647 eligible for a License.

648 (f) If a Licensee fails to appear for his or her hearing before the Commission, that right
649 shall be deemed to have been waived and the Commission will proceed on the proposed
650 licensing action by default.

651 (g) Unless identified in this Ordinance or regulations of the Commission, the hearing
652 processes set forth in the Oneida Administrative Procedures Act shall apply.

653 21.12-9. *Original Hearing Body.* Any person aggrieved by a licensing decision of the
654 Commission may appeal the decision by filing a request for an original hearing before the
655 Commission. The Licensee must file any such request with the Commission in writing on or
656 before the fifteenth (15th) day following receipt of the Commission's decision. The Commission
657 shall certify the record, developed in 21.12-4 or 21.12-8(a), within thirty (30) days of the date of
658 the filing of the request for an original hearing. The Commissioners serving on the original
659 hearing body shall not include the Commissioners who participated in the licensing decision
660 from which the original hearing is scheduled. The Commission may determine to review the
661 decision solely on the licensing decision record and briefs filed regarding the request for
662 reconsideration. The Commission may also, in its sole discretion, grant oral argument. The
663 Commission shall issue a written decision within one hundred twenty (120) days from receipt of
664 the request for the original hearing. The Commission's decision shall be considered an original
665 hearing decision and an appeal may be made to the Judiciary as an appeal of an original hearing
666 body.

667 21.12-10. *Notice to Oneida Business Committee.* Prior to any suspension or revocation of a
668 License of the gaming general manager, the Commission shall provide notice to the Oneida
669 Business Committee twenty-four (24) hours prior to the issuance of the suspension or revocation.

670 21.12-11. *Record of Proceedings.* The Commission shall maintain a complete and accurate
671 record of all Licensure proceedings.

672 21.12-12. Revocation of a License is solely limited to the licensing matter. Employment related
673 processes resulting from revocation of a license are determined solely through the personnel
674 processes and procedures of the Tribe and are not licensing matters governed by this Ordinance.

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21.13. Gaming Services Licensing and Non-Gaming Services Permitting

21.13-1. *Scope of Section.* This section applies to all individuals and entities providing Gaming Services. The requirements of this Section are in addition to, and do not alter or amend any requirements imposed by the Oneida Vendor Licensing Law.²

21.13-2. *Gaming Services License or Non-Gaming Services Permit Required.*

(a) *Gaming Services License.* Any Gaming Services vendor providing gaming related contract goods or services as defined under Article VII(A) of the Compact to the Gaming Operation must possess a valid Gaming Services License.

(b) *Non-Gaming Services Permit.* Any vendor providing non-gaming related goods or services to the Gaming Operation must possess a valid Non-Gaming Services permit.

(c) Determinations regarding the issuance of a License or permit under this section shall be made by the Commission which may be subject to requests for reconsideration by the Gaming Services vendor within fourteen (14) business days of receipt by the Gaming Services vendor of the notice of License or permit determination.

21.13-3. *Approved Gaming Services Vendor List.* The Commission shall maintain an updated and complete list of all Gaming Services vendors that possess current and valid Gaming Services Licenses or Non-Gaming Services permits from the Commission, which shall be known as the Approved License and Permit List. Gaming Operations may only do business with vendors that possess valid and current Gaming Services Licenses or Non-Gaming Services permits and who appear on the Approved License and Permit List.

21.13-4. *Gaming Services License/Permit Application.* Every Applicant for a License or permit shall file with the Commission a written application in the form prescribed by the Commission, duly executed and verified which shall provide and certify the following. Provided that, non-gaming services vendors with less than two thousand five hundred dollars (\$2,500.00) in services for the prior fiscal year shall only be required to file a notice of doing business with the Commission.

- (a) The Applicant's name and mailing address;
- (b) The names and addresses of each officer or management official of the Applicant;
- (c) A copy of the Applicant's articles of incorporation and by-laws, or if not a corporation, the Applicant's organizational documents;
- (d) Identification of an agent of service for the Applicant;
- (e) The name and address of each person having a direct or indirect financial interest in the Applicant;
- (f) The nature of the License or permit applied for, describing the activity to be engaged in under the License or permit;
- (g) Explicit and detailed disclosure of any criminal record, including any delinquent taxes owed to the United States, or any state, of the Applicant, any person involved in the organization, and any person of interest whose name appears or is required to appear on the application;
- (h) Whether the Applicant is or has been licensed by the state of Wisconsin Office of

² See also Appendix 1. Vendor Licensing/Permit.

- 716 Indian Gaming Regulation and Compliance and, if applicable, proof of current licensure;
717 (i) Whether the Applicant has been licensed in the state of New Jersey, Nevada, or by
718 any other gaming jurisdiction, including any Indian Tribe or Tribal governmental
719 organization and, if so, proof of such licensure and the status of any such license;
720 (j) Whether the Applicant has been denied a license by any gaming jurisdiction and, if
721 so, the identity of the jurisdiction, the date of such decision and the circumstances
722 surrounding that decision;
723 (k) Whether any license held by the Applicant has been refused renewal, conditioned,
724 suspended or revoked by an issuing authority and, if so, the circumstances surrounding
725 that action;
726 (l) A statement of waiver allowing the Tribe to conduct a Background Investigation of
727 the Applicant and any person whose name appears or is required to appear on the
728 application;
729 (m) Whether the Applicant or any person whose name appears or is required to appear
730 on the application has or has had any business with the Tribe or any business or personal
731 relationship with any of the Tribe's officers or employees;
732 (n) The name and contact information for all Tribes or Tribal organizations with whom
733 the Applicant or any person whose name appears or is required to appear on the
734 application has done business;
735 (o) Whether the Applicant or any person whose name appears or is required to appear on
736 the application maintains any involvement in the business of wholesale distribution of
737 alcoholic beverages;
738 (p) A statement that the Applicant has read and understands notices and NIGC
739 requirements relating to:
740 (1) The Privacy Act of 1974;
741 (2) False statements; and
742 (3) The Fair Credit Reporting Act.
743 (q) All additional information necessary to allow the Commission to investigate the
744 Applicant and any person whose name appears or is required to appear on the application.
- 745 21.13-5. *Signature on Application.* Applications for Licenses or permits must be signed by the
746 following person:
747 (a) For companies and corporations (both for profit and non-profit), the highest ranking
748 official of the corporation, or another person to whom the authority to execute the
749 Application has been properly delegated.
750 (b) For a sole proprietorship, the principal owner.
751 (c) For a partnership, all partners.
752 (d) For a limited partnership, the general partner or partners.
- 753 21.13-6. *Incomplete Applications.* Applications that do not contain all information requested,
754 including proper signatures, will be considered incomplete. Incomplete applications will not be
755 considered by the Commission. The Commission shall notify an Applicant if an application is
756 incomplete and what additional information is necessary to complete the application. If an
757 Applicant who has submitted an incomplete application, and been notified of the deficiency in
758 that application, fails to provide the information requested by the Commission, the application
759 will be returned to the Applicant and the file closed.
- 760 21.13-7. *Supplemental Information.* The Commission may, in its discretion, request
761 supplemental information from the Applicant. Supplemental information requested by the

762 Commission shall be promptly submitted by the Applicant. An Applicant's failure or refusal to
763 submit supplemental information requested by the Commission may constitute grounds for the
764 denial of the application.

765 21.13-8. *Continuing Duty to Provide Information.* Applicants, permittees, and Licensees owe a
766 continuing duty to provide the Commission with information and materials relevant to the
767 Applicant's, permittee's, or Licensee's character or fitness to be licensed, including but not
768 limited to any change in the licensing or permitting status of the Applicant, permittee, or
769 Licensee in any foreign jurisdiction. An Applicant's, permittee's, or Licensee's failure to notify
770 the Commission promptly of inaccuracies on an application or new information or materials
771 relevant to the Applicant may constitute grounds to deny, suspend or revoke a License or permit.

772 21.13-9. *Background Investigations.* Background Investigations for Gaming Services vendors
773 shall be conducted as follows.

774 (a) *Gaming Related Equipment Gaming Services Vendors under Fifty Thousand Dollars*
775 *(\$50,000.00) in Goods and/or Services Annually.* The Commission shall conduct the
776 Background Investigations that are sufficient to determine the eligibility for licensing of
777 all Gaming Services vendors that provide or anticipate providing under fifty thousand
778 dollars (\$50,000.00) in goods and services annually.

779 (b) *Gaming Related Equipment Gaming Services Vendors over Fifty Thousand Dollars*
780 *(\$50,000.00) in Goods and/or Services Annually.* The Commission shall review the
781 background investigation conducted by the Wisconsin Office of Indian Gaming
782 Regulation, and shall conduct any necessary additional Background Investigation to
783 ensure that the state background investigation is complete and current.

784 (c) *Other Non-Gaming Related Goods and/or Services Gaming Services Vendors.* The
785 Commission shall conduct Background Investigations on a sufficient number of
786 randomly selected applications in order to verify the accuracy of all applications. The
787 random selection process shall be identified by regulation of the Commission.

788 21.13-10. *Licensing Action in a Foreign Jurisdiction.* If the states of Wisconsin, New Jersey,
789 Nevada or any other gaming jurisdiction refuses to renew a license or permit or conditions,
790 suspends, or revokes the license or permit of an Applicant, permittee, or Licensee, such action
791 may constitute grounds for similar action by the Commission.

792 21.13-11. *Claim of Privilege.* At any time during the licensing or permitting process, the
793 Applicant may claim any privilege afforded by law. An Applicant's claim of privilege with
794 respect to the production of requested information or documents or the provision of required
795 testimony or evidence may constitute grounds for the denial, suspension or revocation of a
796 license or permit.

797 21.13-12. *Withdrawal of an Application.* An Applicant may request to withdraw an application
798 by submitting a written request to the Commission. The Commission retains the right, in its
799 exclusive discretion, to grant or deny a request for withdrawal. An Applicant who withdraws an
800 application shall be precluded from reapplying for a Gaming Services License or Non-Gaming
801 Services permit for a period of one (1) year from the date the application was withdrawn.

802 21.13-13. *Suspension or Revocation of Gaming Services Licenses or Permits.* Except as
803 provided in section 21.13-13(c), no License or permit can be suspended or revoked except after
804 notice and opportunity for hearing.

805 (a) *Basis for Licensing or Permitting Action.* The Commission may suspend, modify, or
806 revoke any Gaming Services License or Non-Gaming Services permit issued under this
807 Ordinance if, after issuance of the License or permit, the Commission receives reliable

808 information that would justify denial of the issuance or renewal of a License or permit, or
809 if the Commission determines that the Licensee or permittee has:

- 810 (1) Knowingly made a materially false or misleading statement in any application
811 for a License or permit, in any amendment thereto, or in response to a request by
812 the Commission for supplemental information or in connection with any
813 investigation of the Commission;
814 (2) Knowingly promoted, played, or participated in any Gaming Activity
815 operated in violation of the Compact, or any Tribal or other applicable law;
816 (3) Bribed or attempted to bribe a Commissioner or any other person in an
817 attempt to avoid or circumvent any applicable law;
818 (4) Falsified any books or records relating to any transaction connected with
819 operation of Gaming Activity;
820 (5) Refused to comply with a lawful directive of the Tribe, the federal
821 government, or any court of competent jurisdiction; or
822 (6) Been convicted of, or entered a plea of guilty or no contest to, a crime
823 involving the sale of illegal narcotics or controlled substances.

824 (b) *Suspension Notice.* The Commission shall provide a Licensee or permittee with
825 written notice of suspension, which shall, at a minimum, notify the Licensee or permittee
826 of the following:

- 827 (1) The Licensee's or permittee's right to conduct a file review prior to any
828 hearing regarding the notice of suspension, and to make copies of any documents
829 in that file;
830 (2) The Licensee's or permittee's right to present documents and witness
831 testimony at the hearing and to be represented by counsel;
832 (3) The specific grounds upon which the suspension is based, including citations
833 to relevant sections of this Ordinance, the IGRA, any applicable regulations
834 and/or the Compact; and
835 (4) The time and place set by the Commission for the Licensee's or permittee's
836 file review and hearing.

837 (c) *Immediate Suspension.* If, in the judgment of the Commission, the public interest,
838 and effective regulation and control of others require the immediate exclusion of a
839 Licensee or permittee, the Commission may immediately suspend a License or permit
840 prior to a hearing on the matter. Such an immediate suspension shall take effect upon
841 service of the notice of immediate suspension.

842 (d) *File Review and Hearing.* Any notice of suspension or notice of immediate
843 suspension shall set forth the time and date for the Licensee or permittee to conduct a file
844 review and for a hearing.

845 (e) *Final Written Decision.* Within fifteen (15) business days after a hearing, the
846 Commission shall issue a final written decision and decide whether to suspend, uphold an
847 immediate suspension, revoke, or take other action concerning a License or permit.

848 (f) *Default.* If a Licensee or permittee fails to appear for his or her hearing before the
849 Commission, that right shall be deemed to have been waived and the Commission will
850 proceed on the proposed licensing action by default.

851 (g) Unless identified in this Ordinance or regulations of the Commission, the hearing
852 processes set forth in the Oneida Administrative Procedures Act shall apply.

853 21.13-14. *Original Hearing Body.* Any person aggrieved by a licensing or permitting decision

854 of the Commission may appeal the decision by filing a request for an original hearing before the
855 Commission. The Applicant, Licensee or permittee must file such request with the Commission
856 in writing on or before the fifteenth (15th) day following the receipt of the Commission's
857 decision. The Commission shall certify the record, developed in 21.13-9 or 21. 13 -13(a), within
858 thirty (30) days of the date of the filing on the request for an original hearing. The
859 Commissioners participating in the initial licensing or permitting decision shall not participate in
860 the original hearing. The Commission may determine to review the decision solely on the
861 licensing or permitting decision record and briefs filed regarding the request for reconsideration.
862 The Commission may also, in its sole discretion, grant oral argument. The Commission shall
863 issue a written decision within one hundred twenty (120) days from receipt of the request for the
864 original hearing. The Commission's decision shall be considered an original hearing decision
865 and an appeal may be made to the Judiciary as an appeal of an original hearing body.
866

867 **21.14. Gaming Facility License**

868 21.14-1. The construction and maintenance of any Gaming Facility, and the operation of
869 Gaming Activities, shall be conducted in a manner which adequately protects the environment
870 and the public health and safety, and shall comply with requirements of the Compact and all
871 other applicable health, safety, and environmental standards.

872 21.14-2. The Oneida Business Committee shall receive, review and grant or deny any
873 application for licensing any Gaming Facilities located within the Reservation. Applicants shall
874 provide the Oneida Business Committee sufficient information to show the following:

875 (a) The Gaming Facility meets all applicable Federal and Tribal health and safety
876 standards.

877 (1) To show compliance with applicable health and safety standards, Gaming
878 Operator shall submit certified copies of Compliance Certificates issued by the
879 agencies responsible for the enforcement of the health and safety standards.

880 (2) If health and safety standards are not met, proof must be submitted by
881 Gaming Operator that the Gaming Facility is in the process of improvements
882 which will place the Gaming Facility in compliance with the applicable standards.

883 (b) The Gaming Facility meets applicable federal and Tribal environmental standards.

884 (1) To show compliance with applicable environmental standards, Gaming
885 Operator shall submit certified copies of an Environmental Assessment of the
886 Gaming Facility which were prepared by the agency responsible for the
887 enforcement of applicable environmental standards.

888 (2) If the applicable environmental standards are not met, proof must be
889 submitted by Gaming Operator that remediation of the Gaming Facility is being
890 actively sought which will place the Gaming Facility in compliance with the
891 applicable standards.

892 21.14-3. Upon receipt and review of the above information, the Oneida Business Committee
893 shall deliberate and either grant or deny for failure to meet the requirements of protecting the
894 health and safety of patrons, public and employees of a Gaming Facility License to the
895 Applicant. The Oneida Business Committee shall submit to the NIGC a copy of each Gaming
896 Facility License issued.

897 21.14-4. If the Oneida Environmental, Health and Safety Department notifies the Oneida
898 Business Committee that a Gaming Facility will be closed by a governmental agency with proper
899 authority due to environmental, health or safety concerns, the Oneida Business Committee shall

900 suspend the License of the Gaming Facility. The Oneida Business Committee shall re-License
901 the Gaming Facility after receiving the information required in section 21.14-2.
902

903 **21.15. Gaming Operator License**

904 21.15-1. *Consent to Jurisdiction.* The application for License and the conduct of Gaming within
905 the jurisdiction of the Tribe shall be considered consent to the jurisdiction of the Tribe in all
906 matters arising from the conduct of Gaming, and all matters arising under any of the provisions
907 of this Ordinance or other Tribal laws.

908 21.15-2. *License Required.* No Gaming Operator shall conduct Gaming Activity unless such
909 entity holds a valid and current Gaming Operator License issued by the Commission.

910 21.15-3. *Types of Licenses.* The Commission may issue each of the following types of Gaming
911 Operator Licenses:

912 (a) *Tribally-Owned or Tribally-Operated Class II.* This License shall be required of all
913 Tribally-owned or Tribally-operated Gaming Operations operating one or more Class II
914 Gaming Activities.

915 (b) *Tribally-Owned or Tribally-Operated Class III.* This License shall be required for all
916 Tribally-owned or Tribally-operated Gaming Operations operating one or more Class III
917 Gaming Activities.

918 21.15-4. *Gaming Operator License Qualifications.* The Commission shall issue a Gaming
919 Operator License to any Gaming Operation if:

920 (a) The Gaming Operation is to be located within the Reservation, or land taken into
921 trust after October 17, 1988, for Gaming purposes;

922 (b) The Gaming Activity proposed to be played at the Gaming Operation is Class II or
923 Class III Gaming as defined by this Ordinance and IGRA; and

924 (c) The proposed Gaming Operation is authorized by a resolution of the Oneida Business
925 Committee.

926 21.15-5. *Provisions of General Applicability to All Gaming Operators.*

927 (a) *Site and Gaming Operator Specified.* Each Gaming Operator License shall be
928 applicable only to one (1) Gaming Operation and the Gaming Facility named on the
929 License.

930 (b) *License Not Assignable.* No Gaming Operator License shall be sold, lent, assigned or
931 otherwise transferred.

932 (c) *Regulations Posted or Available.* Each Gaming Operator shall have a copy of this
933 Ordinance and any regulations promulgated thereunder available for inspection by any
934 person at each Gaming Facility.

935 (d) *Display of License.* Each Gaming Operator shall prominently display its License at
936 each Gaming Facility.

937 21.15-6. *Grandfathered Gaming Facilities.* All Gaming Operators operating on the effective
938 date of July 5, 2007, are hereby granted a License under this section.

939 21.15-7. *License Application Fees and License Taxes.* No application fees or License taxes shall
940 be required by the Tribe for a Gaming Operator License.

941 21.15-8. *Closure of a Gaming Operation.* If the Commission finds that any Gaming Operation
942 is operating in violation of this Ordinance, or otherwise presents a threat to the public, the
943 Commission shall immediately notify the Oneida Business Committee. The Oneida Business
944 Committee may close any Gaming Operation temporarily or permanently at any time with or
945 without cause, at its sole discretion.

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21.16. Games

21.16-1. Class II and Class III Games are hereby authorized by this Ordinance.
21.16-2. *Gaming Procedures*. Games operated under this Ordinance shall be consistent with the Compact and any amendments thereto and the Internal Control Standards and Rules of Play of the Gaming Operation.
21.16-3. *Who May Not Play*. It is the policy of the Tribe that particular Gaming Employees, employees of the Gaming Commission, particular governmental officials, and consultants who directly advise the Commission or employees at Gaming Facilities regarding gaming related activities may not participate in Gaming Activities conducted at Gaming Operations. At a minimum, members of the Oneida Business Committee, the Commission, the gaming general manager, assistant gaming general managers, directors of individual Games and assistant directors of individual Games may not participate in any Gaming Activity within the Reservation.

- (a) The Oneida Business Committee may identify by resolution additional positions restrictions on Gaming Activity conducted at Gaming Facilities. Such resolution shall be on file with the Commission.
- (b) The Commission and Senior Gaming Management shall each develop and maintain their own standard operating procedure identifying other positions and any applicable restrictions on Gaming Activity conducted at Gaming Facilities. The standard operating procedure and the list of positions shall be on file with the Commission.

21.17. Allocation of Gaming Funds

21.17-1. Net Gaming revenues may only be used for the following purposes:
(a) To fund Tribal government operations, programs, or services.
(b) To provide for the general welfare of the Tribe and its members.
(c) To promote Tribal economic development.
(d) To contribute to charitable organizations.
(e) To assist in funding operations of other local governments.
(f) To fund programs designed to provide education, referrals, and treatment of Gaming addiction disorders.
(g) Any other purpose as determined by the Oneida General Tribal Council or the Oneida Business Committee which is not inconsistent with the Constitution of the Tribe and IGRA.

21.18. Audits

21.18-1. *Annual Audit*. An annual audit of each Gaming Operation shall be conducted by an independent, certified public accounting firm according to generally accepted accounting principles. Copies of the annual audit will be provided to the Oneida Business Committee, the Oneida Audit Committee, the Commission, and the NIGC by said certified public accounting firm.
(a) All contracts for supplies, services, or concessions for the Gaming Operations in excess of twenty-five thousand dollars (\$25,000.00) are subject to audit as prescribed in this section. Contracts for legal services and accounting services are exempt from this requirement.
21.18-2. *Other Audits*. All audits, other than the annual audit under section 21.18-1, shall be

992 conducted pursuant to the Oneida Audit Law or any other applicable law of the Tribe, and other
993 audits authorized under the Compact.

994 21.18-3. *Request for Audits.* Any audit, except the annual audit which is mandated by IGRA,
995 may be authorized at any time by the Oneida General Tribal Council, the Oneida Business
996 Committee or the Oneida Audit Committee.

997

998 **21.19. Enforcement and Penalties**

999 21.19-1. No individual or entity may own or operate a Gaming Facility unless specifically
1000 authorized to do so pursuant to this Ordinance.

1001 21.19-2. *Violations/Prosecutions.* Violators of this Ordinance may be subject to disciplinary
1002 action and civil and/or criminal prosecutions.

1003 21.19-3. *Remedies.* The Oneida Business Committee may authorize commencement of an
1004 action in any court of competent jurisdiction to recover losses, restitution, and forfeitures
1005 resulting from violations of this Ordinance.

1006

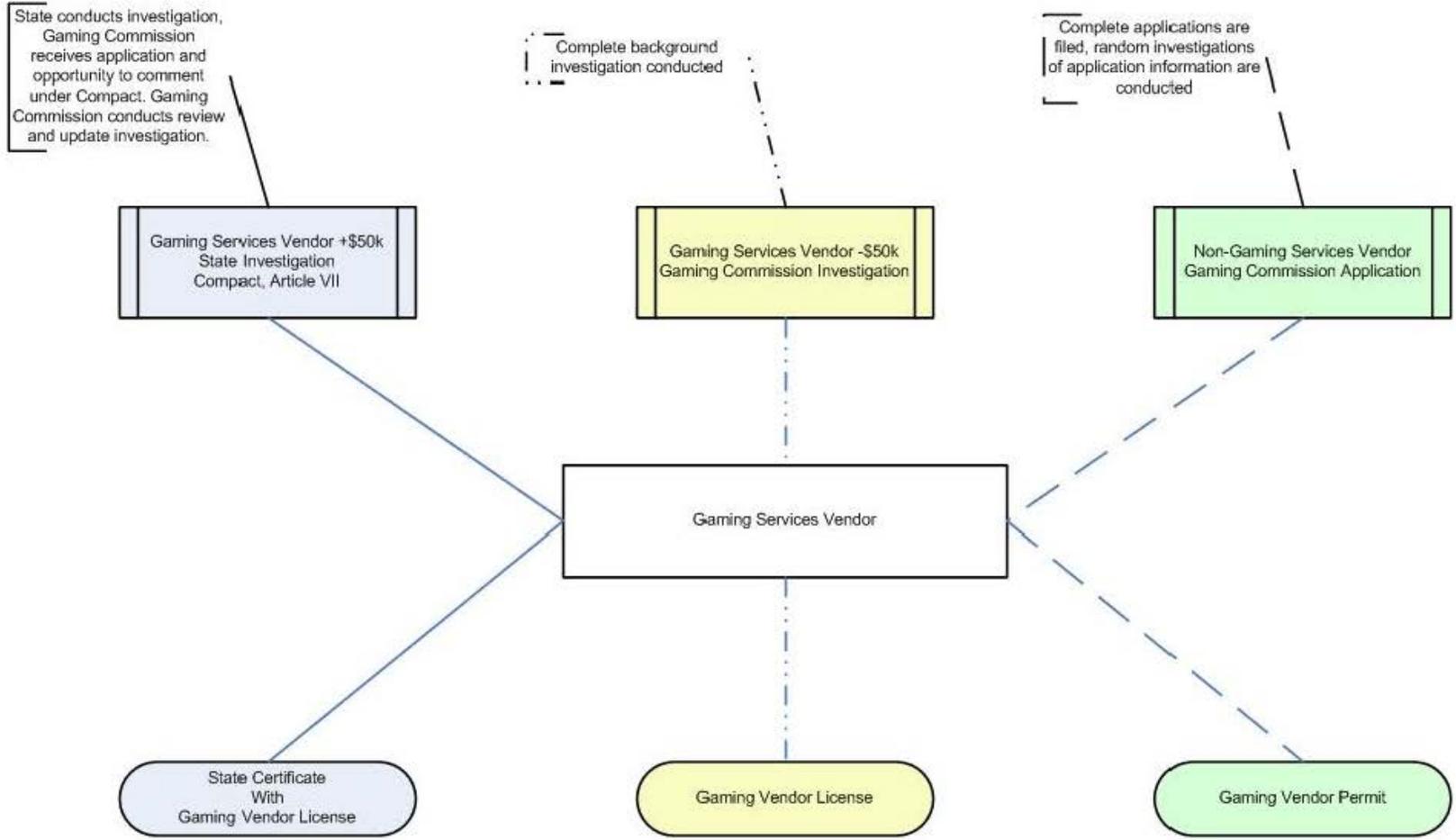
1007 *End.*

~~1008~~

1010	Adopted	GTC-7-05-04-A
1011	Emergency Amendment	BC-7-14-04-A
1012	Amendment	BC-10-06-04-D
1013	Emergency Amendment	BC-11-03-04-A
1014	Permanent Adoption	BC-3-23-05-C
1015	Amended	BC-9-23-09-D
1016	Amended	BC-06-25-14-C (effective 11 01 2014)

For OBC consideration (clean)
04/22/15

Appendix 1. Vendor License/Permit



April 2015

April 2015							May 2015						
Su	Mo	Tu	We	Th	Fr	Sa	Su	Mo	Tu	We	Th	Fr	Sa
			1	2	3	4						1	2
5	6	7	8	9	10	11	3	4	5	6	7	8	9
12	13	14	15	16	17	18	10	11	12	13	14	15	16
19	20	21	22	23	24	25	17	18	19	20	21	22	23
26	27	28	29	30			24	25	26	27	28	29	30
							31						

	Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
Mar 29 - Apr 4	Mar 29	30	31	Apr 1	2	3	4
				9:00am 2:00pm LOC Meeting (BCCR)	12:15pm Public Meeting-Leasing Law, Real Property Law Amendments & Marriage Law Amendments (BC_C	9:00am 12:00pm LOC Meeting-Rescheduled (BCCR) - LOC_Calendar 12:00pm 4:30pm Good Friday-Offices Close	
Apr 5 - 11	5	6	7	8	9	10	11
				BC Meeting (BCCR)			7:00am 7:00pm Election
Apr 12 - 18	12	13	14	15	16	17	18
				9:00am 2:00pm LOC Meeting (BCCR)			
Apr 19 - 25	19	20	21	22	23	24	25
		2:00pm 4:30pm Vehicle Driver PM Comment Review (ECR)		BC Meeting (BCCR)			
Apr 26 - May 2	26	27	28	29	30	May 1	2
					12:15pm 2:15pm Public Meeting-Investigative Leave & Removal Law (BCCR) - Candice E. Skenandore		

May 2015

May 2015							June 2015						
Su	Mo	Tu	We	Th	Fr	Sa	Su	Mo	Tu	We	Th	Fr	Sa
3	4	5	6	7	1	2	7	1	2	3	4	5	6
10	11	12	13	14	8	9	14	8	9	10	11	12	13
17	18	19	20	21	15	16	21	15	16	17	18	19	20
24	25	26	27	28	22	23	28	22	23	24	25	26	27
31					29	30		29	30				

	Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
	Apr 26	27	28	29	30	May 1	2
4/26 - 5/1							
	3	4	5	6	7	8	9
5/3 - 8				9:00am 2:00pm LOC Meeting (BCCR)			
	10	11	12	13	14	15	16
5/10 - 15				BC Meeting (BCCR)			
	17	18	19	20	21	22	23
5/17 - 22				9:00am 2:00pm LOC Meeting (BCCR)		Oneida Code Talkers D	
	24	25	26	27	28	29	30
5/24 - 29		Memorial Day Holiday		BC Meeting (BCCR)			
	31	Jun 1	2	3	4	5	6
5/31 - 6/5							