

# ***Oneida Tribe of Indians of Wisconsin***



Oneidas bringing several hundred bags of corn to Washington's starving army at Valley Forge, after the colonists had consistently refused to aid them.



UGWA DEMOLUM YATEHE  
Because of the help of this Oneida Chief in cementing a friendship between the six nations and the colony of Pennsylvania, a new nation, the United States was made possible.

## **BC Resolution 04-22-15-B Oneida Nation Gaming Ordinance Emergency Amendments**

- WHEREAS,** the Oneida Tribe of Indians of Wisconsin 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 Tribe of Indians of Wisconsin; and
- WHEREAS,** the Oneida Business Committee has been delegated the authority of Article IV of the Oneida Tribal Constitution by the Oneida General Tribal Council; and
- WHEREAS,** the Oneida Nation Gaming Ordinance (ONGO) is currently in noncompliance with National Indian Gaming Commission (NIGC) regulations; and
- WHEREAS,** a request for emergency amendments to ONGO was received to allow ONGO to comply with NIGC regulations; and
- WHEREAS,** the emergency amendments would (1) add requirements to keep the identity of each person interviewed in the course of a background investigation confidential; (2) require certain documents from the Oneida Gaming Commission to be retained for at least three years from the date of an employee's employment being terminated; and (3) if the Oneida Gaming Commission suspends, conditions or revokes a license based on information from NIGC, the Commission is required to forward that decision to NIGC within forty-five days of NIGC's notification that an employee is not eligible for a License; and
- WHEREAS,** the Legislative Procedures Act (LPA) authorizes the Oneida Business Committee to enact legislation on an emergency basis, to be in effect for a period of six (6) months, renewable for an additional six (6) months; and
- WHEREAS,** through Resolution BC 10-08-14-C, the Oneida Business Committee adopted emergency amendments to ONGO; and
- WHEREAS,** extension of emergency amendments to ONGO is necessary for the immediate preservation of the public health, safety, or general welfare of the reservation population and amendments to ONGO are required sooner than would be possible under the LPA.

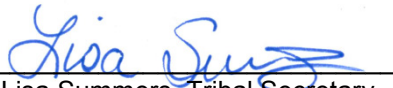
**NOW THEREFORE BE IT RESOLVED,** that the attached Oneida Nation Gaming Ordinance is adopted on an emergency basis for an additional six (6) months.

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

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

### **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; 6 members were present at a meeting duly called, noticed and held on the 22<sup>nd</sup> day of April, 2015; that the forgoing resolution was duly adopted at such meeting by a vote of 5 members for, 0 members against, and 0 members not voting; and that said resolution has not been rescinded or amended in any way.



Lisa Summers, Tribal Secretary  
Oneida Business Committee

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

**Chapter 21**  
**Oneida Nation Gaming Ordinance**  
Thatiwi⇒Stunya=tha Olihwa=ke  
Matters of interest to where they make the money

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**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 BC-10-08-14-C and BC-4-22-15-B.

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);

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

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

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

### **21.3. Jurisdiction**

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

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

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

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

### **21.4. Definitions**

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

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

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

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

21.4-5. *Class II Gaming* means:

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

(b) Card games that:

- (1) Are explicitly authorized by the laws of the State; or
- (2) Are not explicitly prohibited by the laws of the State and are played at any location in the State, but only if such card games are played in conformity with laws and regulations (if any) of the State regarding hours or periods of operation of such card games or limitations on wagers or pot sizes in such card games. Class II Gaming does not include any banking card games, including baccarat, chemin de fer, or blackjack (twenty-one), or electronic or electro-mechanical facsimiles of any game of chance or slot machines of any kind.

21.4-6. *Class III Gaming* means all forms of Gaming that are not Class I or Class II.

21.4-7. *Commission* means the Oneida Gaming Commission as established by this Ordinance.

21.4-8. *Commissioner* means a duly elected member of the Oneida Gaming Commission.

21.4-9. *Compact* means the 1991 Tribe-State Gaming Compact between the Tribe and the State of Wisconsin as amended and any future amendments or successor compact entered into by the Tribe and State and approved by the Secretary of the United States Department of Interior.

21.4-10. *Compliance Certificate* means a certificate issued by an agency with the authority and responsibility to enforce applicable environmental, health or safety standards, which states that a Gaming Facility complies with these standards.

21.4-11. *Environmental Assessment* means a document prepared and issued in compliance with the National Environmental Policy Act of 1969, 42 U.S.C. sec. 4321 et seq., and all related Federal regulations.

21.4-12. *Fraud* means any act of trickery or deceit used to or intended to gain control or possession of the property of another.

21.4-13. *Games, Gaming, or Gaming Activity* means all forms of any activity, operation, or game of chance that is considered Class II or Class III Gaming, provided that this definition does not include Class I Gaming.

21.4-14. *Gaming Employee* means any person employed by a Gaming Operation.

21.4-15. *Gaming Facility* or *Gaming Facilities* means any location or structure, stationary or movable, wherein Gaming is permitted, performed, conducted, or operated. Gaming Facility does not include the site of a fair, carnival, exposition, or similar occasion.

21.4-16. *Gaming Operation* means the conduct of Gaming Activities and related business activities in Gaming Facilities and areas where Gaming Employees are employed or assigned.

21.4-17. *Gaming Operator* means the Tribe, an enterprise owned by the Tribe, or such other entity of the Tribe as the Tribe may from time to time designate as the wholly-owned entity having full authority and responsibility for the operation and management of Gaming Operations.

21.4-18. *Gaming Services* means the provision of any goods and services, except legal services and accounting services, to a Gaming Operation, including, but not limited to, equipment, transportation, food, linens, janitorial supplies, maintenance, or security services.

21.4-19. *Indian Gaming Regulatory Act* or *IGRA* means Public Law 100-497, 102 Stat. 2426, 25 U.S.C. sec. 2701, et seq., as amended.

21.4-20. "Judiciary" means the judicial system that was established by Oneida General Tribal Council resolution GTC #1-07-13-B to administer the judicial authorities and responsibilities of the Tribe.

21.4-21. *License* means a certificate or other document that represents the grant of a revocable authorization to conduct the licensed activity. A license must be supported by a physical

document, badge, certification or other physical manifestation of the issuance of the revocable authorization to conduct the licensed activity.

21.4-22. *Licensee* means a person or entity issued a valid License.

21.4-23. *NIGC* means the National Indian Gaming Commission.

21.4-24. *Oneida Business Committee* means the elected governing body of the Tribe exercising authority delegated from the Oneida General Tribal Council of the Oneida Tribe of Indians of Wisconsin under Article IV of the Constitution and By-laws for the Oneida Tribe of Indians of Wisconsin, approved December 21, 1936, as thereafter amended.

21.4-25. *Oneida General Tribal Council* means the governing body of the Oneida Tribe of Indians of Wisconsin as determined by the Tribe's Constitution.

21.4-26. *Ordinance or ONGO* means the Oneida Nation Gaming Ordinance as it may from time to time be amended.

21.4-27. *Regulatory Incident* means the occurrence of any event giving rise to a potential or alleged non-compliance with a gaming regulation, ordinance, law or policy involving any person or Licensee on the premises of a Gaming Facility.

21.4-28. *Remediation* means efforts taken to reduce the source and migration of environmental contaminants at a site.

21.4-29. *Reservation* means all lands within the exterior boundaries of the Reservation of the Oneida Tribe of Indians of Wisconsin, as created pursuant to the 1838 Treaty with the Oneida, 7 Stat. 566, and any lands added thereto pursuant to federal law.

21.4-30. *Senior Gaming Management* means the gaming general manager, assistant gaming general managers, gaming directors and assistant gaming directors.

21.4-31. *State* means the State of Wisconsin, its authorized officials, agents and representatives.

21.4-32. *Tribe* means the Oneida Tribe of Indians of Wisconsin.

21.4-33. *Tribal Fee Land* means all land to which the Tribe holds title in fee simple.

21.4-34. *Tribal Trust Land* means all land to which the United States holds title for the benefit of the Tribe pursuant to federal law.

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

21.5-1. The Oneida Business Committee retains the power and duty to enter into agreements or compacts with the State under the Indian Gaming Regulatory Act.

21.5-2. The Oneida Business Committee retains the power and duty to enter into agreements with local governments and other Tribal governments for services or cooperative ventures for the Gaming Operations.

21.5-3. The Oneida Business Committee has the exclusive power and duty to enter into contracts and agreements affecting the assets of the Tribe, except for those assets that were placed under the responsibility of the Oneida Land Commission under Chapter 67, Real Property Law.

21.5-4. The Oneida Business Committee delegates to the Commission, as set out in section 21.6-14, certain authorities and responsibilities for the regulation of Gaming Activities, Gaming Operations, Gaming Operators, Gaming Employees, Gaming Facilities, Gaming Services, and enforcement of laws and regulations, as identified in this Ordinance.

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

21.5-6. The Chairperson of the Tribe shall be the designated and registered agent to receive

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

#### **21.6. Oneida Gaming Commission**

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

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

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

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

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

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

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

21.6-5. *Requirements of Commission Membership.*

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

(1) Be an enrolled member of the Tribe;

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

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

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

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

the person has been found to meet all qualifications.

(d) Swearing into office is subject to a Background Investigation regarding the qualifications set forth in sections 21.6-5 and 21.6-6 upon being elected or appointed to office.

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

(a) Has been convicted of, or entered a plea of guilty or no contest to, any of the following:<sup>1</sup>

(1) Any gambling-related offense;

(2) Any offense involving Fraud or misrepresentation;

(3) Any offense involving a violation of any provision of chs. 562 or 565, Wis. Stats., any rule promulgated by the State of Wisconsin Department of Administration, Division of Gaming or any rule promulgated by the Wisconsin Racing Board;

(4) A felony not addressed in paragraphs 1, 2, or 3, during the immediately preceding ten (10) years; or

(5) Any offense involving the violation of any provision of Tribal law regulating the conduct of Gaming Activities, or any rule or regulation promulgated pursuant thereto.

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

of all Gaming Activities, including the ongoing monitoring of Licenses, subject to this Ordinance and/or regulations setting forth hearing or enforcement processes.

(g) To monitor and investigate all Gaming Operators for compliance with internal audits, and external audits.

(h) To inspect, examine, and photocopy all papers, books, and records of Gaming Activities and any other matters necessary to carry out the duties pursuant hereto, provided that, all photocopies of documents shall be maintained in a confidential manner or in the same manner as the original.

(i) To grant, deny, revoke, condition, suspend or reinstate the Licenses of Gaming Employees, Gaming Services vendors, and Gaming Operators.

(j) To conduct hearings relating to Licenses issued under this Ordinance by the Commission.

(k) To review all vendors doing business with the Gaming Operator to verify that such persons or entities hold a valid License, where required, to do business with a Gaming Operator.

(l) To retain professional advisors such as attorneys, law enforcement specialists, and Gaming professionals consistent with Tribal law and practices.

(m) To arbitrate, negotiate, or settle any dispute to which it is a party and which relates to its authorized activities.

(n) To act as the designated agent to receive all regulatory notices not included in section 21.5-6.

(o) To investigate all Regulatory Incidents.

(p) To issue warnings or notices of violation, in accordance with regulations, to Gaming Operators and Licensees for non-compliance with the Compact, Oneida Gaming Minimum Internal Controls, Rules of Play, IGRA, or this Ordinance.

(q) To make determinations regarding suitability for licensing.

(r) To establish an administrative structure by regulation to carry out its authority and responsibilities.

(s) To establish, where needed, additional processes for conducting licensing hearings by regulation.

(t) To establish and collect fees for processing license applications by regulation.

(u) To establish and impose a point system for findings of regulatory violations by any Gaming Employee by regulation.

(v) To establish and impose a fine system for findings of regulatory violations by any Gaming Services vendor or permittee by regulation.

(w) To approve procedures that provide for the fair and impartial resolution of patron complaints.

21.6-15. *Reporting Requirements.* The Commission shall adhere to the following reporting requirements:

(a) A true, complete and accurate record of all proceedings of the Commission shall be kept and maintained;

(b) Complete and accurate minutes of all Commission meetings shall be filed with the Secretary of the Oneida Business Committee within thirty (30) days of their approval by the Commission;

(c) Quarterly, or as may be directed by the Oneida Business Committee, reports of the Commission's activities, including information regarding funding, income and expenses

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

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

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

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

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

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

21.7-4. Gaming Surveillance shall:

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

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

### **21.9. Gaming Security Department**

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

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

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

21.9-3. The Gaming Security Department shall:

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

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

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

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

### **21.10. Background Investigations**

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

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

### **21.11. Licenses, Generally**

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

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

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

21.11-4. All Applicants:

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

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

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

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

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

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

## **21.12. Gaming Employee License**

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

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

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

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

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

(d) Current business and residence telephone numbers.

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

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

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

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

- (i) For each felony conviction or ongoing prosecution or conviction, the charge, the name and address of the court involved, and the date and disposition if any.
- (j) For each misdemeanor or ongoing misdemeanor prosecution (excluding violations for which jail time is not part of the potential sentence) within ten (10) years of the date of the application, the name and address of the court involved, and the date and disposition.
- (k) For each criminal charge (excluding charges for which jail time is not part of the potential sentence) whether or not there is a conviction, if such criminal charge is within ten (10) years of the date of the application and is not otherwise listed pursuant to subsections (i) or (j) of this section, the criminal charge, the name and address of the court involved and the date and disposition.
- (l) A photograph.
- (m) Fingerprints consistent with procedures adopted by the Commission which meet the criteria set forth in 25 C.F.R. section 522.2(h).
- (n) Any other information the Commission deems relevant for a Gaming Employee License.
- (o) A statement that each Applicant has read and understands notices and NIGC requirements relating to:
  - (1) The Privacy Act of 1974;
  - (2) Fraud and False Statements Act; and
  - (3) Fair Credit Reporting Act.

21.12-3. *License Qualifications.* No License shall be granted if the Applicant:

- (a) Is under the age of eighteen (18).
- (b) Unless pardoned for activities under this subsection by the Tribe, or pardoned for activities under this subsection by another Federally-recognized Indian Tribe for an action occurring within the jurisdiction of the Federally-recognized Indian Tribe, or pardoned for activities under this subsection by the state or Federal government, has been convicted of, or entered a plea of guilty or no contest to, any of the following:
  - (1) Any gambling-related offense;
  - (2) Any offense involving Fraud or misrepresentation;
  - (3) Any offense involving a violation of any provision of chs. 562 or 565, Wis. Stats., any rule promulgated by the State of Wisconsin Department of Administration, Division of Gaming or any rule promulgated by the Wisconsin Racing Board;
  - (4) A felony not addressed in paragraphs (1), (2), or (3), during the immediately preceding ten (10) years; or
  - (5) Any offense involving the violation of any provision of Tribal law regulating the conduct of Gaming Activities, or any rule or regulation promulgated pursuant thereto.
- (c) Is determined to be a person whose prior activities, criminal record, reputation, habits, or associations pose a threat to the public interest or to the effective regulation and control of Gaming or create or enhance the dangers of unsuitable, unfair, or illegal practices, methods, or activities in the operation of Gaming Activities or the carrying on of the business and financial arrangements incidental thereto.
- (d) Possesses a financial interest in or management responsibility for any Gaming Activity or Gaming Services vendor, or he or she has any personal, business, or legal relationship which places him or her in a conflict of interest as defined in this Ordinance

or the Conflict of Interest Policy.

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

21.12-4. *Initial Eligibility Determination.*

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

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

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

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

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

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

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

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

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

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

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

(4) 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

Gaming Employee's employment is terminated.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

(e) Within fifteen (15) business days after a hearing, the Commission shall issue a final written licensing decision and decide whether to suspend, uphold an immediate suspension, revoke, or take other action concerning a License. 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 receiving NIGC's notification indicating that a Gaming Employee is not eligible for a License.

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

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

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

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

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

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

### **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.<sup>2</sup>

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

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<sup>2</sup> See also Appendix 1. Vendor Licensing/Permit.

Indian Gaming Regulation and Compliance and, if applicable, proof of current licensure;

(i) Whether the Applicant has been licensed in the state of New Jersey, Nevada, or by any other gaming jurisdiction, including any Indian Tribe or Tribal governmental organization and, if so, proof of such licensure and the status of any such license;

(j) Whether the Applicant has been denied a license by any gaming jurisdiction and, if so, the identity of the jurisdiction, the date of such decision and the circumstances surrounding that decision;

(k) Whether any license held by the Applicant has been refused renewal, conditioned, suspended or revoked by an issuing authority and, if so, the circumstances surrounding that action;

(l) A statement of waiver allowing the Tribe to conduct a Background Investigation of the Applicant and any person whose name appears or is required to appear on the application;

(m) Whether the Applicant or any person whose name appears or is required to appear on the application has or has had any business with the Tribe or any business or personal relationship with any of the Tribe's officers or employees;

(n) The name and contact information for all Tribes or Tribal organizations with whom the Applicant or any person whose name appears or is required to appear on the application has done business;

(o) Whether the Applicant or any person whose name appears or is required to appear on the application maintains any involvement in the business of wholesale distribution of alcoholic beverages;

(p) A statement that the Applicant has read and understands notices and NIGC requirements relating to:

(1) The Privacy Act of 1974;

(2) False statements; and

(3) The Fair Credit Reporting Act.

(q) All additional information necessary to allow the Commission to investigate the Applicant and any person whose name appears or is required to appear on the application.

21.13-5. *Signature on Application.* Applications for Licenses or permits must be signed by the following person:

(a) For companies and corporations (both for profit and non-profit), the highest ranking official of the corporation, or another person to whom the authority to execute the Application has been properly delegated.

(b) For a sole proprietorship, the principal owner.

(c) For a partnership, all partners.

(d) For a limited partnership, the general partner or partners.

21.13-6. *Incomplete Applications.* Applications that do not contain all information requested, including proper signatures, will be considered incomplete. Incomplete applications will not be considered by the Commission. The Commission shall notify an Applicant if an application is incomplete and what additional information is necessary to complete the application. If an Applicant who has submitted an incomplete application, and been notified of the deficiency in that application, fails to provide the information requested by the Commission, the application will be returned to the Applicant and the file closed.

21.13-7. *Supplemental Information.* The Commission may, in its discretion, request supplemental information from the Applicant. Supplemental information requested by the

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

#### **21.14. Gaming Facility License**

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

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

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

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

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

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

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

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

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

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

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

### **21.15. Gaming Operator License**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

### **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



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

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

### **21.19. Enforcement and Penalties**

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

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

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

*End.*

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Adopted	GTC-7-05-04-A
Emergency Amended	BC-7-14-04-A
Amendment	BC-10-06-04-D
Emergency Amended	BC-11-03-04-A
Permanent Adoption	BC-3-23-05-C
Amended	BC-9-23-09-D
Amended	BC-06-25-14-C (effective 11 01 2014)
Emergency Amended	BC-10-08-14-C (effective 11 01 2014)
Emergency Extension	BC-04-22-15-B (effective 05-01-2015)

Appendix 1. Vendor License/Permit

