

Oneida Nation

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Oneida, WI 54155

BC Resolution # 12-09-20-A Industrial Hemp Law

- WHEREAS,** the Oneida Nation is a federally recognized Indian government and a treaty tribe recognized by the laws of the United States of America; and
- WHEREAS,** the Oneida General Tribal Council is the governing body of the Oneida Nation; and
- WHEREAS,** the Oneida Business Committee has been delegated the authority of Article IV, Section 1, of the Oneida Tribal Constitution by the Oneida General Tribal Council; and
- WHEREAS,** the Agricultural Improvement Act of 2018, otherwise known as the 2018 Farm Bill, removed hemp from the controlled substances list, permitting hemp to be produced for reasons other than research and education as was previously restricted under the 2014 Farm Bill; and
- WHEREAS,** the 2018 Farm Bill further granted tribes and states regulatory authority over the production of hemp within their jurisdictions; provided, the tribes and states that intend to exercise such authority submit a regulatory plan to the United States Department of Agriculture (“USDA”) for approval prior to implementation; and
- WHEREAS,** the purpose of the Industrial Hemp law (“Law”) is to authorize hemp production within the boundaries of the Oneida Reservation; grant the Nation primary regulatory authority over the production of hemp under its jurisdiction; assert the Nation’s inherent sovereign authority by creating a hemp production plan that regulates hemp as an agricultural commodity consistent with the Nation’s laws; and promote the Nation’s hemp industry to the greatest extent permitted by the 2018 Farm Bill and USDA regulations promulgated in accordance therewith; and
- WHEREAS,** the Law requires any persons, defined to include businesses and other entities, under the jurisdiction of the Nation, who want to produce hemp, to obtain, as well as maintain, a valid license through the Environmental, Health, Safety, Land & Agricultural Division (“Division”); and
- WHEREAS,** the Law provides the process and eligibility requirements for persons to obtain and maintain the requisite license to participate in hemp production per the Nation’s regulatory plan; and
- WHEREAS,** the Law defines what constitutes an “acceptable hemp THC level” for purposes of producing hemp plants in compliance with the Law and provides the requisite sampling/testing methods by which to accurately determine whether a hemp plant exceeds the acceptable hemp THC level; and
- WHEREAS,** the Law mandates disposal and destruction of any hemp crop that exceeds the acceptable hemp THC level and provides the requisite process for its disposal/destruction; and

- WHEREAS,** the Law sets forth certain reporting and record-keeping requirements on the part of the licensee and the Division that will allow the Nation to track hemp production within the Reservation and ensure compliance with the Law; and
- WHEREAS,** the Law provides enforcement mechanisms for the Division to detect and respond to instances of non-compliance with the Law that include due process protections for the licensee; and
- WHEREAS,** in accordance with the Legislative Procedures Act, a legislative analysis and fiscal impact statement were developed for this Law; and
- WHEREAS,** a public meeting on the proposed Law was not held in accordance with the Legislative Procedures Act due to the COVID-19 pandemic; and
- WHEREAS,** on March 12, 2020, Chairman Tehassi Hill signed a “*Declaration of Public Health State of Emergency*” regarding COVID-19, declaring a Public Health State of Emergency for the Nation until April 12, 2020, the declaration of which was subsequently extended until December 13, 2020, through resolutions BC-03-28-20-A, BC-05-06-20-A, BC-06-10-20-A, BC-07-08-20-A, BC-09-09-20-A, BC-10-08-20-A and BC-11-10-20-A; and
- WHEREAS,** on March 24, 2020, the Nation’s COVID-19 Core Decision Making Team issued a “*Safer at Home*” declaration which prohibits all public gatherings of any number of people and orders all individuals present within the Oneida Reservation to stay at home or at their place of residence, with certain exceptions allowed; and
- WHEREAS,** the Nation’s COVID-19 Core Decision Making Team modified the “*Safer at Home*” declaration on April 21, 2020, with the issuance of an “*Updated Safer at Home*” declaration; on May 19, 2020, with a “*Safer at Home Declaration, Amendment, Open for Business*” declaration; and on June 10, 2020, with the issuance of a “*Stay Safer at Home*” declaration; and
- WHEREAS,** on March 27, 2020, the Nation’s COVID-19 Core Decision Making Team issued a “*Suspension of Public Meetings under the Legislative Procedures Act*” declaration which suspended the Legislative Procedures Act’s requirement to hold a public meeting during the public comment period, but allows members of the community to still participate in the legislative process by submitting written comments, questions, data or input on proposed legislation to the Legislative Operating Committee via e-mail during the public comment period; and
- WHEREAS,** although a public meeting was not held for the proposed legislation, the public comment period for the Law was held open until July 9, 2020 for the submission of written comments; and
- WHEREAS,** the Legislative Operating Committee received five (5) submissions of written comments, for a total of twenty-five (25) comments, during the public comment period; and
- WHEREAS,** the Legislative Operating Committee reviewed and considered all public comments and any changes made based on those comments have been incorporated into the proposed Law; and

- WHEREAS,** if adopted, this Law will act as the Nation's regulatory plan to be submitted to the USDA for approval in accordance with the requirements of the 2018 Farm Bill and USDA regulations promulgated in accordance therewith; and
- WHEREAS,** upon receipt of the Nation's plan, the USDA will have sixty (60) days to approve or reject it, with an opportunity for amendment and resubmission in the event of a rejection; and
- WHEREAS,** once approved by the USDA, the Nation will be required to assume the administration and regulation of hemp production that occurs within its jurisdiction in accordance with the Law; and
- WHEREAS,** contingent on USDA approval, is that the Nation submit a certification along with the Law (i.e. the regulatory plan) which states that, upon said approval, the Nation will have the resources and personnel necessary to begin carrying out the practices and procedures set forth therein; and
- WHEREAS,** in response to the COVID-19 pandemic and the Nation's Public Health State of Emergency declaration, the Oneida Business Committee adopted resolution BC-04-08-20-C titled, "*Tier V Budget Contingency Declared for Remainder of Fiscal Year 2020*"; and
- WHEREAS,** resolution BC-04-08-20-C adopted Tier V budget reductions from the Budget Contingency Plan that was put in place pursuant to the Nation's Budget Management and Control law which included five percent (5%) mandatory budget cuts across the Nation, reduction of all funding to go to essential services only, and layoffs/furloughs; and
- WHEREAS,** at least half of the Nation's workforce has been placed on furlough or laid off due to the COVID-19 pandemic and Public Health State of Emergency declaration; and
- WHEREAS,** the Nation's Chief Financial Officer has identified that complete financial recovery from the impacts of COVID-19 may take as long as two (2) to three (3) years and operations, including services and employment levels, may not return to pre-pandemic levels; and
- WHEREAS,** due to the uncertain nature of the COVID-19 pandemic, including its financial constraints on the Nation and the potential effect on the Division's staffing levels to last beyond the Public Health State of Emergency, the Division has expressed a concern over its current capacity to implement and administer the Law once approved by the USDA; and
- WHEREAS,** the Oneida Business Committee wants to ensure that the Nation; specifically, the Division, is ready to implement and administer the Nation's Industrial Hemp law as indicated in the requisite certification as soon as it receives approval from the USDA; and
- WHEREAS,** to ensure readiness, the Oneida Business Committee intends to refrain from sending the Law and accompanying certification to the USDA for approval as the Nation's regulatory plan until the thresholds set forth below have been met by the Division.

NOW THEREFORE BE IT RESOLVED, that the Industrial Hemp law is hereby adopted and shall become effective within ten (10) business days of receiving approval from the USDA.

BE IT FURTHER RESOLVED, that the Industrial Hemp law will not be sent to the USDA for approval as the Nation's regulatory plan until the following thresholds have been satisfied by the Division:

1. the Division has created all standard operating procedures required under the Law;
2. the Division has presented any resolution(s) required under the Law to the Oneida Business Committee for approval; and
3. the Division Director provides written confirmation to the Oneida Business Committee that the Division has sufficient resources and staff to begin the implementation and administration of the Nation's industrial hemp plan in accordance with the Law.

BE IT FINALLY RESOLVED, that, contingent upon satisfaction of these thresholds, the Oneida Business Committee hereby certifies that, upon approval by the USDA, the Nation will have the resources and personnel necessary to carry out the practices and procedures set forth in the Law, consistent with the 2018 Farm Bill and USDA regulations promulgated in accordance therewith.

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 5 members constitute a quorum; 9 members were present at a meeting duly called, noticed and held on the 9th day of December, 2020; that the forgoing resolution was duly adopted at such meeting by a vote of 8 members for, 0 members against, and 0 members not voting*; and that said resolution has not been rescinded or amended in any way.



Lisa Liggins, Secretary
Oneida Business Committee

*According to the By-Laws, Article I, Section 1, the Chair votes "only in the case of a tie."