

Chapter 12
PROTECTION AND MANAGEMENT OF ARCHEOLOGICAL &
HISTORICAL RESOURCES

Yeti?nikulahlake Teyukwahwatsilatáti
we take care of our ancestors

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12.1. Purpose and Policy

12.1-1. The Oneida Tribe of Indians of Wisconsin, Nation, does hereby affirm its authority and commitment to preserve, protect and promote tribal culture and heritage. This trust includes preserving, and protecting ancestral burial and sacred sites, maintaining access to such sites for ritual purposes, protecting and preserving sites of archaeological, cultural or historic significance to the Nation, and managing, contemporary cultural use sites and materials which are fundamental in the recognition of traditional lifeways, values and histories of the Nation or its individual members.

12.1-2. The cultural foundation of the Nation should be preserved as a living part of our community life and development in order to maintain the identity of the Oneida people.

12.1-3. Archaeological, cultural, and historic resources of the Nation are being lost, substantially altered or destroyed with increasing frequency, and measures are necessary to foster conditions under which our modern society and our archaeological, cultural, and historic resources can exist in productive harmony and fulfil the social, economic, and other requirements of future generations.

12.1-4. Except as otherwise provided by law, all archaeological, cultural, and historic resources now or hereafter found on Oneida Tribal lands are hereby declared to be the protected property of the Nation and no right, title, interest, or property therein can be acquired or transferred, or possession thereof had or maintained, except as directed by the Oneida Cultural Heritage Department in consultation with appropriate traditional cultural authorities.

12.1-5. It is the policy of the Nation to cooperate and urge mutual cooperation with other Indian Nations, the State of Wisconsin, and the United States of America. The Nation specifically recognizes its unique responsibility to the Menominee Indian Tribe of Wisconsin arising out of the Nation's occupation of a portion of the aboriginal territory of the Menominee Tribe. It shall be the policy of the Nation to consult with the Menominee Tribe in all matters relating to the protection of archaeological, cultural, and historic resources of Menominee origin on the Oneida Reservation.

12.1-6. Nothing in this Ordinance shall be interpreted to encourage excavation or studies. The purpose of this Ordinance, and the policy of the Nation, is to protect the privacy and nondisturbance of the archeological, cultural, and historic resources protected by this Ordinance. The intent of this Ordinance is to assure that any activity affecting archaeological, cultural, or historic resources is done in a manner which provides, to the maximum extent possible, protection for those resources.

12.2. Adoption, Amendment, Repeal

12.2-1. This Ordinance is enacted pursuant to the authority vested in the Oneida Business Committee

under the Constitution and By-laws of the Oneida Tribe of Indians of Wisconsin, as now adopted or as may be from time to time amended or revised.

12.2-2. All other ordinances or parts of ordinances of the Nation inconsistent or conflicting with this ordinance are, to the extent of the inconsistency only, hereby repealed. Where this Ordinance imposes greater restrictions than those contained in other Tribal codes or ordinances, the provisions of this Ordinance shall govern. Provided that, the following resolutions are specifically excluded from this general repeal -

(a) Resolution #BC-3-1-91 regarding adoption of Preservation Plan for Historically Sensitive Housing on the Oneida Reservation.

12.2-3. In their interpretation and application, the provisions of this Ordinance shall be held to be minimum requirements and shall be liberally construed in favor of the Nation and shall not be deemed a limitation or repeal of any other Tribal power or authority.

12.2-4. All acts and transactions under this Ordinance shall be in conformity with this ordinance and with all applicable laws of the Oneida Tribe of Indians of Wisconsin, as well as applicable federal and state laws.

12.2-5. This Ordinance may be amended pursuant to the established procedures of the Oneida Business Committee or the Oneida General Tribal Council.

12.3. Definitions

12.3-1. "Adverse Effect" means any of the following:

(a) Physical destruction, damage or alteration of any part of a protected site which would adversely affect the historic significance of that site.

(b) Isolation of a protected site from or alteration of the character of the protected site's setting when that character contributes to the property's qualification as a protected site.

(c) Introduction of visual, audible, or atmospheric elements that are out of character with a protected site or would alter its setting.

(d) Neglect of a protected site resulting in its deterioration or destruction.

12.3-2. "Archaeological Material" means material, at least fifty years in age, evidencing cultural activities of the past, physical evidence of human habitation, occupation, use or activity including, but not limited to:

(a) Surface and subsurface structures, shelters facilities or features, including but not limited to, domestic structures, storage structures, cooking structures, ceremonial structures, earthworks, canals, reservoirs, horticulture/agricultural gardens or fields, rock alignments, cairns, trails, borrow pits, ceremonial earth formations, burial grounds;

(b) Surface or subsurface artifacts concentrations or scatters and the three dimensional relationship of artifacts to each other in the ground;

(c) Whole or fragmentary tools, containers, weapons and weapon projectiles, clothing and ornaments including, but not limited to: pottery and other ceramics, basketry, cordage, weavings, coins, bullets, flaked stone, worked bone, metal, wood, hide feather pigments, and other cultural material;

(d) By-products, waste products or debris resulting from manufacture or use of human-made or natural material;

(e) Organic waste, including but not limited to vegetable and animal remains

(f) Human skeletal or mummified remains, including, but not limited to, bone, flesh, teeth,

burial, graves, cremations, and associated funerary objects;

(g) Rock carvings, rock paintings, intaglios or other works of the above material remains;

(h) Rock shelters and caves or portions thereof containing any of the above remains;

(i) Any portion or piece of any of the foregoing.

12.3-3. "Archaeological Resource" means any archaeological material and the physical site, location or context in which it is found. Non-fossilized or fossilized paleontological specimens and treasure-trove or abandoned property of Oneida or Menominee origin, or any portion or piece thereof, shall not be considered archaeological resource under this ordinance unless found in an archaeological context.

12.3-4. "Area of Potential Effect" means the geographical area or areas in which an undertaking could affect archaeological, cultural, or historic resources.

12.3-5. "ARPA" means the Archaeological Resource Protection Act of 1979, 16 U.S.C 470aa-470mm.

12.3-6. "Board" means the Advisory Review Board as created in this Ordinance.

12.3-7. "Cultural Resource" means a site, object, item or material which has particular cultural, religious, or traditional value to the Nation or its individual members, and which requires the protection of this Ordinance to prevent damage, abuse, or deterioration.

12.3-8. "Department" means the Oneida Cultural Heritage Department.

12.3-9. "Historic Resource" means a site, object, item or material which has particular historical value to the Nation or its individual members, and which requires the protection of this Ordinance to prevent damage, abuse, or deterioration.

12.3-10. "NAGPRA" means the Native American Graves Protection and Repatriation Act, 25 U.S.C. 3000 et. seq.

12.3-11. "Nation" means the Oneida Tribe of Indians of Wisconsin.

12.3-12. "Native American" means, unless otherwise specified, a member of the Nation of Indians of Wisconsin, or any person of Indian blood who is a member of a federally-recognized Indian Tribe or any other person who is recognized by the community as an Indian, including a Canadian Indian or Eskimo, Aleut or Hawaiian Native.

12.3-13. "Preservation Board" means the board established pursuant to Article V of this Ordinance.

12.3-14. "Preservation Officer" means the individual designated by the Nation in Article IV of this Ordinance to coordinate activities under the National Historic Preservation Act.

12.3-15. "Protected Site" means any burial site or other site with archaeological, cultural, or historic significance to the Nation or to its individual members. Documentation of a site on the National Register of Historic Places, or on any similar list maintained by the State or the Nation is not a prerequisite for the designation of a site as protected under the terms of this Ordinance.

12.3-16. "Responsible Person" means any person who has decision-making authority over a particular undertaking on the Reservation.

12.3-17. "Reservation" shall mean the Oneida Indian Reservation as established by the Treaty with the Oneida, 7 Stat. 566, February 3, 1838.

12.3-18. "Register" means the Oneida Register of Historic or Culturally Significant Resources as created by this Ordinance.

12.3-19. "SHPO" means the State Historic Preservation Officer of the State of Wisconsin.

12.3-20. "State" means the State of Wisconsin, or any, agency or political subdivision thereof.

12.3-21. "Tribal Lands" shall mean all lands within the exterior boundaries of the Oneida

Reservation, and all other lands owned in fee by or held in trust for the Nation or its members.

12.3-22. "Undertaking" means a project, activity or program funded in whole or in part under the direct or indirect jurisdiction of a federal agency, state agency, or tribal agency, including, but not limited to:

- (a) Those carried out by or on the behalf of the agency or department;
- (b) Those carried out with federal, state or tribal assistance;
- (c) Those requiring a federal, state or tribal permit, license or approval,
- (d) Those subject to federal, state or tribal regulation pursuant to a delegation or approval of a federal agency, and
- (e) Those which affect the character, integrity, or use of archaeological, cultural, or historic resources, or otherwise affect the political integrity, the economic security, or the health and welfare of the Nation.

12.4. Oneida Cultural Heritage Department

12.4-1. The Oneida Cultural Heritage Department shall serve as the central unit of tribal government to protect, preserve, and manage the archaeological, cultural, and historic resources of the Nation.

12.4-2. The Department shall include individuals who meet professional qualifications and have substantial experience in the administration of a preservation program and experience in at least one of the following disciplines: traditional cultural properties, archaeology, history, cultural geography, or cultural anthropology.

12.4-3. The Department shall designate a Preservation Officer in accordance with Section 101(d)(2)(B) of the National Historic Preservation Act, 16 U.S.C. 470a(d)(2)(B). The Department's appointment of a Preservation Officer shall be subject to the approval of the Oneida Business Committee.

12.4-4. The Department shall administer and coordinate efforts to locate, document, and evaluate archaeological, cultural, and historic resources, and shall designate a repository for archaeological, cultural, and historic resources discovered on tribal lands. Curation will be based on appropriate policies established by this Department in consultation with traditional cultural authorities. Access to the collections for educational or research purposes shall be controlled in accordance with policies developed by the Department, in consultation with appropriate traditional cultural authorities.

12.4-5. It shall be the responsibility of the Department, through the Preservation Officer, to:

- (a) Conduct an ongoing Reservation-wide survey to identify and document archaeological, cultural, and historic resources, and incorporate any and all information acquired into all tribal land use or development plans for consideration in all future land use and development activities. The information gathered shall be maintained in a manner that takes into account tribal customs regarding the disclosure of personal, private, or religious information.
- (b) Prepare and maintain a register of significant archaeological, cultural, and historic resources.
- (c) Make application to the National Park Service under Section 101(d) of the National Historic Preservation Act, 16 U.S.C. 470a(d), for the assumption of responsibility for the administration of historic preservation activities and programs of the federal government, and serve as the Nation's principal agency for administration of such programs.
- (d) Prepare and implement a comprehensive Reservation-wide cultural preservation planning, process which includes the identification, evaluation, registration, and treatment of

archaeological, cultural, and historic resources so that effective decisions concerning preservation can be made.

(e) Consult with appropriate tribal, federal, and state agencies in accordance with this Ordinance on:

(1) Undertakings that may affect archaeological, cultural, or historic resources.

(2) The content and sufficiency of any plans developed to (i) protect and manage archaeological, cultural, or historic resources, or (ii) avoid or mitigate harm to archaeological, cultural, or historic resources.

(f) Review, comment on, and render determinations regarding the sufficiency and reliability of any archaeological, cultural, or historic resource investigation performed on the Reservation, and ensure that any such investigation on the Reservation meets all applicable tribal, state and federal standards and requirements.

(g) Maintain all records and archives generated by any archaeological, cultural, or historic resource investigation or undertaking on the Reservation.

(h) Cooperate with the Advisory Council on Historic Preservation, the SHPO, and other tribal, federal, and state agencies to ensure that archaeological, cultural, and historic resources are taken into consideration at all levels of planning and development.

(i) Provide public information, education and training, and technical assistance relating to the tribal cultural preservation program.

(j) Review applications for permits and issue permits in accordance with Article IX of this Ordinance.

12.5. Advisory Review Board

12.5-1. There is hereby established an Advisory Review Board to be composed of five (5) members. Members of the Board shall be nominated by the Department and confirmed by the Oneida Business Committee. All Board members shall have a demonstrated knowledge of Oneida custom, beliefs, and practices, and experience or knowledge relating to archaeological, cultural, or historic resources or related disciplines. Members of the Board shall each hold office for a term of three years. Any vacancy on the Board shall be filled by the Business Committee for the unexpired portion of the term. The Preservation Officer and a representative of the Menominee Indian Tribe of Wisconsin shall serve as ex-officio members of the Board.

12.5-2. The powers and duties of the Board include:

(a) Providing general advice and guidance to the Department and to the Preservation Officer,

(b) Recommending archaeological, cultural, and historic resources identified by the Preservation Officer for inclusion on the Oneida Register of Historic or Culturally Significant Resources in accordance with Article VI of this Ordinance, and

(c) Calling upon tribal elders, traditional authorities, and staff having, technical expertise for advice.

12.5-3. The actions and decisions of the Board shall be subject to review in accordance with the Oneida Administrative Procedures Act.

12.6. Designation and Protection of Archaeological, Cultural, and Historic Resources

12.6-1. There is hereby created an Oneida Register of Historic or Culturally Significant Resources. The Preservation Officer in consultation with the Board, shall identify archaeological, cultural, and

historic resources for protection. The Preservation Officer shall submit his or her recommendations to the Board for nomination to the Register. Upon the recommendation of the Board, the Nation shall designate significant archaeological, cultural, and historic resources as those terms are defined in this Ordinance. The Preservation Officer shall prepare a report detailing listed resources to the extent culturally appropriate to be presented to federal, state and local officials to aid in the implementation of this Ordinance.

- (a) The Department shall update and publish, not less than annually, the Register and appropriate portions of the reports required to be prepared in accordance with this Ordinance.
- (b) The Nation may nominate any site on the Register for inclusion on the National Register of Historical Places

12.7. National Historic Preservation Act.

12.7-1. The Department is hereby designated as the responsible entity for any and all reviews of undertakings within the Oneida Reservation in accordance with Section 106 of the National Historic Preservation Act, 16 U.S.C. 470f.

12.7-2. Upon the approval by the National Park Service of the Nation's application to assume historic preservation functions with respect to tribal lands, as provided for in Section 101(d) of the National Historic Preservation Act, the Department, through the Preservation Officer, shall assume the following additional responsibilities:

- (a) The Preservation Officer shall be provided the time needed to reasonably assess all undertakings contemplated within the Oneida Reservation to determine what effect each undertaking will have on archaeological, cultural, and historic resources. The Preservation Officer shall conduct (i) a literature search, (ii) an oral history search, and (iii) a field survey, when necessary, and shall make one of three determinations:
 - (1) No Effect: The undertaking will not affect any archeological, cultural, or historic resources.
 - (2) No Adverse Effect: the undertaking will affect one or more archaeological, historic or cultural resources, but the effect will not be harmful.
 - (3) Adverse Effect: The undertaking will harm one or more archaeological, cultural, or historic resources.
- (b) The Preservation Officer shall communicate his or her determination to any and all responsible persons and permitting agencies, whether tribal, state or federal, that have jurisdiction over the undertaking.
- (c) The Preservation Officer shall be responsible for assuring, that all consultations necessary to assess an undertaking are made. To the extent that any archaeological, cultural or historic resources of the Menominee Indian Tribe of Wisconsin are affected by any undertaking, no review of an undertaking under Section 106 of the National Historic Preservation Act shall be considered complete without consultation with the Menominee Indian Tribe of Wisconsin.
- (d) With respect to any property within the Reservation neither owned by the Nation or a tribal member, nor held in trust for the Nation or a tribal member, the Preservation Officer shall communicate to the SHPO any request for the SHPO to exercise concurrent historic preservation responsibilities for such properties in accordance with Section 101(d)(2)(D)(iii) of the National Historic Preservation Act, 16 U.S.C. 470a(d)(2)(D)(iii).
- (e) For any and all undertakings in which a request is received for the SHPO to exercise

concurrent historic preservation responsibilities, the Preservation Officer shall, to the extent appropriate, consult with the SHPO and submit any and all information regarding, the site in question to the SHPO.

(f) The Preservation Officer is authorized to participate, on behalf of the Nation, in the review or permitting process of any undertaking or project which might affect any off-Reservation archaeological, cultural, or historic resources of the Nation.

(g) The Preservation Officer shall provide an annual report and summary of all consultations to the Board and to the Oneida Business Committee.

(h) The Preservation Officer shall provide public information, education and training, and technical assistance in the preservation of archeological, cultural and historic resources.

12.8. Burial Site Protection

12.8-1. The Preservation Officer shall identify, document, to the extent appropriate, and preserve all existing burial sites, marked or unmarked, within the Reservation. Sites in potential danger of disturbance or desecration may be further verified and delineated by archaeological survey techniques at the discretion of the Preservation Officer.

12.8-2. Inadvertent Excavation

(a) Any person who knows or has reason to know of the discovery of Native American cultural items, including human remains, within the Reservation shall immediately contact the Preservation Officer. If the discovery occurred in connection with an activity, including but not limited to, construction, mining, or agriculture, the responsible person shall cease activity in the area of the discovery, and make all reasonable efforts to protect the items discovered.

(b) The activity may resume only after consultation with the Preservation Officer and after an agreement has been reached between the Preservation Officer and the responsible person on whether the remains and/or cultural items can be preserved in situ. This consultation must be completed within thirty (30) days of notice of the discovery to the Preservation Officer, unless the responsible person agrees to a longer period. This consultation shall be in addition to any and all consultation with other governmental entities required under ARPA, NAGPRA, or other applicable law.

(c) The disposition and control of human remains and cultural items removed under this section shall be in accordance with the priority established in Section 3002(b) of NAGPRA.

12.8-3. Intentional Excavation

(a) Any person who proposes an undertaking within the exterior boundaries of the Reservation which may result in the excavation of human remains or cultural items shall apply for a permit pursuant to Section 9 of this Ordinance. This permit shall be in addition to any permit required by, and issued pursuant to NAGPRA, ARPA, or other applicable federal law.

(b) Federal agency officials who are required to give notice and consult with the Nation regarding undertakings within the Reservation which may result in the excavation of human remains or cultural items shall provide notice to the Department.

12.8-4. Violations of this Section may be enforced in accordance with Section 9 of this Ordinance, and the Nation may also request that the U.S. Attorney or Department of Interior to pursue appropriate penalties under ARPA, NAGPRA, or other applicable federal law.

12.9. Permits

12.9-1. No historic, archaeological or ethnographic work or studies relating to Oneida archaeological, cultural, or historic resources may be conducted on the Oneida Reservation without a permit.

12.9-2. No permit shall be issued for the excavation of any known burial site.

12.9-3. No excavation or removal of archaeological, cultural, or historic resources from the Reservation is allowed without a permit.

12.9-4. No work may commence on an undertaking which may affect archaeological, cultural, or historic resources on the Reservation until the responsible person has been issued a permit.

12.9-5. All work on an undertaking shall be conducted pursuant to the terms and conditions of the permit.

12.9-6. Permit fees. An application for a permit shall be accompanied by payment of a non-refundable fee to cover the costs associated with permit issuance and administration. The amount of the fee shall be fixed from time to time by the Department, shall take into account the scope of the proposal, and shall be reasonable. Permit fees will not be assessed on projects of the Oneida Tribe. At such time as the Oneida Tribe assumes Tribal Historic Preservation Office status, and issues permits on all land within the exterior boundaries of the Reservation, a fee schedule may be established for projects which reflects the costs associated with permit issuance and administration.

12.9-7. Permit Application.

(a) Any person who intends to conduct an undertaking which may affect archaeological, cultural, or historic resources on the Reservation shall submit a written application to the Preservation Officer.

(b) The application shall be in a form provided by the Preservation Officer. The application shall include, but is not limited to,

(1) A location map, including a legal description

(2) A specific description of the proposed undertaking,

(3) The purpose and need for the proposed undertaking

(4) Practical alternative methods for implementing the undertaking

(5) The project dates and lengths of time necessary to complete the proposed undertaking;

(6) The name, address, and telephone number of the responsible person; and

(7) Other information the Department deems necessary.

12.9-8. Permit Review

(a) The Preservation Officer shall review an application for adequacy and shall determine if the proposal constitutes an undertaking. The Preservation Officer may make such literature, oral history, and on-site investigations as are necessary to perform these duties.

(b) If the Preservation Officer determines that the proposal is not an undertaking, the Preservation Officer shall state in a written notice to the responsible person within 14 days of receipt of the application.

(c) If the Preservation Officer determines that the proposal is an undertaking, the Preservation Officer shall conduct (i) a literature search, (ii) an oral history search and (iii) a field survey, when necessary, and document his or her findings.

(d) Once the Preservation Officer has completed all required searches and surveys, the

Preservation Officer shall approve, modify or disapprove the application within six weeks of receipt of the application. The Preservation Officer shall make its findings and state its reasons for its actions in writing.

(e) Upon approval of a permit application, the Preservation Officer shall forward to the responsible person a permit which shall relate to the plan for the undertaking approved by the Department, and which may included provisions for avoidance or mitigation of adverse impacts associated with the undertaking.

(g) Upon disapproval of a permit application, the Preservation Officer shall forward to the responsible person a detailed statement outlining the reasons for the disapproval. The responsible person may appeal the disapproval of a permit application in accordance with the Oneida Administrative Procedures Act.

(h) This process shall be completed prior to the expenditure of any federal or tribal funds on the undertaking or prior to the issuance of any federal or tribal license or permit. This does not bar any expenditure of funds on or any nondestructive planning activities preparatory to the undertaking. The responsible person should ensure that the permit process is initiated early in the planning stages of the undertaking, when the widest feasible range of alternatives is open for consideration.

12.9-9. Emergencies. All or part of a person's responsibilities under this Ordinance may be waived if the responsible person determines that an emergency action is required to prevent imminent harm to preserve human life or property, and that such emergency action would be impeded if the responsible person was required to concurrently meet its preservation responsibilities under this Ordinance, so long as the responsible person implements such measures or procedures as are possible in the circumstances to avoid or minimized harm to archaeological, cultural, or historic resources.

12.9-10. Waiver under Section 9-9 shall not exceed the period of time during which the emergency circumstances necessitating the waiver exist.

12.9-11. The responsible person shall notify the Preservation officer in writing of the emergency undertaking within 14 days of commencement of such undertaking. The notice shall include:

- (a) The natural disaster or event necessitating emergency action; and
- (b) The date and nature of the emergency action; and
- (c) A description of the measures taken to avoid or minimized harm to archaeological, cultural, or historic resources or reasons why such measures were not taken.

12.9-12. Modification or Revocation of Permits. The Preservation Officer may, upon a finding, of non-compliance or upon a finding or necessity, either modify or revoke a permit. The Preservation Officer shall, within five (5) days of any modification or revocation of a permit pursuant to this Section, provide the responsible party with notice and an opportunity to be heard.

12.10. Confidentiality and Disclosure

12.10-1. A determination regarding the nature and significance of archaeological, cultural, or historic resources may involve the use of sensitive and confidential information regarding tribal customs, beliefs, practices, and traditions. Such information is of a highly specialized and personal nature and is sometimes held by only a few individuals in the Nation. According, to belief and custom, such information is not readily shared and is considered proprietary and confidential. Public disclosure of this type of information may cause severe harm and loss to Tribal culture.

12.10-2. All persons responsible under this Ordinance for the identification and documentation of

archaeological, cultural, and historic resources will use methods which require the minimum disclosure of sensitive information to meet the purposes of this Ordinance. Release of sensitive information will be restricted and determinations regarding access to this information will be made on a case-by-case basis.

12.10-3. The Preservation Officer, Department, or Board, as applicable, shall withhold from disclosure to the public information about the location, character, or ownership of archaeological, cultural, or historic resources if disclosure may:

- (a) Cause significant invasion of privacy;
- (b) Risk harm to the archaeological, historic or cultural resource; or
- (c) Impede the use of a religious site by practitioners.

12.11. Enforcement

12.11-1. Inspections. The Preservation Officer may inspect any undertaking for the purpose of determining compliance with the Ordinance, or the terms and conditions of any permit issued pursuant to its terms.

12.11-2. Civil Penalties.

(a) Except for emergency actions, any person who violates any prohibitions contained in this Ordinance or any permit issued hereunder may be assessed a civil penalty by the Preservation Officer. No penalty may be assessed under this Section unless such person is given notice and opportunity for a hearing with respect to such violation. Each violation shall be a separate offense.

(b) The Department shall develop regulations establishing the amount of any penalty assessed pursuant to this section, taking into account, in addition to other factors:

- (1) Damages suffered, both economic and non-economic by tribal members, and
- (2) Costs of restoring or replacing an archaeological, cultural, or historic resource if possible, and
- (3) Enforcement costs associated with the enforcement of this Ordinance, and
- (4) Costs associated with the disposition of human remains or cultural items, and
- (5) Costs associated with documentation, surveying, and evaluation of the archaeological, cultural, or historic resources, or human remains, to assess the characteristics of the site.

(c) The regulations developed by the Department shall provide that in the case of a second or subsequent violation by any responsible party, the amount of such civil penalty will be double the amount which would have been assessed if such violation were the first violation by such person.

(d) Any responsible party achieved by an order assessing a civil penalty under this section may seek review of the Preservation Officer's order pursuant to the Oneida Administrative Procedures Act.

12.11-3. Other remedies. Violation of the terms of this Ordinance may also be enforced in accordance with the remedies available under ARPA and NAGPRA, and the Nation may request the assistance of the U.S. Attorney or other appropriate enforcement entity to pursue violations under those statutes.

End.

Adopted - BC -06-10-98-A