

ONEIDA GENERAL TRIBAL ORDINANCE NO. 79-4-16

Up to Section II
Approved
4/16/79 mg

ORDINANCE FOR THE REMOVAL OF ONEIDA TRIBAL BUSINESS COMMITTEE MEMBERS

TITLE:

This Ordinance shall be known as the Oneida Removal Ordinance.

AUTHORITY:

The Oneida Removal Ordinance is enacted pursuant to Article III Governing body, Section 3 and Article IV - powers of the general Tribal council, Section 1 (F) of the Constitution and By-Laws for the Oneida Tribe of Indians of Wisconsin.

PURPOSE:

The purpose of the Oneida Removal Ordinance shall be for the removal of a Business Committee official from the Oneida Tribal Business Committee, by the Oneida Tribal Business Committee and the Oneida General Tribal Council.

DEFINITIONS:

As used in this ordinance, the following words and phrases shall each have the designated meaning unless a different meaning is expressly provided:

(A) "General Tribal Council", shall mean the Oneida Tribe of Indians of Wisconsin.

(B) "Business Committee" shall mean the elected Oneida Tribal Business Committee authorized to conduct the business of the Oneida Tribe of Indians of Wisconsin.

(C) "Official," shall mean any Oneida Tribal Business Committee member elected by the General Tribal Council.

SECTION I. SUSPENSION BY ONEIDA TRIBAL BUSINESS COMMITTEE

A. Any Business Committee official may be suspended by the Business Committee for:

(1) Failure to attend four (4) regular Business Committee meetings consecutively without a valid excuse.

(2) Treasurer refusing to be bonded or unable to be bonded.

B. Procedure for Suspension:

- (1) A Business Committee official may be suspended by motion duly acted upon by the Business Committee.
- (2) A letter stating the reason for suspension shall be delivered to the suspended Business Committee official within five (5) days after the suspension by certified letter.
- (3) The letter shall state that the suspended Business Committee official shall respond in writing requesting a hearing within thirty (30) days to Business Committee why the suspension should not be made permanent.
- (4) The Business Committee shall set a date for the hearing within twenty (20) days and notify the suspended official by certified letter.
- (5) The suspended Business Committee official may appeal the permanent suspension (in writing) within sixty (60) days to the General Tribal Council.

SECTION II. REMOVAL BY GENERAL TRIBAL COUNCIL

A. The General Tribal Council may remove any Business Committee Official for cause:

1. Any violation of the oath of office.
2. Failure to fulfill the duties of the office.
3. Failure to follow directives of the General Tribal Council.
4. Drinking on the job or while on Tribal Business elsewhere.

B. Procedure for Removal:

- (1) A letter with the statement of charge (s) against the Business Committee member will be sent by certified mail not less than ten (10) days or more than thirty (30) prior to a regular or special meeting of the General Tribal Council, stating the time, place, and date of such meeting.
- (2) Charges against Business Committee member will only be heard where there exists a quorum sufficient to conduct a General or Special General Tribal Council meeting according to the Oneida Constitution and By-Laws.
- (3) Charges may be brought by one or more tribal members as outlined by the Constitution and By-Laws of the Oneida Tribe of Wisconsin.

(4) A Special meeting may be called by the Chairman in accordance with Amendment 6. Section III, Article III, of the Oneida Tribal Constitution and By-Laws.

(5) The accused will enjoy all due process accorded by the Oneida Constitution and By-Laws.

(6) The decision of a two-thirds vote of the General Tribal Council members present at such a meeting will be final.

CERTIFICATION

I, the undersigned, as Secretary of the Oneida Business Committee, hereby certify that the Oneida Business Committee is composed of 9 members of whom 6 members, constituting a quorum, were present at a meeting duly called, noticed and held on the 16th day of April, 1979; that the foregoing ordinance was duly adopted at such meeting by a vote of 6 members for, 0 members against, 0 members not voting; and that said ordinance has not been rescinded or amended in any way.

Patricia Misikin
Patricia Misikin, Tribal Secretary



August 23, 1977

Mr. George V. Goodwin
Area Director
Minneapolis Area Office
Bureau of Indian Affairs
831 Second Avenue South
Minneapolis, MN 55402

Dear Mr. Goodwin:

As requested by your memorandum of August 19, 1977, we have reviewed the petition for a special meeting of the Oneida General Council and the question raised by Tribal Chairman Purcell Powless as to the legality of removing members of the Business Committee in the absence of a duly enacted removal ordinance. We offer the following comments.

Assuming at least 50 of the 69 persons signing the petition are qualified voters (Article III Sec. 2) "All enrolled members of the Oneida Tribe of Indians of Wisconsin, who are 21 years of age or over shall be qualified voters . . .), the provision of Article III Sec. 4 of the Oneida Constitution for calling a special meeting of the General Tribal Council have been met.

The stated purpose of the meeting is to "decide if action is necessary to bring about removal of the officers of the current Business Committee, as provided for in the Constitution and Bylaws of the Oneida Tribe of Indians of Wisconsin, Amendment VI, Article III Section 3 . . ."

Section 3 provides in paragraph 4 as follows:

"The General Tribal Council may at its discretion remove any official on the Business Committee by a two-thirds majority vote at any regular or special meeting of the Tribal Council, pursuant to a duly adopted ordinance. Such ordinances shall fix the specific causes for removal and insure that the rights of the accused are protected, including his receiving in writing a statement of the charges against him and assurance on sufficient notice thereof where he shall be afforded every opportunity to speak in his own defense." (Under-scoring added.)

Because the above quoted section requires that any removal of Business Committee members be "pursuant to a duly adopted ordinance" and since the General Council has never adopted a removal ordinance, any action to remove current members of the Business Committee at the scheduled meeting would be premature. The General Council must first adopt a removal ordinance which contains the provisions specified in the underscored part of Article III Section 3, paragraph 4. After the ordinance is adopted and if the Business Committee members then commit acts (or fail to act) constituting "specific causes for removal," action for removal can be instituted.

In summary, we are of the opinion that under the provisions of the Oneida Constitution, the General Council meeting scheduled for August 27, 1977, must be limited to considering the need for a removal ordinance and possibly adopting one, and that specific action at this time on the stated charges against current Business Committee members would be premature.

If you have any questions concerning the foregoing or if we may further assist you in this matter, please advise.

Sincerely yours,

(Sgd) Elmer T. Nitzschke

Elmer T. Nitzschke
Field Solicitor

cc: >Creat Lakes Agency, BIA