



LEGISLATIVE OPERATING COMMITTEE MEETING AGENDA

Business Committee Conference Room-2nd Floor Norbert Hill Center

November 1, 2017 9:00 a.m.

- I. Call to Order and Approval of the Agenda**
- II. Minutes to be approved**
 - 1. October 4, 2017 LOC Meeting Minutes (pg. 2)
- III. Current Business**
 - 1. Petition: Dodge – Law Firm for GTC (pg. 4)
 - 2. Petition: G. Powless – Banishment Law Resolution (pg. 6)
 - 3. Landlord Tenant Amendments (pg. 8)
 - 4. Active Files List Update (pg.47)
- IV. New Submissions**
 - 1. Environmental Review Law (pg. 48)
 - 2. Removal Law Amendments (pg. 58)
 - 3. Real Property Law Emergency Amendments (pg. 67)
- V. Additions**
- VI. Administrative Updates**
 - 1. 4th Quarter Report E-Poll (pg. 79)
 - 2. Community Support Fund Extension E-Poll (pg. 80)
- VII. Executive Session**
- VIII. Recess/Adjourn**



LEGISLATIVE OPERATING COMMITTEE MEETING MINUTES

Business Committee Conference Room-2nd Floor Norbert Hill Center

October 04, 2017

9:00 a.m.

Present: Jennifer Webster, David P. Jordan, Daniel Guzman King, Kirby Metoxen, Ernie Stevens III

Excused:

Others Present: Candice Skenandore, Clorissa Santiago, Jen Falck, Lee Cornelius, Leyne Orosco, Rosa Laster, Wes Martin

I. Call to Order and Approval of the Agenda

1. Motion Daniel Guzman King to adopt the agenda; seconded by Kirby Metoxen, Motion carried unanimously.

II. Minutes to be approved

1. Motion by Jennifer Webster to approve the September 20, 2017 LOC Minutes and send to the Business Committee for approval; seconded by Daniel Guzman King. Motion carried with Kirby Metoxen abstaining.

III. Current Business

1. **Petition: Dallas-2017 Tri-Annual General Election** (1:35 – 2:05)

Motion by Daniel Guzman King to approve the legislative analysis regarding the Petition: Dallas- 2017 Tri-Annual General Election and forward to the Business Committee for consideration; seconded by Kirby Metoxen. Motion carried unanimously.

2. **Petition: Graham- 2017 General Election** (2:06 – 2:34)

Motion by Kirby Metoxen to approve the legislative analysis regarding the Petition: Graham- 2017 General Election and forward to the Business Committee for consideration; seconded by Daniel Guzman King. Motion carried unanimously.

3. **Petition: Vandehei: Business Committee E-Polls** (2:35-3:05)

Motion by Jennifer Webster to approve the legislative analysis regarding the Petition: Vandehei- Business Committee E-polls and forward to the Business Committee for consideration; seconded by Daniel Guzman King. Motion carried unanimously.

IV. New Submissions

1. **Petition: Dodge- Law Firm for GTC** (3:08 – 3:58)

Motion by Daniel Guzman King to add the Petition: Dodge- Law Firm for GTC to the active files list and assign Kirby Metoxen as the sponsor and direct the LRO to provide a 45 day update by November 11, 2017; seconded by Kirby Metoxen. Motion carried unanimously.

2. Petition: G. Powless-Banishment Law Resolution (3:59 – 4:44)

Motion by Jennifer Webster to add the Petition: G. Powless regarding Banishment Law to the active files list with herself as the sponsor and direct the LRO to provide a 45 day update by November 11, 2017; seconded by Kirby Metoxen. Motion carried unanimously.

V. Additions – None

(Note Ernie Stevens III arrived to the meeting at 9:05 a.m.)

VI. Administrative Updates

1. Resolution: Defining the Comprehensive Housing Division: Landlord-Tenant Law, Eviction & Termination Law, and Foreclosure Law E-Poll (4:59 – 5:40)

Motion by Ernie Stevens III to enter the E-poll dated September 20, 2017 regarding the Resolution: Defining the Comprehensive Housing Division: Landlord-Tenant Law, Eviction & Termination Law, Mortgage and Foreclosure Law into the record; seconded by Daniel Guzman King. Motioned carried unanimously.

VII. Executive Session

VIII. Adjourn

Motion by Kirby Metoxen to adjourn the October 04, 2017 Legislative Operating Committee meeting at 9:06 a.m.; seconded by Jennifer Webster. Motion carried unanimously.



Legislative Operating Committee
November 1, 2017

Petition: Dodge – Law Firm for GTC

Submission Date: 9/27/17	Public Meeting: n/a
LOC Sponsor: Kirby Metoxen	Emergency Enacted: n/a Expires: n/a

Summary: *This petition calls for the GTC to hear a presentation from the law firm of Gross & Klein LLP about GTC's options to recover millions of dollars in losses and damages in accordance with the ONWI Constitution, Article IV, Powers of the General Tribal Council, Section 1.(b): "To employ legal counsel, the choice of counsel and fixing of fees," and for GTC to discuss and vote on retaining Gross & Klein LLP, which has agreed to represent GTC at a 20% discount.*

9/27/17 OBC: Motion by Lisa Summers to acknowledge receipt of the petition submitted by Leah Sue Dodge regarding a Law Firm for GTC, seconded by David P. Jordan. Motion carried unanimously

Motion by Lisa Summers to send the verified petition to the Law, Finance, Legislative Reference, and Direct Report Offices' for legal financial, legislative, and administrative analyses, seconded by David P. Jordan. Motion carried unanimously

Motion by Lisa Summers to direct the Law, Finance, and Legislative Reference Office to submit their analyses to the Tribal Secretary within sixty (60) days with a progress report to be submitted within forty-five (45) days; and to direct the Direct Report Offices to submit administrative analyses to Tribal Secretary within thirty (30) days, seconded by David P. Jordan. Motion carried unanimously.

10/4/17 LOC: Motion by Daniel Guzman King to add Petition: Dodge – Law Firm for GTC to the Active Files List and assign Kirby Metoxen as the sponsor and direct the LRO to provide a 45 day update by November 11, 2017; seconded by Kirby Metoxen. Motion carried unanimously.

Next Steps:

- Approve the Petition: Dodge – Law Firm for GTC 45 day update and forward to the Oneida Business Committee for consideration.



Oneida Nation
Oneida Business Committee
Legislative Operating Committee
PO Box 365 • Oneida, WI 54155-0365
Oneida-nsn.gov



TO: Oneida Business Committee
FROM: David P. Jordan, LOC Chairperson *DPJ*
DATE: November 8, 2017
RE: Petition: Dodge – Law Firm for GTC

On September 18, 2017, a petition was submitted to the Business Committee Support Office by Leah Sue Dodge which calls for a special General Tribal Council (GTC) meeting to be held in order for the GTC to hear a presentation from the law firm of Gross & Klein LLP about GTC's options to recover millions of dollars in losses and damages in accordance with the ONWI Constitution, Article IV, Powers of the General Tribal Council, Section 1.(b): "To employ legal counsel, the choice of counsel and fixing of fees," and for GTC to discuss and vote on retaining Gross & Klein LLP, which has agreed to represent GTC at a 20% discount.

On September 27, 2017, the Oneida Business Committee (OBC) accepted the verified petition submitted by Leah Sue Dodge and requested that the Legislative Reference Office (LRO) complete a legislative analysis within sixty (60) days and that a progress report be submitted within forty-five (45) days. This memorandum serves as the requested progress report.

The LRO has completed research regarding the Petition and will present the completed legislative analysis to the OBC within the sixty (60) day timeframe as directed.



Legislative Operating Committee
November 1, 2017

Petition: G. Powless – Banishment Law Resolution

Submission Date: 9/27/17	Public Meeting: n/a
LOC Sponsor: Jennifer Webster	Emergency Enacted: n/a Expires: n/a

Summary: *This petition calls for a special General Tribal Council (GTC) meeting to be held to consider adopting a resolution entitled Banishment Law pertaining to Drug Dealers.*

9/27/17 OBC: Motion by Lisa Summers to acknowledge receipt of the petition submitted by Gina Powless regarding a Banishment Law resolution, seconded by Jennifer Webster. Motion carried unanimously.

Motion by Lisa Summers to send the verified petition to the Law, Finance, Legislative Reference, and Direct Report Offices' for legal financial, legislative, and administrative analyses, seconded by Jennifer Webster. Motion carried unanimously.


Motion by Lisa Summers to direct the Law, Finance, and Legislative Reference Office to submit their analyses to the Tribal Secretary within sixty (60) days with a progress report to be submitted within forty five (45) days; and to direct the Direct Report Offices to submit administrative analyses to Tribal Secretary within thirty (30) days, seconded by Jennifer Webster. Motion carried unanimously.

10/4/17 LOC: Motion by Jennifer Webster to add Petition: G. Powless regarding Banishment Law to the Active Files List with herself as the sponsor, and direct the LRO to provide a 45 day update by November 11, 2017; seconded by Kirby Metoxen. Motion carried unanimously.

Next Steps:

- Approve the Petition: G. Powless – Banishment Law Resolution 45 day update and forward to the Oneida Business Committee for consideration.



TO: Oneida Business Committee
FROM: David P. Jordan, LOC Chairperson 
DATE: November 8, 2017
RE: Petition: G. Powless – Banishment Law Resolution

On September 18, 2017, a petition was submitted to the Business Committee Support Office by Gina Powless which calls for a special General Tribal Council (GTC) meeting to be held to consider adopting a resolution entitled Banishment Law pertaining to Drug Dealers.

On September 27, 2017, the Oneida Business Committee (OBC) accepted the verified petition submitted by Gina Powless and requested that the Legislative Reference Office (LRO) complete a legislative analysis within sixty (60) days and that a progress report be submitted within forty-five (45) days. This memorandum serves as the requested progress report.

The LRO has completed research regarding the Petition and will present the completed legislative analysis to the OBC within the sixty (60) day timeframe as directed.



Legislative Operating Committee
November 1, 2017

Landlord-Tenant Amendments

Submission Date: 12/21/16	Public Meeting: 6/5/17 and 10/19/17
LOC Sponsor: David P. Jordan	Emergency Enacted: 01/25/17 Emergency Extended: 07/26/17 Expires: 01/26/18

Summary: *Emergency amendments are requested to allow Oneida Housing Authority's Rent-to-Own program to fit within the confines of the Law. Currently, the Law applies to rental agreements which are contracts where the tenant is granted the right to use or occupy the premises for a residential purpose for one year or less. Amendments will revise the definition of "rental agreement" to allow for longer than one year when the contract is on a rent-to-own basis.*

12/21/16 LOC: Motion by David P. Jordan to add the Landlord-Tenant Law Emergency Amendments to the Active Files list with David Jordan as the sponsor; seconded by Fawn Billie. Motion carried unanimously.

1/18/17 LOC: Motion by Jennifer Webster to approve the emergency amendments adoption packet and forward the Landlord-Tenant Emergency Amendments to the Oneida Business Committee for consideration; seconded by David P. Jordan. Motion carried unanimously.

1/25/17 OBC: OBC adopts Landlord-Tenant Law Emergency Amendments through BC-01-25-17-C.

2/1/17 LOC: Motion by Jennifer Webster to direct the Finance Department to complete a fiscal impact statement by February 15, 2017 and to approve the public meeting packet, including the fiscal impact statement when completed, and forward the Landlord-Tenant law amendments to a public meeting to be held on March 2, 2017; seconded by Tehassi Hill. Motion carried unanimously.

3/1/17 LOC: Motion by Tehassi Hill to accept the February 22, 2017 e-poll which cancelled the March 2, 2017 Landlord-Tenant Public Meeting into the record; seconded by Fawn Billie. Motion carried unanimously.

4/19/17 LOC: Motion by Jennifer Webster to accept the Landlord-Tenant permanent amendments draft and request a legislative analysis due back May 3, 2017; seconded by Fawn Billie. Motion carried unanimously.

5/3/17 LOC: Motion by Tehassi Hill to approve the public meeting packet and forward the Landlord-Tenant permanent amendments to a public meeting to be held on June 5, 2017 and to forward to the Finance Department for a fiscal analysis due back to the Legislative Reference Office on June 2, 2017; seconded by Fawn Billie. Motion carried unanimously.

- 6/5/17:** Public Meeting held.
- 6/21/17 LOC:** Motion by David P. Jordan to accept the public meeting comments and memorandum and forward the Landlord-Tenant amendments adoption packet to the Oneida Business Committee for consideration; seconded by Fawn Billie. Motion carried unanimously.
- 6/28/17 OBC:** Motion by Brandon Stevens to adopt resolution Landlord-Tenant (Law) Amendments, seconded by Fawn Billie. Motion withdrawn.
Motion by Lisa Summers to defer the resolution entitled Landlord-Tenant (Law) Amendments to the next Business Committee work meeting, seconded by Jennifer Webster. Motion carried unanimously.
- 7/19/17 LOC:** Motion by David P. Jordan to approve the emergency amendments extension adoption packet and forward the Landlord-Tenant Emergency Amendments Extension Resolution to the Oneida Business Committee for their consideration; seconded by Jennifer Webster. Motion carried unanimously.
- Noted for the record: This item extends the existing adoption of emergency amendments for an additional six months.*
- 7/26/17 OBC:** Motion by Brandon Stevens to adopt resolution # 07-26-17-I Landlord-Tenant Emergency Amendments, seconded by David Jordan. Motion carried unanimously.
- 8/04/17:** OBC Work Meeting Held. Present: Treasurer Trish King, Councilmembers Fawn Billie, Tehassi Hill, David Jordan, and Brandon Stevens. Others Present: Danelle Wilson, Ernie Stevens, Krystal John, Jennifer Falck, Daniel Guzman, Cathy Bachhuber
- Adopt resolution entitled Landlord-Tenant (Law) Amendments.** The BC supported two policy amendments regarding surviving non-members: (1) A surviving non-member can stay in the rent to own program and convey to an Oneida child(ren) or convert the agreement to a rental unit as long as there is an Oneida child in the home; and (2) A surviving non-member may have up to six months from the date of a death or the remainder of the existing lease (maximum of 12 months), whichever is longer before being required to vacate.
- 9/6/17 LOC:** Motion by Ernie Stevens III to add Landlord-Tenant Law Amendment to the active files list with David P. Jordan as the sponsor; seconded by Jennifer Webster. Motion carried unanimously.
- 9/6/17:** *Work Meeting.* Present: Jenny Webster, Clorissa Santiago, Candice Skenandore, David P. Jordan, Maureen Perkins, Ernest Stevens III, and Tani Turner. The group agreed to 1) to update the draft based on decisions made in August in a BC work meeting, 2) update the legislative analysis, and 3) bring a public meeting packet for approval to the 9/20/217 LOC meeting.
- 9/20/17 LOC:** Motion by Jennifer Webster to approve the Landlord Tenant Amendments public meeting packet and direct the LRO to hold a public meeting on October 19, 2017 and request the Finance Department to submit a fiscal

analysis to the LRO by October 18, 2017; seconded by Daniel Guzman King.
Motioned carried unanimously.

10/19/17: Public Meeting held.

Next Steps:

- Approve the public meeting comment review memo.
- Approve the public meeting packet and forward to the OBC for consideration.

Title 6. Property and Land- Chapter 611

LANDLORD-TENANT

Tsi' Yuhwatsyawá'ku Aolihwá'ke

where it bound to the earth - issues

611.1.	Purpose and Policy	611.6.	Rights and Duties of Landlords and Tenants
611.2.	Adoption, Amendment, Repeal	611.7.	Domestic Abuse Protections
611.3.	Definitions	611.8.	Sex Offender Registry
611.4.	Rental Programs	611.9.	Termination of Tenancy at Death of Tenant
611.5.	Rental Agreement Documents	611.10.	Landlord or Tenant Actions

611.1. Purpose and Policy

611.1-1. *Purpose.* The purpose of this law is to provide mechanisms for protecting the rights of the landlords and tenants of the Nation's rental programs.

611.1-2. *Policy.* It is the Nation's policy to provide a fair process to all landlords and tenants of the Nation's rental programs that preserves the peace, harmony, safety, health, general welfare and the Nation's resources.

611.2. Adoption, Amendment, Repeal

611.2-1. This law was adopted by the Oneida Business Committee by resolution BC-10-12-16-C and thereafter amended by resolution _____.

611.2-2. This law may be amended or repealed by the Oneida Business Committee and/or the Oneida General Tribal Council pursuant to the procedures set out in the Legislative Procedures Act.

611.2-3. Should a provision of this law or the application thereof to any person or circumstances be held as invalid, such invalidity shall not affect other provisions of this law which are considered to have legal force without the invalid portions.

611.2-4. In the event of a conflict between a provision of this law and a provision of another law, the provisions of this law shall control.

611.2-5. This law is adopted under the authority of the Constitution of the Oneida Nation.

611.3. Definitions

611.3-1. This section shall govern the definitions of words and phrases as used herein. All words not defined herein shall be used in their ordinary and everyday sense.

(a) "Comprehensive Housing Division" ~~means the entity responsible for housing matters specifically related to rental agreements as defined by Oneida Business Committee Resolution.~~⁺

~~means the division within the Nation under the direction of the Comprehensive Housing Division Director which consists of all residential services offered by the Nation.~~

⁺ See BC Resolution 10-12-16-D providing that for purposes of this law, the Comprehensive Housing Division means the Division of Land Management for general rental agreements, the Oneida Housing Authority for income based rental agreements and Elder Services for rental agreements through the Elder Services program.

including but not limited to, all rental programs, the rent-to-own program, and the residential sales and mortgages programs.

(b) “Landlord” means the Nation in its capacity to rent real property subject to a rental agreement.

(c) “Nation” means the Oneida Nation.

(d) “Premises” means the property covered by a rental agreement, including not only the real property and fixtures, but also any personal property furnished by the landlord pursuant to a rental agreement.

(e) “Rental Agreement” means a written contract between a landlord and a tenant, whereby the tenant is granted the right to use or occupy the premises for a residential purpose for one (1) year or less, provided that the term may be longer than one (1) year in circumstances where the contract is on a rent-to-own basis.

(f) “Reservation” means all property within the exterior boundaries of the reservation of the Oneida Nation, as created pursuant to the 1838 Treaty with the Oneida 7 Stat. 566, and any lands added thereto pursuant to federal law.

(g) “Rule” means a set of requirements, including citation fees and penalty schedules, enacted jointly by the Land Commission and the Comprehensive Housing Division in accordance with the Administrative Rulemaking law based on authority delegated in this law in order to implement, interpret and/or enforce this law, provided that where such requirements relate solely to premises administered pursuant to federal funding, the Comprehensive Housing Division has sole authority.

(h) “Tenant” means the person granted the right to use or occupy a premises pursuant to a rental agreement.

(i) “Tribal member” means an individual who is an enrolled member of the Nation.

(j) “Security Deposit” means a payment made to the landlord by the tenant to ensure that rent will be paid and other responsibilities of the rental agreement performed.

611.4. Rental Programs

611.4-1. *Available Rental Programs.* Consistent with available funds, the Comprehensive Housing Division shall provide residential rental programs for providing housing to the following types of tenants and the Oneida Land Commission and the Comprehensive Housing Division shall jointly establish rules naming said programs and providing the specific requirements and regulations that apply to each program:

(a) Elder tribal members;

(b) Low-income Oneida tribal members and families; and

(c) Tribal members in general.

611.4-2. *Minimum Rental Eligibility Requirements.* In order to be eligible for a rental agreement, applicants shall meet the following conditions:

(a) Be eighteen (18) years of age at the time of the application;

(b) Have no felony or drug convictions within the past two (2) years from the date of application, provided that a pardon or forgiveness received pursuant to the Pardon and Forgiveness law may provide an exception to this condition;

(c) Meet the local governments’ laws’ requirements regarding residency restrictions for convicted sex offenders;

(d) Meet the income requirements for entering the rental agreement as determined by the rental program’s governing rules;

(e) Not hold a residential lease with the Nation; and

(f) Meet any other eligibility requirements set by the rental program's rules, which may not be less strict than this law, but may be stricter than this law, provided that rules developed for low-income Tribal members and families:

(1) May not contain eligibility requirements that consider debt owed or evictions from entities other than the Comprehensive Housing Division; but

(2) May contain eligibility requirements that consider debt owed to utility providers, provided that eligibility may not be denied for any debt owed to a utility provider with a past due balance of less than two hundred dollars (\$200).

611.4-3. *Tenant Selection.* The Land Commission and the Comprehensive Housing Division shall jointly develop rules governing the selection of applicants for the issuance of rental agreements.

611.5. Rental Agreement Documents

611.5-1. *Severability of Rental Agreement Provisions.* The provisions of a rental agreement are severable. If any provision of a rental agreement is void or unenforceable by reason of any law, rule, regulation, or judicial order, the invalidity or unenforceability of that provision does not affect other provisions of the rental agreement that can be given effect without the invalid or unenforceable provision.

611.5-2. *Requirements of Rental Agreements and Terminations.* A rental agreement or termination of a rental agreement is not enforceable unless it meets the requirements of this law and is in writing.

(a) All rental agreements shall:

(1) Set forth the amount of rent or other consideration provided in exchange for the ability to use/occupy the premises;

(2) Set forth the required amount of security deposit and require payment of the security deposit prior to the tenant(s) taking use/occupancy of the premises;

(3) Set the time of commencement and expiration of the rental agreement;

(4) Provide a reasonably definite description of the premises;

(5) State that nothing in the agreement may be considered a waiver of the Nation's sovereign immunity, provided that tenants may seek enforcement of a rental agreement or dispute an action taken pursuant to a rental agreement with the Oneida Judiciary; and

(6) Be signed by both the landlord and the tenant(s) prior to the tenant(s) taking use/occupancy of the premises;

(A) The rental agreement is not required to be signed by all adults using/occupying the premises, provided that the rights and responsibilities contained in the rental agreement do not extend to persons that are not named as tenants in the rental agreement.

(B) Unless legally separated, if a tenant(s) is married, the landlord shall require that each spouse sign the rental agreement.

(b) Any provision of a rental agreement that does any of the following is void and unenforceable.

(1) Allows a landlord to do or threaten to do any of the following because a tenant has contacted an entity for law enforcement services, health services or safety services:

(A) Increase rent;

(B) Decrease services;

(C) Bring an action for eviction pursuant to the Eviction and Termination law; and/or

(D) Refuse to renew a rental agreement.

(2) Except as otherwise provided in this law in regards to domestic abuse, authorizes the eviction or exclusion of a tenant from the premises other than through the process described in the Eviction and Termination law.

(3) Requires the tenant to pay attorney's fees or costs incurred by the landlord in any legal action or dispute arising under the rental agreement except as supported by a court order.

(4) States that the landlord is not liable for property damage or personal injury caused by negligent acts or omissions of the landlord. This subsection does not affect ordinary maintenance obligations of a tenant under 611.6-3(b) or assumed by a tenant under a rental agreement or other written agreement between the landlord and the tenant.

(5) Imposes liability on the tenant for any of the following:

(A) Personal injury arising from causes clearly beyond the tenant's control.

(B) Property damage caused by natural disasters or by persons other than the tenant or the tenant's guests or invitees. This subsection does not affect ordinary maintenance obligations of a tenant under 611.6-3(b) or assumed by a tenant under a rental agreement or other written agreement between the landlord and the tenant.

(6) Waives any obligation on the part of the landlord to deliver the premises in a fit and habitable condition or to maintain the premises during the tenant's tenancy.

(7) Allows for periodic tenancy, which for the purposes of this section means when a tenant uses/occupies a premises without an effective and valid rental agreement by paying rent on a periodic basis including, but not limited to, day-to-day, week-to-week and month-to-month.

611.5-3. *Assignment of Rental Agreements Not Permitted.* Assignments of rental agreements are not permitted under any circumstances.

611.6. Rights and Duties of Landlords and Tenants

611.6-1. This section governs the rights and duties of the landlord and tenant in the absence of any inconsistent provision found in a valid rental agreement.

611.6-2. *Disposition of Personal Property Left by the Tenant.* If the tenant moves from or is evicted from the premises and leaves personal property, the landlord may presume that the tenant has abandoned the personal property and may dispose of said property in any manner that the landlord, in his or her sole discretion, determines is appropriate, provided that:

(a) The landlord shall hold personal property for a minimum of five (5) business days and the tenant may retrieve said personal property by contacting the landlord.

(b) The landlord shall keep a written log of the date and the work time that the Nation's staff expends storing and/or removing personal property and/or removing/disposing of debris left at the property after the expiration of the timeframe provided in the order to vacate.

(c) The Land Commission and the Comprehensive Housing Division shall jointly create rules further governing the disposition of personal property.

611.6-3. *Repairs; Untenability.* This section applies to all leases if there is no contrary provision in writing signed by both parties.

(a) *Duties of the Landlord.*

(1) Except for repairs made necessary by the negligence of, or improper use of the premises by the tenant, the landlord has a duty to do all of the following:

(A) Keep in a reasonable state of repair portions of the premises over which the landlord maintains control.

(B) Keep in a reasonable state of repair all equipment under the landlord's control necessary to supply services that the landlord has expressly or impliedly agreed to furnish to the tenant, such as heat, water, elevator, or air conditioning.

(C) Make all necessary structural repairs.

(D) Except as provided in section 611.6-3(b)(2), repair or replace any plumbing, electrical wiring, machinery, or equipment furnished with the premises and no longer in reasonable working condition.

(E) Comply with any laws or rules of the Nation that are applicable to the premises.

(2) If the premises are part of a building where other parts are occupied by one (1) or more other tenants, negligence or improper use by one (1) tenant does not relieve the landlord from the landlord's duty to make repairs as provided in 611.6-3(a)(1), provided that the landlord may require the responsible tenant to pay for such repairs.

(3) A landlord shall disclose to a prospective tenant, before entering into a rental agreement with or accepting any earnest money or security deposit from the prospective tenant, any violation of either the Building Code of the Oneida Nation or the Zoning and Shoreland Protection Ordinance if all of the following apply:

(A) The landlord has actual knowledge of the violation;

(B) The violation affects the dwelling unit that is the subject of the prospective rental agreement or a common area of the premises;

(C) The violation presents a significant threat to the prospective tenant's health or safety; and

(D) The violation has not yet been corrected but the landlord shall correct the violation prior to the tenant taking occupancy of the premises.

(4) If the premises are damaged by fire, water or other casualty, not the result of the negligence or intentional act of the landlord, this subsection is inapplicable and either section 611.6-3(b) or (c) governs.

(5) The landlord is responsible for all required pest control to keep the premises in a safe and healthy condition, provided that where an infestation has occurred due to the acts or inaction of the tenant the pest control costs may be assessed against the tenant.

(b) *Duties of the Tenant.*

(1) If the premises are damaged, including by an infestation of insects or other pests, due to the acts or inaction of the tenant, the landlord may elect to allow the tenant to remediate or repair the damage and restore the appearance of the premises by redecorating. However, the landlord may elect to undertake the remediation, repair, or redecoration, and in such case the tenant shall reimburse

the landlord for the reasonable cost thereof; the cost to the landlord is presumed reasonable unless proven otherwise by the tenant.

(2) The tenant shall keep plumbing, electrical wiring, machinery and equipment furnished with the premises in reasonable working order.

(3) Tenants shall comply with all laws and rules of the Nation.

(c) *Untenability.* If the premises become untenable because of damage by fire, water or other casualty or because of any condition hazardous to health, or if there is a substantial violation of section 611.6-3(a) materially affecting the health or safety of the tenant, the tenant may move from the premises unless the landlord promptly repairs, rebuilds or eliminates the health hazard or the substantial violation of 611.6-3(a) materially affecting the health or safety of the tenant.

(1) The tenant may also move and terminate the rental agreement if the inconvenience to the tenant by reason of the nature and period of repair, rebuilding or elimination would impose undue hardship on the tenant.

(2) If the tenant remains in possession, the landlord shall decrease rent for each month to the extent the tenant is deprived of the full normal use of the premises.

The Land Commission and the Comprehensive Housing Division shall jointly develop rules governing how and when rent is decreased pursuant to this section.

This subsection does not authorize rent to be withheld in full, if the tenant remains in possession.

(3) If the tenant justifiably moves out under this subsection, the tenant is not liable for rent after the premises become untenable and the landlord shall repay any rent paid in advance apportioned to the period after the premises become untenable. This subsection is inapplicable if the damage or condition is caused by negligence or improper use by the tenant.

(d) *Check-in sheet.* Landlords shall provide all new tenants with a check-in sheet when the tenant commences his or her occupancy of the premises that the tenant may use to make comments, if any, about the condition of the premises. The landlord shall provide the tenant with seven (7) days from the date the tenant commences his or her occupancy to complete the check-in sheet and return it to the landlord. The landlord is not required to provide the check-in sheet to a tenant upon renewal of a rental agreement.

(e) *Notice to Enter Required.* The landlord shall provide twenty-four (24) hour written notice prior to entering the tenant's premises where notice is required to either be personally served to the tenant or posted on the premises. A landlord is exempt from this notice requirement in the case of an emergency welfare check. The basis of a welfare check may include, but is not limited to the following:

(1) The landlord believes the tenant's or a child's wellbeing may be in jeopardy based on reports of child abuse or neglect, medical concerns, suspicious activity or other reported information;

(2) The landlord suspects the tenant has abandoned the premises; and/or

(3) The landlord receives notice that the premise's utilities have been disconnected.

(f) *Acts of tenant not to affect rights of landlord.* No act of a tenant in acknowledging as landlord a person other than the tenant's original landlord can prejudice the right of the original landlord to possession of the premises.

(g) *Annual Inspection Required.* In the event the tenant renews the rental agreement for additional terms, the landlord shall, at a minimum, inspect the premises once annually.

611.7. Domestic Abuse Protections

611.7-1. If a tenant notices the landlord of domestic abuse with of any of the following documentation, regardless of marital status, the landlord shall change the locks to the premises and, if the tenant is unmarried, allow the tenant to modify the rental agreement to remove the domestic abuser:

- (a) An injunction order under Wis. Stat. 813.12(4) protecting the tenant from a co-tenant;
- (b) An injunction order under Wis. Stat. 813.122 protecting a child of the tenant from a co-tenant;
- (c) An injunction order under Wis. Stat. 813.125(4) protecting the tenant or child of the tenant from a co-tenant, based on the co-tenant's engaging in an act that would constitute sexual assault under Wis. Stat. 940.225, 948.02 or 948.025, or stalking under Wis. Stat. 940.32, or attempting or threatening to do the same;
- (d) A condition of release under Wis. Ch. 969 ordering the co-tenant not to contact the tenant;
- (e) A criminal complaint alleging that the co-tenant sexually assaulted the tenant or a child of the tenant under Wis. Stat. 940.225, 948.02 or 948.025;
- (f) A criminal complaint alleging that the co-tenant stalked the tenant or a child of the tenant under Wis. Stat. 940.32; or
- (g) A criminal complaint that was filed against the co-tenant as a result of the co-tenant being arrested for committing a domestic abuse offense against the tenant under Wis. Stat. 968.075.

611.7-2. If a tenant is no longer eligible to maintain the rental agreement upon removing a co-tenant domestic abuser from the rental agreement, the landlord shall permit the tenant to remain on the premises for the longer of either the duration of the rental agreement or ninety (90) days from the date the rental agreement is modified. If the latter applies, in addition to removing the co-tenant that is the domestic abuser, the landlord shall also revise the rental agreement to extend its duration.

611.7-3. The Eviction and Termination law provides tenants that are victims of domestic abuse with a defense to eviction should the abusers actions be the cause for eviction.

611.8. Sex Offender Registry

611.8-1. Should a tenant request information about whether any other tenants are required to register as a sex offender, the landlord shall provide the tenant with written notice that he or she may obtain information about the sex offender registry and persons registered within the registry by contacting the department of corrections. The landlord shall include in such notice the appropriate telephone number and internet site of the department of corrections.

611.9. Termination of Tenancy at Death of Tenant

611.9-1. If a tenant dies, his or her tenancy is terminated ~~on the earlier of the following~~as follows:

- (a) ~~Sixty (60) days~~If the deceased tenant was the only household member listed in the rental agreement, immediately upon the death of the tenant;
- (b) If there were additional adult household members aside from the deceased tenant listed in the household within the rental agreement, then the later of the following, provided that an adult household member remaining in the unit shall assume the tenancy responsibilities under the rental agreement;

(1) Six (6) months after the landlord receives notice, is advised, or otherwise becomes aware of the tenant's death; provided that any extension beyond the original term of the agreement requires an amendment or limited term rental agreement which covers the term of the extension; or

(b2) The expiration of the term of the rental agreement.

611.9-2. The deceased tenant or his or her estate is not liable for any rent after the termination of his or her tenancy. A landlord may not contact or communicate with a member of the deceased tenant's family for the purpose of obtaining from the family member rent for which the family member has no liability except that if adult household members remain in the rental unit following the deceased tenant's death in accordance with section 611.9-1 or 611.9-4, an adult household member shall assume the tenancy responsibilities pursuant to the rental agreement.

611.9-3. Nothing in this section relieves another adult tenant of the deceased tenant's premises from any obligation under a rental agreement or any other liability to the landlord.

611.9-4. If the deceased tenant is a Tribal member whose death renders a co-tenant no longer eligible for a rental agreement based on Tribal member status, the non-Tribal member tenant may remain in the premises as follows:

(a) If subject to a standard rental agreement (i.e. ~~not on a rent-to-own basis~~), ~~the non-Tribal member tenant may remain in the premises for the longer of either the duration of the rental agreement or six (6) months from the date of the Tribal member tenant's death. Any extension beyond the original term of the agreement requires an amendment or limited term rental agreement which covers the term of the extension.~~ not on a rent-to-own basis), see section 611.9-1(b) above.

(b) If the rental agreement was on a rent-to-own basis, the remaining non-Tribal member tenant may remain in the premises for a maximum of six (6) months from the date of the Tribal member tenant's death unless the non-Tribal member tenant has a child that is a Tribal member. In the event the non-Tribal member tenant has a Tribal member child, the non-Tribal member tenant may remain in the premises under the rent-to-own agreement so long as the non-Tribal member tenant either transfer the premises and the rent-to-own agreement to an adult Tribal member child who agrees to live in the premises or signs an agreement indicating that the premises and the rent-to-own agreement shall be transferred to a minor Tribal member child when the child is eighteen (18) years old. Should the non-Tribal member tenant be eligible for conveyance of the premises prior to the Tribal member child's eighteenth (18th) birthday, the rent-to-own agreement shall be extended at no additional cost to the tenant and conveyance postponed until the Tribal member child reaches eighteen (18) years of age and the rent-to-own agreement is transferred to the child.

(1) In the event the non-Tribal member tenant either has no children living in the premises that are Tribal members or declines to enter the agreement transferring the rent-to-own agreement to a Tribal member child, the rent-to-own agreement shall be terminated upon the tenant's ineligibility to remain in the rent-to-own program and a limited term rental agreement shall be executed.

(2) Where a landlord is so terminating a rental agreement entered on a rent-to-own basis, the landlord shall pay the remaining co-tenant all equity the tenants may have accrued in accordance with the rental agreement.

611.10. Landlord or Tenant Actions

611.10-1. The Oneida Judiciary is granted jurisdiction to hear complaints filed regarding actions taken pursuant to this law and/or a rental agreement.

611.10-2. No administrative hearing body, including a board, committee or commission, is authorized to hear a complaint regarding actions taken pursuant to this law and/or a rental agreement.

611.10-3. The landlord is the Comprehensive Housing Division in regards to taking actions authorized under this law and complaints filed with the Oneida Judiciary shall name the Comprehensive Housing Division and the specific program.

End.

Adopted – BC-10-12-16-C
Emergency Amended – BC-01-25-17-C
Emergency Extension – BC-07-26-17-I



TO: Legislative Operating Committee (LOC)
FROM: Krystal John, Staff Attorney, Oneida Law Office
DATE: November 1, 2017
RE: Landlord-Tenant (Law) Amendments: Public Meeting Comment Review

On October 19, 2017 a public meeting was held regarding the Conflict of Interest Amendments. There were no oral or written comments received during the public meeting on October 19, 2017, or during the public meeting comment period ending on October 26, 2017; therefore there was no additional legislative review or response required based on the public meeting and the Legislative Procedures Act.



TO: Oneida Business Committee
FROM: David P. Jordan, LOC Chairperson
DATE: November 8, 2017
RE: Landlord-Tenant Law Amendments

Please find the following attached backup documentation for your consideration of the Landlord-Tenant law:

1. Resolution: Landlord-Tenant (Law) Amendments
2. Statement of Effect: Landlord-Tenant (Law) Amendments
3. Landlord-Tenant (Law) Amendments Fiscal Impact Statement
4. Landlord-Tenant (Law) Amendments Legislative Analysis
5. Landlord-Tenant (Law) Amendments Redline to Current Draft
6. Landlord-Tenant (Law) Amendments Clean Draft

Overview

This resolution adopts amendments to the Landlord-Tenant law which:

- Include rent-to-own agreements in the definition of rental agreements by allowing them to extend beyond 1 year terms when entered on a rent-to-own basis [see 611.3-1(e)];
- Include additional limitations on minimum rental eligibility requirements for the income-based rental program which do not allow consideration of prior evictions from landlords outside the Nation or debt owed except for past due utility debts in excess of \$200; and
- Amend the provisions related to what process should be followed when a tenant passes away, both when there are no other household members and when the tenant leaves behind household members that have a continuing housing need.

In accordance with the Legislative Procedures Act, a public meeting was held regarding this law on June 5, 2017 with a comment period closing on June 12, 2017. Those comments were considered by the Legislative Operating Committee (LOC) at a June 15, 2017 LOC work meeting and were thereafter formally accepted on the record at the June 21, 2017 LOC meeting. An additional public meeting was held on October 19, 2017 with a comment period closing on October 26, 2017. There were no comments, oral or written, submitted for the second public meeting. This Law will become effective ten business days after the date of adoption of the resolution as identified in section 109.9-3 of the Legislative Procedures Act. The anticipated effective date will be Monday, November 27, 2017.

Requested Action

Approve the Resolution: Landlord-Tenant (Law) Amendments

BC Resolution _____
Landlord-Tenant (Law) Amendments

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 Oneida Business Committee originally adopted the Landlord-Tenant law through resolution BC-10-12-16-C; and

WHEREAS, following adoption, the Oneida Business Committee adopted emergency amendments to the Landlord-Tenant law through resolution BC-01-25-17-C and extended those emergency amendments through resolution 07-26-17-I which revised the definition of rental agreement to include the rent-to-own agreements currently offered through the Oneida Housing Authority which may last longer than one (1) year; and

WHEREAS, as part of the process required by the Legislative Procedures Act to make such emergency amendments effective on a permanent basis, it was determined that additional amendments were necessary to:

- Include additional limitations on minimum rental eligibility requirements for the income-based rental program which do not allow consideration of prior evictions from landlords outside the Nation or debt owed except for past due utility debts in excess of \$200; and
- Amend the provisions related what process should be followed when a tenant passes away, both when there are no other household members and when the tenant leaves behind household members that have a continuing housing need.

WHEREAS, a public meeting on the proposed Amendments was held on October 19, 2017 in accordance with the Legislative Procedures Act; and

NOW THEREFORE BE IT RESOLVED, that the amendments to the Landlord-Tenant law are hereby adopted and shall become effective on November 27, 2017 in accordance with the Legislative Procedures Act.



Statement of Effect

Landlord-Tenant (Law) Amendments

Summary

This Resolution adopts Amendments to the Landlord-Tenant Law (the “Law”) which permanently adopt prior emergency amendments which included the Oneida Housing Authority’s (OHA’s) rent-to-own program in the definition of rental agreement and also include the following two other revisions to:

- 1) Include additional limitations on minimum rental eligibility requirements for the income-based rental program which do not allow consideration of prior evictions from landlords outside the Nation or debt owed except for past due utility debts in excess of \$200; and
- 2) Amend the provisions related what process should be followed when a tenant passes away, both when there are no other household members and when the tenant leaves behind household members that have a continuing housing need.

Submitted by: Krystal L. John, Staff Attorney, Oneida Law Office

Analysis by the Legislative Reference Office

This Law was originally adopted by Resolution BC-10-12-16-C. Thereafter, emergency amendments were adopted to include the income based rental program’s rent-to-own program within the Law’s definition of rental agreement. The emergency amendments were necessary because as written the Law applied to rental agreements that are defined as, “a written contract between a landlord and a tenant, whereby the tenant is granted the right to use or occupy the premises for a residential purpose for one (1) year or less.” The rental agreements in the Law were limited to one (1) year terms to fortify the policy requiring annual renewals of rental agreements and to avoid month-to-month tenancies.

After the adoption of the Law it was discovered that income-based rental program’s rent-to-own program does not fall into the definition of rental agreements provided in the Law because the rental agreement for the rent-to-own program generally has a longer term, usually fifteen (15) years, with conveyance of the home at the satisfaction of the rental agreement.

The emergency amendment to the Law maintains the policies the Law sets forth while including the income-based rental program’s rent-to-own program by revising the definition of “rental agreement” to state, “a written contract between a landlord and a tenant, whereby the tenant is granted the right to use or occupy the premises for a residential purpose for one (1) year or less, provided that the term may be longer than one (1) year in circumstances where the contract is on

a rent to own basis.” These amendments adopt the emergency amendments on a permanent basis as required by the Legislative Procedures Act.

In addition to adopting the emergency amendments on a permanent basis, these Amendments also:

- 1) Include additional limitations on minimum rental eligibility requirements for the income-based rental program which do not allow consideration of prior evictions from landlords outside the Nation or debt owed except for past due utility debts in excess of \$200; and
- 2) Amend the provisions related what process should be followed when a tenant passes away, both when there are no other household members and when the tenant leaves behind household members that have a continuing housing need.

The limitation as to what may be considered as part of applicant eligibility was added at the direction of resolution BC-03-27-17-C entitled *Repeal of Resolution BC-12-23-09-A, Oneida Housing Authority Admissions and Occupancy Policy*. In that resolution, the Oneida Business Committee repealed an existing resolution which prohibited any prior evictions or rent and utility related debts from being considered as part of eligibility for applicants to the low-income rental program and required that minimum limitation be included in the law to safeguard future tenants from any revisions that may be proposed in future rules. Specifically, the resolution stated:

NOW THEREFORE BE IT FURTHER RESOLVED, that the Legislative Operating Committee is hereby directed to amend the Landlord-Tenant law to include the following restrictions on the rules governing the income-based rental program:

1. The rules may not contain eligibility requirements that consider debt owed or evictions from entities other than the Comprehensive Housing Division; and
2. The rules may contain eligibility requirements that consider debt owed to utility providers, but may not deny eligibility for any past due debt owed to a utility provider with a balance of less than two hundred dollars (\$200).

Accordingly, the limitation as to eligibility requirements included in these Amendments is required action and satisfies the LOC’s responsibility pursuant to resolution BC-03-27-17-C.

Lastly, the revision to amend the provisions related what process should be followed when a tenant passes away, both when there are no other household members and when the tenant leaves behind household members that have a continuing housing need provide the community with additional needed clarity and extend the permissible continuation of tenancy following death from sixty (60) days to six (6) months. The amendments also add to the Law the income-based rent-to-own program’s current practice of paying out any accrued equity in the event of the termination of a rent-to-own agreement.

A public meeting was held for these amendments on October 19, 2017 for which the comment period expired on October 26, 2017 in accordance with the Legislative Procedures Act.

Conclusion

Adoption of this Resolution would not conflict with any of the Nation’s laws.



Landlord-Tenant Permanent Amendments Legislative Analysis

SECTION 1. BACKGROUND

REQUESTER: Krystal L. John	SPONSOR: David P. Jordan	DRAFTER: Krystal L. John	ANALYST: Maureen Perkins
Intent of Proposed Amendments	The current amendments are proposed by the Oneida Law Office in consultation with the Oneida Housing Authority in order to ensure the rent-to-own rental agreements are covered by the law. A provision was added regarding non-Tribal tenants in rent-to-own agreements when the qualified Oneida tenant becomes deceased. Additionally minimum eligibility requirements were added under the proposed amendments as directed by Oneida Business Committee Resolution 3-22-17-C.		
Purpose of the Law	To provide mechanisms for protecting the rights of the landlords and tenants within the reservation <i>[see 611.1-1]</i> .		
Affected Entities	Comprehensive Housing Division, Land Commission, Oneida Tribal members, their spouses and occupants who rent and occupy premises under this law.		
Affected Legislation	Eviction and Termination, Administrative Rulemaking, Building Code, Zoning and Shoreline Protection Ordinance, Pardon and Forgiveness, and Real Property		
Enforcement/Due Process	The Oneida Judiciary is granted jurisdiction to hear complaints filed regarding actions taken pursuant to this law and/or a rental agreement <i>[see 611.10-1]</i> .		
Public Meeting	A public meeting was held 06/05/17 and 10/19/17.		

SECTION 2. LEGISLATIVE DEVELOPMENT

- A. The current amendments permanently adopt the emergency amendments adopted by resolution 1-25-17-C and BC-07-26-17-I to clarify the current law to specifically allow rent-to-own rental agreements to last longer than one year *[see 611.3-1(e)]*.
- B. Additional amendments were included as detailed below.

SECTION 3. CONSULTATION

- A. The Oneida Housing Authority and the Oneida Law Office recognized that the current law does not cover the rent-to-own programs because these are rental agreements that last longer than one year.
- B. The OBC has decided that it is in the best interest of Oneida families to ensure that any current or future rules developed to govern the income based rental program do not consider debt owed or evictions from entities other than the Comprehensive Housing Division or past due utility accounts of less than \$200 as part of the selection criteria. This is a policy decision of the OBC.
- C. The OBC also decided that non-Tribal members in rent-to-own agreements have the option to stay in the agreement if they sign an agreement indicating the premises and the rent-to-own agreement will be transferred to their child who is an enrolled Tribal member upon turning 18 or immediately to an adult child if the qualified Tribal member tenant becomes deceased.
- D. These changes do not require additional research.

SECTION 4. PROCESS

- 21 A. This amendment to the law permanently adopts the emergency amendment adopted by resolutions
22 BC-1-25-17-C and BC-07-26-17-I and includes additional provisions directed by the OBC. This is
23 the correct legislative process.
- 24 C. The emergency amendments were added to the Active Files List on December 21, 2016, and were
25 adopted by resolution BC-1-25-17-C and adopted by emergency extension by resolution BC-07-26-
26 17-I and expire 01-26-18.
- 27 D. The current amendments permanently adopt the emergency amendments and include the additional
28 provision related to the minimum eligibility requirements *[see 611.4-2(f)(1) and (2)]*, prior evictions
29 and debt owed from outside the Nation are not considered other than past due utility bills in excess of
30 \$200 *[see 611.4-2 (f) (1) and (2)]* and provisions related to non-Tribal member tenants that have the
31 option to remain in the rent-to-own agreement if they have a child who is a Tribal member and agree
32 to convey the property to the child upon turning 18 or immediately transfer the premises and the rent-
33 to-own agreement to an adult child who is a Tribal member if the qualifying Tribal member becomes
34 deceased prior to completing the rent-to-own agreement *[see 611.9-4(b)]*. A public meeting was held
35 6/5/17 and an additional public meeting is proposed for 10/19/2017.

36 37 **SECTION 5. CONTENTS OF THE PROPOSED AMENDMENTS**

- 38 A. The term for Comprehensive Housing Division was updated to reflect the new term for the entity
39 responsible under this law. The Comprehensive Housing Division was adopted by resolution BC-9-
40 27-17-H and means the division within the Nation under the direction of the Comprehensive Housing
41 Division Director which consists of all residential services offered by the Nation, including but not
42 limited to, all rental programs, the rent-to-own program, and the residential sales and mortgages
43 programs *[see 611.3-1]*.
- 44 B. The term for “rental agreements” is restricted to one year or less in the adopted Landlord-Tenant law.
45 This definition excludes rent-to-own contracts which are longer than one (1) year. The amendment
46 ensures rent to own contracts are covered by the definition of rental agreements by expanding the
47 definition to include rent to own contracts which are for terms longer than one year *[see 611.3-1(e)]*.
- 48 B. A definition for Tribal member was added to the law *[see 611.3-1(i)]*.
- 49 C. Minimum rental eligibility requirements were added relating to rules developed for the income-based
50 rental program which prohibits considering debt owed to or evictions from entities other than the
51 Comprehensive Housing Division but allows consideration of past due debt owed to utility providers
52 over two hundred dollars (\$200) *[see 611.4-2 (f) (1) and (2)]*.
- 53 D. If a deceased tenant was the only household member listed on the rental agreement, the tenancy is
54 terminated immediately upon the death *[see 611.9-1(a)]*.
- 55 E. If there were additional adults household members aside from the deceased tenant listed on the rental
56 agreement, the adult household members will assume tenancy responsibilities under the rental
57 agreement and can stay for six (6) months after the landlord receives notice of the tenant’s death and
58 this requires an amendment or limited term rental agreement to cover the term of the extension *[see*
59 *611.9-1(b)(1)]*.
- 60 F. If adult household members remain in a rental unit following a deceased tenant’s death, the household
61 member will assume the tenancy responsibilities according to the rental agreement *[see 611.9-2]*.
- 62 G. If a deceased tenant was a Tribal member whose death results in a non-Tribal member tenant’s
63 ineligibility for the rental agreement, the non-Tribal member tenant may remain in the premises:

- If a standard rental agreement (not a rent-to-own agreement), any extension beyond the original term of agreement requires an amendment or limited term rental agreement which covers the term of the extension may be for a maximum of 6 months *[see 611.9-4(a)]*.
- If the rental agreement was on a rent-to-own basis and the non-Tribal member tenant has no Tribal member children, the non-Tribal member tenant may remain in the premises for a maximum of 6 months from the date of the Tribal member's death. In this case, the rent-to-own agreement will be terminated upon the tenant's ineligibility to remain in the rent-to-own agreement and a new rental agreement, which may be a limited term rental agreement, will be executed. The landlord will pay the remaining co-tenant all equity the tenants have accrued according to the rental agreement *[see 611.9-4(b)]*.
- If the non-Tribal member tenant has a child who is a Tribal member living in the premises, the non-Tribal member tenant may remain in the rent-to-own agreement as long as they sign an agreement indicating that the premises and the rent-to-own agreement will be transferred to the Tribal member child upon turning 18. If the non-Tribal member tenant has an adult Tribal member child, the rent-to-own agreement may be immediately transferred to that child upon the qualifying Tribal member's death and upon the adult Tribal member agreeing to live in the premises *[see 611.9-4(b)]*.
- If the non-Tribal member tenant either has no Tribal member children or declines to enter into the agreement transferring the rent-to-own agreement to the Tribal member child, the rent-to-own agreement will be terminated upon the tenant's ineligibility to remain in the rent-to-own program and a limited term rental agreement will be executed *[see 611.9-4(b)(1)]*.
- Where a landlord is terminating a rent-to-own agreement, the landlord shall pay the remaining co-tenant all equity the tenants have accrued in accordance with the rental agreement *[see 611.9-4(b)(2)]*.

SECTION 6. EFFECTS ON EXISTING RIGHTS, PRIVILEGES, OR OBLIGATIONS

- A. The proposed amendments will permanently ensure the Landlord-Tenant law covers existing rent-to-own rental agreements and future rent-to-own rental agreements and ensures Tribal members who enter into these rental agreements have the same due process and other rights as all other rental agreements under the Landlord-Tenant law.
- B. The amendments ensure that prior evictions and debt from outside the Nation are not considered other than past due debt owed to a utility provider over two hundred dollars (\$200).
- C. The amendments ensure that non-Tribal member co-tenants in rent-to-own rental agreements are paid the equity that has accumulated in the property due to the fact that they are no longer eligible to remain in the rental agreement. Additionally, the amendments allow non-Tribal member tenants to remain in a rent-to-own agreement when the qualifying Tribal member tenant dies if they agree to transfer the premises and the rent-to-own agreement to an adult Tribal member child or a minor Tribal member child upon turning 18 years of age.

SECTION 7. OTHER CONSIDERATIONS

- A. The Landlord-Tenant law was adopted on October 12, 2016 and became effective on February 9, 2017. The emergency amendments to the Landlord-Tenant law were adopted on January 25, 2017,

became effective February 9, 2017 and were extended through January 26, 2018. The current proposed amendments permanently adopt these emergency amendments and add the provisions related to debt owed, prior evictions and rental agreements related to non-Tribal member co-tenants who are no longer eligible for the rental agreement when the eligible Tribal member tenant dies.

Title 6. Property and Land- Chapter 611

LANDLORD-TENANT

Tsi' Yuhwatsyawá'ku Aolihwá'ke

where it bound to the earth - issues

611.1.	Purpose and Policy	611.6.	Rights and Duties of Landlords and Tenants
611.2.	Adoption, Amendment, Repeal	611.7.	Domestic Abuse Protections
611.3.	Definitions	611.8.	Sex Offender Registry
611.4.	Rental Programs	611.9.	Termination of Tenancy at Death of Tenant
611.5.	Rental Agreement Documents	611.10.	Landlord or Tenant Actions

611.1. Purpose and Policy

611.1-1. *Purpose.* The purpose of this law is to provide mechanisms for protecting the rights of the landlords and tenants of the Nation's rental programs.

611.1-2. *Policy.* It is the Nation's policy to provide a fair process to all landlords and tenants of the Nation's rental programs that preserves the peace, harmony, safety, health, general welfare and the Nation's resources.

611.2. Adoption, Amendment, Repeal

611.2-1. This law was adopted by the Oneida Business Committee by resolution BC-10-12-16-~~C~~ and thereafter amended by resolution.

611.2-2. This law may be amended or repealed by the Oneida Business Committee and/or the Oneida General Tribal Council pursuant to the procedures set out in the Legislative Procedures Act.

611.2-3. Should a provision of this law or the application thereof to any person or circumstances be held as invalid, such invalidity shall not affect other provisions of this law which are considered to have legal force without the invalid portions.

611.2-4. In the event of a conflict between a provision of this law and a provision of another law, the provisions of this law shall control.

611.2-5. This law is adopted under the authority of the Constitution of the Oneida Nation.

611.3. Definitions

611.3-1. This section shall govern the definitions of words and phrases as used herein. All words not defined herein shall be used in their ordinary and everyday sense.

(a) "Comprehensive Housing Division" means the division within the Nation under the direction of the Comprehensive Housing Division Director which consists of all residential services offered by the Nation, including but not limited to, all rental programs, the rent-to-own program, and the residential sales and mortgages programs.
~~means the entity responsible for housing matters specifically related to rental agreements as defined by Oneida Business Committee Resolution.⁺~~

⁺ See BC Resolution 10-12-16-D providing that for purposes of this law, the Comprehensive Housing Division means the Division of Land Management for general rental agreements, the Oneida Housing Authority for income based rental agreements and Elder Services for rental agreements through the Elder Services program.

(b) “Landlord” means the Nation in its capacity to rent real property subject to a rental agreement.

(c) “Nation” means the Oneida Nation.

(d) “Premises” means the property covered by a rental agreement, including not only the real property and fixtures, but also any personal property furnished by the landlord pursuant to a rental agreement.

(e) “Rental Agreement” means a written contract between a landlord and a tenant, whereby the tenant is granted the right to use or occupy the premises for a residential purpose for one (1) year or less, provided that the term may be longer than one (1) year in circumstances where the contract is on a rent-to-own basis.

(f) “Reservation” means all property within the exterior boundaries of the reservation of the Oneida Nation, as created pursuant to the 1838 Treaty with the Oneida 7 Stat. 566, and any lands added thereto pursuant to federal law.

(g) “Rule” means a set of requirements, including citation fees and penalty schedules, enacted jointly by the Land Commission and the Comprehensive Housing Division in accordance with the Administrative Rulemaking law based on authority delegated in this law in order to implement, interpret and/or enforce this law, provided that where such requirements relate solely to premises administered pursuant to federal funding, the Comprehensive Housing Division has sole authority.

(h) “Tenant” means the person granted the right to use or occupy a premises pursuant to a rental agreement.

(i) “Tribal member” means an individual who is an enrolled member of the Nation.

(j) “Security Deposit” means a payment made to the landlord by the tenant to ensure that rent will be paid and other responsibilities of the rental agreement performed.

611.4. Rental Programs

611.4-1. *Available Rental Programs.* Consistent with available funds, the Comprehensive Housing Division shall provide residential rental programs for providing housing to the following types of tenants and the Oneida Land Commission and the Comprehensive Housing Division shall jointly establish rules naming said programs and providing the specific requirements and regulations that apply to each program:

(a) Elder tribal members;

(b) Low-income Oneida tribal members and families; and

(c) Tribal members in general.

611.4-2. *Minimum Rental Eligibility Requirements.* In order to be eligible for a rental agreement, applicants shall meet the following conditions:

(a) Be eighteen (18) years of age at the time of the application;

(b) Have no felony or drug convictions within the past two (2) years from the date of application, provided that a pardon or forgiveness received pursuant to the Pardon and Forgiveness law may provide an exception to this condition;

(c) Meet the local governments’ laws’ requirements regarding residency restrictions for convicted sex offenders;

(d) Meet the income requirements for entering the rental agreement as determined by the rental program’s governing rules;

(e) Not hold a residential lease with the Nation; and

(f) Meet any other eligibility requirements set by the rental program's rules, which may not be less strict than this law, but may be stricter than this law, provided that rules developed for low-income Tribal members and families:

(1) May not contain eligibility requirements that consider debt owed or evictions from entities other than the Comprehensive Housing Division; but

(2) May contain eligibility requirements that consider debt owed to utility providers, provided that eligibility may not be denied for any debt owed to a utility provider with a past due balance of less than two hundred dollars (\$200).

611.4-3. *Tenant Selection.* The Land Commission and the Comprehensive Housing Division shall jointly develop rules governing the selection of applicants for the issuance of rental agreements.

611.5. Rental Agreement Documents

611.5-1. *Severability of Rental Agreement Provisions.* The provisions of a rental agreement are severable. If any provision of a rental agreement is void or unenforceable by reason of any law, rule, regulation, or judicial order, the invalidity or unenforceability of that provision does not affect other provisions of the rental agreement that can be given effect without the invalid or unenforceable provision.

611.5-2. *Requirements of Rental Agreements and Terminations.* A rental agreement or termination of a rental agreement is not enforceable unless it meets the requirements of this law and is in writing.

(a) All rental agreements shall:

(1) Set forth the amount of rent or other consideration provided in exchange for the ability to use/occupy the premises;

(2) Set forth the required amount of security deposit and require payment of the security deposit prior to the tenant(s) taking use/occupancy of the premises;

(3) Set the time of commencement and expiration of the rental agreement;

(4) Provide a reasonably definite description of the premises;

(5) State that nothing in the agreement may be considered a waiver of the Nation's sovereign immunity, provided that tenants may seek enforcement of a rental agreement or dispute an action taken pursuant to a rental agreement with the Oneida Judiciary; and

(6) Be signed by both the landlord and the tenant(s) prior to the tenant(s) taking use/occupancy of the premises;

(A) The rental agreement is not required to be signed by all adults using/occupying the premises, provided that the rights and responsibilities contained in the rental agreement do not extend to persons that are not named as tenants in the rental agreement.

(B) Unless legally separated, if a tenant(s) is married, the landlord shall require that each spouse sign the rental agreement.

(b) Any provision of a rental agreement that does any of the following is void and unenforceable.

(1) Allows a landlord to do or threaten to do any of the following because a tenant has contacted an entity for law enforcement services, health services or safety services:

(A) Increase rent;

(B) Decrease services;

- (C) Bring an action for eviction pursuant to the Eviction and Termination law; and/or
- (D) Refuse to renew a rental agreement.
- (2) Except as otherwise provided in this law in regards to domestic abuse, authorizes the eviction or exclusion of a tenant from the premises other than through the process described in the Eviction and Termination law.
- (3) Requires the tenant to pay attorney's fees or costs incurred by the landlord in any legal action or dispute arising under the rental agreement except as supported by a court order.
- (4) States that the landlord is not liable for property damage or personal injury caused by negligent acts or omissions of the landlord. This subsection does not affect ordinary maintenance obligations of a tenant under 611.6-3(b) or assumed by a tenant under a rental agreement or other written agreement between the landlord and the tenant.
- (5) Imposes liability on the tenant for any of the following:
- (A) Personal injury arising from causes clearly beyond the tenant's control.
- (B) Property damage caused by natural disasters or by persons other than the tenant or the tenant's guests or invitees. This subsection does not affect ordinary maintenance obligations of a tenant under 611.6-3(b) or assumed by a tenant under a rental agreement or other written agreement between the landlord and the tenant.
- (6) Waives any obligation on the part of the landlord to deliver the premises in a fit and habitable condition or to maintain the premises during the tenant's tenancy.
- (7) Allows for periodic tenancy, which for the purposes of this section means when a tenant uses/occupies a premises without an effective and valid rental agreement by paying rent on a periodic basis including, but not limited to, day-to-day, week-to-week and month-to-month.

611.5-3. *Assignment of Rental Agreements Not Permitted.* Assignments of rental agreements are not permitted under any circumstances.

611.6. Rights and Duties of Landlords and Tenants

611.6-1. This section governs the rights and duties of the landlord and tenant in the absence of any inconsistent provision found in a valid rental agreement.

611.6-2. *Disposition of Personal Property Left by the Tenant.* If the tenant moves from or is evicted from the premises and leaves personal property, the landlord may presume that the tenant has abandoned the personal property and may dispose of said property in any manner that the landlord, in his or her sole discretion, determines is appropriate, provided that:

- (a) The landlord shall hold personal property for a minimum of five (5) business days and the tenant may retrieve said personal property by contacting the landlord.
- (b) The landlord shall keep a written log of the date and the work time that the Nation's staff expends storing and/or removing personal property and/or removing/disposing of debris left at the property after the expiration of the timeframe provided in the order to vacate.
- (c) The Land Commission and the Comprehensive Housing Division shall jointly create rules further governing the disposition of personal property.

611.6-3. *Repairs; Untenability.* This section applies to all leases if there is no contrary provision in writing signed by both parties.

(a) *Duties of the Landlord.*

(1) Except for repairs made necessary by the negligence of, or improper use of the premises by the tenant, the landlord has a duty to do all of the following:

(A) Keep in a reasonable state of repair portions of the premises over which the landlord maintains control.

(B) Keep in a reasonable state of repair all equipment under the landlord's control necessary to supply services that the landlord has expressly or impliedly agreed to furnish to the tenant, such as heat, water, elevator, or air conditioning.

(C) Make all necessary structural repairs.

(D) Except as provided in section 611.6-3(b)(2), repair or replace any plumbing, electrical wiring, machinery, or equipment furnished with the premises and no longer in reasonable working condition.

(E) Comply with any laws or rules of the Nation that are applicable to the premises.

(2) If the premises are part of a building where other parts are occupied by one (1) or more other tenants, negligence or improper use by one (1) tenant does not relieve the landlord from the landlord's duty to make repairs as provided in 611.6-3(a)(1), provided that the landlord may require the responsible tenant to pay for such repairs.

(3) A landlord shall disclose to a prospective tenant, before entering into a rental agreement with or accepting any earnest money or security deposit from the prospective tenant, any violation of either the Building Code of the Oneida Nation or the Zoning and Shoreland Protection Ordinance if all of the following apply:

(A) The landlord has actual knowledge of the violation;

(B) The violation affects the dwelling unit that is the subject of the prospective rental agreement or a common area of the premises;

(C) The violation presents a significant threat to the prospective tenant's health or safety; and

(D) The violation has not yet been corrected but the landlord shall correct the violation prior to the tenant taking occupancy of the premises.

(4) If the premises are damaged by fire, water or other casualty, not the result of the negligence or intentional act of the landlord, this subsection is inapplicable and either section 611.6-3(b) or (c) governs.

(5) The landlord is responsible for all required pest control to keep the premises in a safe and healthy condition, provided that where an infestation has occurred due to the acts or inaction of the tenant the pest control costs may be assessed against the tenant.

(b) *Duties of the Tenant.*

(1) If the premises are damaged, including by an infestation of insects or other pests, due to the acts or inaction of the tenant, the landlord may elect to allow the tenant to remediate or repair the damage and restore the appearance of the premises by redecorating. However, the landlord may elect to undertake the remediation, repair, or redecoration, and in such case the tenant shall reimburse

the landlord for the reasonable cost thereof; the cost to the landlord is presumed reasonable unless proven otherwise by the tenant.

(2) The tenant shall keep plumbing, electrical wiring, machinery and equipment furnished with the premises in reasonable working order.

(3) Tenants shall comply with all laws and rules of the Nation.

(c) *Untenability.* If the premises become untenable because of damage by fire, water or other casualty or because of any condition hazardous to health, or if there is a substantial violation of section 611.6-3(a) materially affecting the health or safety of the tenant, the tenant may move from the premises unless the landlord promptly repairs, rebuilds or eliminates the health hazard or the substantial violation of 611.6-3(a) materially affecting the health or safety of the tenant.

(1) The tenant may also move and terminate the rental agreement if the inconvenience to the tenant by reason of the nature and period of repair, rebuilding or elimination would impose undue hardship on the tenant.

(2) If the tenant remains in possession, the landlord shall decrease rent for each month to the extent the tenant is deprived of the full normal use of the premises. The Land Commission and the Comprehensive Housing Division shall jointly develop rules governing how and when rent is decreased pursuant to this section. This subsection does not authorize rent to be withheld in full, if the tenant remains in possession.

(3) If the tenant justifiably moves out under this subsection, the tenant is not liable for rent after the premises become untenable and the landlord shall repay any rent paid in advance apportioned to the period after the premises become untenable. This subsection is inapplicable if the damage or condition is caused by negligence or improper use by the tenant.

(d) *Check-in sheet.* Landlords shall provide all new tenants with a check-in sheet when the tenant commences his or her occupancy of the premises that the tenant may use to make comments, if any, about the condition of the premises. The landlord shall provide the tenant with seven (7) days from the date the tenant commences his or her occupancy to complete the check-in sheet and return it to the landlord. The landlord is not required to provide the check-in sheet to a tenant upon renewal of a rental agreement.

(e) *Notice to Enter Required.* The landlord shall provide twenty-four (24) hour written notice prior to entering the tenant's premises where notice is required to either be personally served to the tenant or posted on the premises. A landlord is exempt from this notice requirement in the case of an emergency welfare check. The basis of a welfare check may include, but is not limited to the following:

(1) The landlord believes the tenant's or a child's wellbeing may be in jeopardy based on reports of child abuse or neglect, medical concerns, suspicious activity or other reported information;

(2) The landlord suspects the tenant has abandoned the premises; and/or

(3) The landlord receives notice that the premise's utilities have been disconnected.

(f) *Acts of tenant not to affect rights of landlord.* No act of a tenant in acknowledging as landlord a person other than the tenant's original landlord can prejudice the right of the original landlord to possession of the premises.

(g) *Annual Inspection Required.* In the event the tenant renews the rental agreement for additional terms, the landlord shall, at a minimum, inspect the premises once annually.

611.7. Domestic Abuse Protections

611.7-1. If a tenant notices the landlord of domestic abuse with of any of the following documentation, regardless of marital status, the landlord shall change the locks to the premises and, if the tenant is unmarried, allow the tenant to modify the rental agreement to remove the domestic abuser:

- (a) An injunction order under Wis. Stat. 813.12(4) protecting the tenant from a co-tenant;
- (b) An injunction order under Wis. Stat. 813.122 protecting a child of the tenant from a co-tenant;
- (c) An injunction order under Wis. Stat. 813.125(4) protecting the tenant or child of the tenant from a co-tenant, based on the co-tenant's engaging in an act that would constitute sexual assault under Wis. Stat. 940.225, 948.02 or 948.025, or stalking under Wis. Stat. 940.32, or attempting or threatening to do the same;
- (d) A condition of release under Wis. Ch. 969 ordering the co-tenant not to contact the tenant;
- (e) A criminal complaint alleging that the co-tenant sexually assaulted the tenant or a child of the tenant under Wis. Stat. 940.225, 948.02 or 948.025;
- (f) A criminal complaint alleging that the co-tenant stalked the tenant or a child of the tenant under Wis. Stat. 940.32; or
- (g) A criminal complaint that was filed against the co-tenant as a result of the co-tenant being arrested for committing a domestic abuse offense against the tenant under Wis. Stat. 968.075.

611.7-2. If a tenant is no longer eligible to maintain the rental agreement upon removing a co-tenant domestic abuser from the rental agreement, the landlord shall permit the tenant to remain on the premises for the longer of either the duration of the rental agreement or ninety (90) days from the date the rental agreement is modified. If the latter applies, in addition to removing the co-tenant that is the domestic abuser, the landlord shall also revise the rental agreement to extend its duration.

611.7-3. The Eviction and Termination law provides tenants that are victims of domestic abuse with a defense to eviction should the abusers actions be the cause for eviction.

611.8. Sex Offender Registry

611.8-1. Should a tenant request information about whether any other tenants are required to register as a sex offender, the landlord shall provide the tenant with written notice that he or she may obtain information about the sex offender registry and persons registered within the registry by contacting the department of corrections. The landlord shall include in such notice the appropriate telephone number and internet site of the department of corrections.

611.9. Termination of Tenancy at Death of Tenant

611.9-1. If a tenant dies, his or her tenancy is terminated ~~on the earlier of the following~~as follows:

- (a) If the deceased tenant was the only household member listed in the rental agreement, immediately upon the death of the tenant;
- (b) If there were additional adult household members aside from the deceased tenant listed in the household within the rental agreement, then the later of the following, provided that an adult household member remaining in the unit shall assume the tenancy responsibilities under the rental agreement;

(1) ~~Sixty (60) days—months~~ after the landlord receives notice, is advised, or otherwise becomes aware of the tenant's death, provided that any extension beyond the original term of the agreement requires an amendment or limited term rental agreement which covers the term of the extension; or

(b2) The expiration of the term of the rental agreement.

611.9-2. The deceased tenant or his or her estate is not liable for any rent after the termination of his or her tenancy. A landlord may not contact or communicate with a member of the deceased tenant's family for the purpose of obtaining from the family member rent for which the family member has no liability except that if adult household members remain in the rental unit following the deceased tenant's death in accordance with section 611.9-1 or 611.9-4, an adult household member shall assume the tenancy responsibilities pursuant to the rental agreement.

611.9-3. Nothing in this section relieves another adult tenant of the deceased tenant's premises from any obligation under a rental agreement or any other liability to the landlord.

611.9-4. If the deceased tenant is a Tribal member whose death renders a co-tenant no longer eligible for a rental agreement, based on Tribal member status, the non-Tribal member tenant may remain in the premises as follows:

(a) If subject to a standard rental agreement (i.e. not on a rent-to-own basis), the non-Tribal member tenant may remain in the premises for the longer of either the duration of the rental agreement or ninety (90) days from the date of the Tribal member tenant's death. If the latter applies, the landlord shall revise the rental agreement to extend its duration. see section 611.9-1(b) above.

(b) If the rental agreement was on a rent-to-own basis, the remaining non-Tribal member tenant may remain in the premises for a maximum of six (6) months from the date of the Tribal member tenant's death unless the non-Tribal member tenant has a child that is a Tribal member. In the event the non-Tribal member tenant has a Tribal member child, the non-Tribal member tenant may remain in the premises under the rent-to-own agreement so long as the non-Tribal member tenant either transfer the premises and the rent-to-own agreement to an adult Tribal member child who agrees to live in the premises or signs an agreement indicating that the premises and the rent-to-own agreement shall be transferred to a minor Tribal member child when the child is eighteen (18) years old. Should the non-Tribal member tenant be eligible for conveyance of the premises prior to the Tribal member child's eighteenth (18th) birthday, the rent-to-own agreement shall be extended at no additional cost to the tenant and conveyance postponed until the Tribal member child reaches eighteen (18) years of age and the rent-to-own agreement is transferred to the child.

(1) In the event the non-Tribal member tenant either has no children living in the premises that are Tribal members or declines to enter the agreement transferring the rent-to-own agreement to a Tribal member child, the rent-to-own agreement shall be terminated upon the tenant's ineligibility to remain in the rent-to-own program and a limited term rental agreement shall be executed.

(2) Where a landlord is so terminating a rental agreement entered on a rent-to-own basis, the landlord shall pay the remaining co-tenant all equity the tenants may have accrued in accordance with the rental agreement.

611.10. Landlord or Tenant Actions

611.10-1. The Oneida Judiciary is granted jurisdiction to hear complaints filed regarding actions taken pursuant to this law and/or a rental agreement.

611.10-2. No administrative hearing body, including a board, committee or commission, is authorized to hear a complaint regarding actions taken pursuant to this law and/or a rental agreement.

611.10-3. The landlord is the Comprehensive Housing Division in regards to taking actions authorized under this law and complaints filed with the Oneida Judiciary shall name the Comprehensive Housing Division and the specific program.

End.

Adopted – BC-10-12-16-C

Emergency Amended – BC-01-25-17-C

Emergency Extension – BC-07-26-17-I

Title 6. Property and Land- Chapter 611

LANDLORD-TENANT

Tsi' Yuhwatsyawá'ku Aolihwá'ke

where it bound to the earth - issues

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611.1. Purpose and Policy

611.1-1. *Purpose.* The purpose of this law is to provide mechanisms for protecting the rights of the landlords and tenants of the Nation's rental programs.

611.1-2. *Policy.* It is the Nation's policy to provide a fair process to all landlords and tenants of the Nation's rental programs that preserves the peace, harmony, safety, health, general welfare and the Nation's resources.

611.2. Adoption, Amendment, Repeal

611.2-1. This law was adopted by the Oneida Business Committee by resolution BC-10-12-16-C and thereafter amended by resolution _____.

611.2-2. This law may be amended or repealed by the Oneida Business Committee and/or the Oneida General Tribal Council pursuant to the procedures set out in the Legislative Procedures Act.

611.2-3. Should a provision of this law or the application thereof to any person or circumstances be held as invalid, such invalidity shall not affect other provisions of this law which are considered to have legal force without the invalid portions.

611.2-4. In the event of a conflict between a provision of this law and a provision of another law, the provisions of this law shall control.

611.2-5. This law is adopted under the authority of the Constitution of the Oneida Nation.

611.3. Definitions

611.3-1. This section shall govern the definitions of words and phrases as used herein. All words not defined herein shall be used in their ordinary and everyday sense.

(a) "Comprehensive Housing Division" means the division within the Oneida Nation under the direction of the Comprehensive Housing Division Director which consists of all residential services offered by the Nation, including but not limited to, all rental programs, the rent-to-own program, and the residential sales and mortgages programs.

(b) "Landlord" means the Nation in its capacity to rent real property subject to a rental agreement.

(c) "Nation" means the Oneida Nation.

(d) "Premises" means the property covered by a rental agreement, including not only the real property and fixtures, but also any personal property furnished by the landlord pursuant to a rental agreement.

(e) "Rental Agreement" means a written contract between a landlord and a tenant, whereby the tenant is granted the right to use or occupy the premises for a residential

purpose for one (1) year or less, provided that the term may be longer than one (1) year in circumstances where the contract is on a rent-to-own basis.

(f) “Reservation” means all property within the exterior boundaries of the reservation of the Oneida Nation, as created pursuant to the 1838 Treaty with the Oneida 7 Stat. 566, and any lands added thereto pursuant to federal law.

(g) “Rule” means a set of requirements, including citation fees and penalty schedules, enacted jointly by the Land Commission and the Comprehensive Housing Division in accordance with the Administrative Rulemaking law based on authority delegated in this law in order to implement, interpret and/or enforce this law, provided that where such requirements relate solely to premises administered pursuant to federal funding, the Comprehensive Housing Division has sole authority.

(h) “Tenant” means the person granted the right to use or occupy a premises pursuant to a rental agreement.

(i) “Tribal member” means an individual who is an enrolled member of the Nation.

(j) “Security Deposit” means a payment made to the landlord by the tenant to ensure that rent will be paid and other responsibilities of the rental agreement performed.

611.4. Rental Programs

611.4-1. *Available Rental Programs.* Consistent with available funds, the Comprehensive Housing Division shall provide residential rental programs for providing housing to the following types of tenants and the Oneida Land Commission and the Comprehensive Housing Division shall jointly establish rules naming said programs and providing the specific requirements and regulations that apply to each program:

(a) Elder tribal members;

(b) Low-income Oneida tribal members and families; and

(c) Tribal members in general.

611.4-2. *Minimum Rental Eligibility Requirements.* In order to be eligible for a rental agreement, applicants shall meet the following conditions:

(a) Be eighteen (18) years of age at the time of the application;

(b) Have no felony or drug convictions within the past two (2) years from the date of application, provided that a pardon or forgiveness received pursuant to the Pardon and Forgiveness law may provide an exception to this condition;

(c) Meet the local governments’ laws’ requirements regarding residency restrictions for convicted sex offenders;

(d) Meet the income requirements for entering the rental agreement as determined by the rental program’s governing rules;

(e) Not hold a residential lease with the Nation; and

(f) Meet any other eligibility requirements set by the rental program’s rules, which may not be less strict than this law, but may be stricter than this law, provided that rules developed for low-income Tribal members and families:

(1) May not contain eligibility requirements that consider debt owed or evictions from entities other than the Comprehensive Housing Division; but

(2) May contain eligibility requirements that consider debt owed to utility providers, provided that eligibility may not be denied for any debt owed to a utility provider with a past due balance of less than two hundred dollars (\$200).

611.4-3. *Tenant Selection.* The Land Commission and the Comprehensive Housing Division shall jointly develop rules governing the selection of applicants for the issuance of rental agreements.

611.5. Rental Agreement Documents

611.5-1. *Severability of Rental Agreement Provisions.* The provisions of a rental agreement are severable. If any provision of a rental agreement is void or unenforceable by reason of any law, rule, regulation, or judicial order, the invalidity or unenforceability of that provision does not affect other provisions of the rental agreement that can be given effect without the invalid or unenforceable provision.

611.5-2. *Requirements of Rental Agreements and Terminations.* A rental agreement or termination of a rental agreement is not enforceable unless it meets the requirements of this law and is in writing.

(a) All rental agreements shall:

- (1) Set forth the amount of rent or other consideration provided in exchange for the ability to use/occupy the premises;
- (2) Set forth the required amount of security deposit and require payment of the security deposit prior to the tenant(s) taking use/occupancy of the premises;
- (3) Set the time of commencement and expiration of the rental agreement;
- (4) Provide a reasonably definite description of the premises;
- (5) State that nothing in the agreement may be considered a waiver of the Nation's sovereign immunity, provided that tenants may seek enforcement of a rental agreement or dispute an action taken pursuant to a rental agreement with the Oneida Judiciary; and
- (6) Be signed by both the landlord and the tenant(s) prior to the tenant(s) taking use/occupancy of the premises;
 - (A) The rental agreement is not required to be signed by all adults using/occupying the premises, provided that the rights and responsibilities contained in the rental agreement do not extend to persons that are not named as tenants in the rental agreement.
 - (B) Unless legally separated, if a tenant(s) is married, the landlord shall require that each spouse sign the rental agreement.

(b) Any provision of a rental agreement that does any of the following is void and unenforceable.

- (1) Allows a landlord to do or threaten to do any of the following because a tenant has contacted an entity for law enforcement services, health services or safety services:
 - (A) Increase rent;
 - (B) Decrease services;
 - (C) Bring an action for eviction pursuant to the Eviction and Termination law; and/or
 - (D) Refuse to renew a rental agreement.
- (2) Except as otherwise provided in this law in regards to domestic abuse, authorizes the eviction or exclusion of a tenant from the premises other than through the process described in the Eviction and Termination law.

(3) Requires the tenant to pay attorney's fees or costs incurred by the landlord in any legal action or dispute arising under the rental agreement except as supported by a court order.

(4) States that the landlord is not liable for property damage or personal injury caused by negligent acts or omissions of the landlord. This subsection does not affect ordinary maintenance obligations of a tenant under 611.6-3(b) or assumed by a tenant under a rental agreement or other written agreement between the landlord and the tenant.

(5) Imposes liability on the tenant for any of the following:

(A) Personal injury arising from causes clearly beyond the tenant's control.

(B) Property damage caused by natural disasters or by persons other than the tenant or the tenant's guests or invitees. This subsection does not affect ordinary maintenance obligations of a tenant under 611.6-3(b) or assumed by a tenant under a rental agreement or other written agreement between the landlord and the tenant.

(6) Waives any obligation on the part of the landlord to deliver the premises in a fit and habitable condition or to maintain the premises during the tenant's tenancy.

(7) Allows for periodic tenancy, which for the purposes of this section means when a tenant uses/occupies a premises without an effective and valid rental agreement by paying rent on a periodic basis including, but not limited to, day-to-day, week-to-week and month-to-month.

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611.6-1. This section governs the rights and duties of the landlord and tenant in the absence of any inconsistent provision found in a valid rental agreement.

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(a) The landlord shall hold personal property for a minimum of five (5) business days and the tenant may retrieve said personal property by contacting the landlord.

(b) The landlord shall keep a written log of the date and the work time that the Nation's staff expends storing and/or removing personal property and/or removing/disposing of debris left at the property after the expiration of the timeframe provided in the order to vacate.

(c) The Land Commission and the Comprehensive Housing Division shall jointly create rules further governing the disposition of personal property.

611.6-3. *Repairs; Untenability.* This section applies to all leases if there is no contrary provision in writing signed by both parties.

(a) *Duties of the Landlord.*

(1) Except for repairs made necessary by the negligence of, or improper use of the premises by the tenant, the landlord has a duty to do all of the following:

(A) Keep in a reasonable state of repair portions of the premises over which the landlord maintains control.

(B) Keep in a reasonable state of repair all equipment under the landlord's control necessary to supply services that the landlord has expressly or impliedly agreed to furnish to the tenant, such as heat, water, elevator, or air conditioning.

(C) Make all necessary structural repairs.

(D) Except as provided in section 611.6-3(b)(2), repair or replace any plumbing, electrical wiring, machinery, or equipment furnished with the premises and no longer in reasonable working condition.

(E) Comply with any laws or rules of the Nation that are applicable to the premises.

(2) If the premises are part of a building where other parts are occupied by one (1) or more other tenants, negligence or improper use by one (1) tenant does not relieve the landlord from the landlord's duty to make repairs as provided in 611.6-3(a)(1), provided that the landlord may require the responsible tenant to pay for such repairs.

(3) A landlord shall disclose to a prospective tenant, before entering into a rental agreement with or accepting any earnest money or security deposit from the prospective tenant, any violation of either the Building Code of the Oneida Nation or the Zoning and Shoreland Protection Ordinance if all of the following apply:

(A) The landlord has actual knowledge of the violation;

(B) The violation affects the dwelling unit that is the subject of the prospective rental agreement or a common area of the premises;

(C) The violation presents a significant threat to the prospective tenant's health or safety; and

(D) The violation has not yet been corrected but the landlord shall correct the violation prior to the tenant taking occupancy of the premises.

(4) If the premises are damaged by fire, water or other casualty, not the result of the negligence or intentional act of the landlord, this subsection is inapplicable and either section 611.6-3(b) or (c) governs.

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(b) Duties of the Tenant.

(1) If the premises are damaged, including by an infestation of insects or other pests, due to the acts or inaction of the tenant, the landlord may elect to allow the tenant to remediate or repair the damage and restore the appearance of the premises by redecorating. However, the landlord may elect to undertake the remediation, repair, or redecoration, and in such case the tenant shall reimburse the landlord for the reasonable cost thereof; the cost to the landlord is presumed reasonable unless proven otherwise by the tenant.

(2) The tenant shall keep plumbing, electrical wiring, machinery and equipment furnished with the premises in reasonable working order.

(3) Tenants shall comply with all laws and rules of the Nation.

(c) Untenability. If the premises become untenable because of damage by fire, water or other casualty or because of any condition hazardous to health, or if there is a substantial violation of section 611.6-3(a) materially affecting the health or safety of the tenant, the

tenant may move from the premises unless the landlord promptly repairs, rebuilds or eliminates the health hazard or the substantial violation of 611.6-3(a) materially affecting the health or safety of the tenant.

(1) The tenant may also move and terminate the rental agreement if the inconvenience to the tenant by reason of the nature and period of repair, rebuilding or elimination would impose undue hardship on the tenant.

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(1) The landlord believes the tenant's or a child's wellbeing may be in jeopardy based on reports of child abuse or neglect, medical concerns, suspicious activity or other reported information;

(2) The landlord suspects the tenant has abandoned the premises; and/or

(3) The landlord receives notice that the premise's utilities have been disconnected.

(f) *Acts of tenant not to affect rights of landlord.* No act of a tenant in acknowledging as landlord a person other than the tenant's original landlord can prejudice the right of the original landlord to possession of the premises.

(g) *Annual Inspection Required.* In the event the tenant renews the rental agreement for additional terms, the landlord shall, at a minimum, inspect the premises once annually.

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- (d) A condition of release under Wis. Ch. 969 ordering the co-tenant not to contact the tenant;
- (e) A criminal complaint alleging that the co-tenant sexually assaulted the tenant or a child of the tenant under Wis. Stat. 940.225, 948.02 or 948.025;
- (f) A criminal complaint alleging that the co-tenant stalked the tenant or a child of the tenant under Wis. Stat. 940.32; or
- (g) A criminal complaint that was filed against the co-tenant as a result of the co-tenant being arrested for committing a domestic abuse offense against the tenant under Wis. Stat. 968.075.

611.7-2. If a tenant is no longer eligible to maintain the rental agreement upon removing a co-tenant domestic abuser from the rental agreement, the landlord shall permit the tenant to remain on the premises for the longer of either the duration of the rental agreement or ninety (90) days from the date the rental agreement is modified. If the latter applies, in addition to removing the co-tenant that is the domestic abuser, the landlord shall also revise the rental agreement to extend its duration.

611.7-3. The Eviction and Termination law provides tenants that are victims of domestic abuse with a defense to eviction should the abusers actions be the cause for eviction.

611.8. Sex Offender Registry

611.8-1. Should a tenant request information about whether any other tenants are required to register as a sex offender, the landlord shall provide the tenant with written notice that he or she may obtain information about the sex offender registry and persons registered within the registry by contacting the department of corrections. The landlord shall include in such notice the appropriate telephone number and internet site of the department of corrections.

611.9. Termination of Tenancy at Death of Tenant

611.9-1. If a tenant dies, his or her tenancy is terminated as follows:

- (a) If the deceased tenant was the only household member listed in the rental agreement, immediately upon the death of the tenant;
- (b) If there were additional adult household members aside from the deceased tenant listed in the household within the rental agreement, then the later of the following, provided that an adult household member remaining in the unit shall assume the tenancy responsibilities under the rental agreement:

- (1) Six (6) months after the landlord receives notice, is advised, or otherwise becomes aware of the tenant's death, provided that any extension beyond the original term of the agreement requires an amendment or limited term rental agreement which covers the term of the extension; or
- (2) The expiration of the term of the rental agreement.

611.9-2. The deceased tenant or his or her estate is not liable for any rent after the termination of his or her tenancy. A landlord may not contact or communicate with a member of the deceased tenant's family for the purpose of obtaining from the family member rent for which the

family member has no liability except that if adult household members remain in the rental unit following the deceased tenant's death in accordance with section 611.9-1 or 611.9-4, an adult household member shall assume the tenancy responsibilities pursuant to the rental agreement.

611.9-3. Nothing in this section relieves another adult tenant of the deceased tenant's premises from any obligation under a rental agreement or any other liability to the landlord.

611.9-4. If the deceased tenant is a Tribal member whose death renders a co-tenant no longer eligible for a rental agreement based on Tribal member status, the non-Tribal member tenant may remain in the premises as follows:

(a) If subject to a standard rental agreement (i.e. not on a rent-to-own basis), see section 611.9-1(b) above.

(b) If the rental agreement was on a rent-to-own basis, the remaining non-Tribal member tenant may remain in the premises for a maximum of six (6) months from the date of the Tribal member tenant's death unless the non-Tribal member tenant has a child that is a Tribal member. In the event the non-Tribal member tenant has a Tribal member child, the non-Tribal member tenant may remain in the premises under the rent-to-own agreement so long as the non-Tribal member tenant either transfer the premises and the rent-to-own agreement to an adult Tribal member child who agrees to live in the premises or signs an agreement indicating that the premises and the rent-to-own agreement shall be transferred to a minor Tribal member child when the child is eighteen (18) years old. Should the non-Tribal member tenant be eligible for conveyance of the premises prior to the Tribal member child's eighteenth (18th) birthday, the rent-to-own agreement shall be extended at no additional cost to the tenant and conveyance postponed until the Tribal member child reaches eighteen (18) years of age and the rent-to-own agreement is transferred to the child.

(1) In the event the non-Tribal member tenant either has no children living in the premises that are Tribal members or declines to enter the agreement transferring the rent-to-own agreement to a Tribal member child, the rent-to-own agreement shall be terminated upon the tenant's ineligibility to remain in the rent-to-own program and a limited term rental agreement shall be executed.

(2) Where a landlord is so terminating a rental agreement entered on a rent-to-own basis, the landlord shall pay the remaining co-tenant all equity the tenants may have accrued in accordance with the rental agreement.

611.10. Landlord or Tenant Actions

611.10-1. The Oneida Judiciary is granted jurisdiction to hear complaints filed regarding actions taken pursuant to this law and/or a rental agreement.

611.10-2. No administrative hearing body, including a board, committee or commission, is authorized to hear a complaint regarding actions taken pursuant to this law and/or a rental agreement.

611.10-3. The landlord is the Comprehensive Housing Division in regards to taking actions authorized under this law and complaints filed with the Oneida Judiciary shall name the Comprehensive Housing Division and the specific program.

End.

378 Emergency Extension – BC-07-26-17-I



TO: Legislative Operating Committee
FROM: Jennifer Falck, LRO Director
RE: 60 Day Update for Active Files List
DATE: November 1, 2017

BACKGROUND

The Standard Operating Procedure for Legislative Operating Committee Meetings requires that within 60 days after an item is placed on the Active Files List, the LRO shall place the item on the LOC agenda for an update. The LOC then needs to adopt a motion to either continue to develop the proposal, or discontinue developing the proposal.

Legislative Item	60 Day Update
Children's Code	Adopted 07-26-17-J, quarterly report due to OBC 12/13/17; 1 year review due approx. 01/20
Code of Ethics	No activity
Community Support Fund Amendments	Adopted not in effect until Rules are approved, anticipated effective date 01/25/18
Comprehensive Policy Governing Boards, Committees, and Commissions	Collecting Comments, work meeting held, developing draft
Corporate Law	Research
Criminal Code	Research
Drug and Alcohol Free Law for Elected & Appointed Officials	work meeting scheduled 11/1/17 to solicit comments
Election Board Bylaws*	No activity
Employment Law	Waiting to be placed on a GTC agenda
GTC Meetings Law	Collecting Comments
Guardianship Law	No activity
Hall of Fame	No activity
Industrial Hemp	Research
Land Commission Bylaws Amendments*	No activity
Law Enforcement Ordinance Amendments	No Activity
Leasing Law	Awaiting DOI Secretary Approval
Nonprofit Incorporation Law	No activity
ONVAC Bylaws Amendments*	No activity
Personnel Commission Bylaws Amendments*	No activity
Public Peace Law	No activity
Research Protection Act	No activity
Rules of Civil Procedure Amendments	No activity
Sanctions & Penalties	work meeting scheduled 11/1/17 to solicit comments
Secured Transactions	Research
Tribal Traffic Code	Research
Trust/Enrollment Committee Bylaws Amendments*	No activity
*Bylaws are not being processed until amendments to the Comprehensive Policy Governing Boards, Committees, and Commissions are complete.	

RECOMMENDED ACTION

Continue development of all proposals on the Active Files List.

Legislative Operating Committee



Agenda Request Form

- 1) Request Date: 9/27/17
- 2) Contact Person(s): Victoria Flowers Dept: EHSD
Phone Number: (920)869-4548 Email: vflowers@oneidanation.org
- 3) Agenda Title: Oneida Environmental Review
- 4) Detailed description of the item and the reason/justification it is being brought before the Committee
The law requires that certain classes of actions undertaken within the exterior boundaries of the Oneida Reservation,
or on property owned by the Nation, have an appropriate level of review of the impacts of that action on the natural and built environment
It will include classes of action that are wholly exempted, categorically excluded and actions requiring additional review.
The law fulfills a requirement in the Oneida Leasing Law, and supports the issuance of permits under the Zoning and Shoreland Protection Laws.

List any supporting materials included and submitted with the Agenda Request Form

- 1) Purpose and need for the law 3) _____
- 2) Examples of similar laws from other Tribes 4) _____
- 5) Please List any laws, ordinances or resolution that might be affected:
Oneida Leasing Law, Zoning and Shoreland Protection, Land Use Technical Unit Law (TBD)
- 6) Please List all other departments or person(s) you have brought your concern to:
Development Division, Land Management Division, Oneida Housing Authority, Environmental, Health and Safety Division
- 7) Do you consider this request urgent? ☒ Yes ☐ No
 If yes, please indicate why: Needed to fully implement the Oneida Leasing Law

I, the undersigned, have reviewed the attached materials, and understand that they are subject to action by the Legislative Operating Committee

Signature of Requester: _____

Please send this form and all supporting materials to:

LOC@oneidanation.org

or

Legislative Operating Committee (LOC)

P.O. Box 365

Oneida, WI 54155

Phone 920-869-4376

To: Legislative Reference Office and Legislative Operating Committee
From: Victoria Flowers - Environmental Compliance Coordinator
Cc: Jeffrey Mears - Environmental Area Manager
RE: Environmental Review Law – Purpose & Need
Date: September 28, 2017

Purpose

To create an Oneida law that defines the instances when an environmental review is required, the processes used to complete the review, and applicability of using the completed review to make decisions that affect the natural and built environment.

By creating a process that satisfies the intent of the National Environmental Policy Review Act (NEPA)¹, federal agencies can adopt the Nation’s findings and ultimately expedite projects. This law will codify the processes, requirements and create a list of actions excluded from a higher level of review.

“§1500.1 Purpose.

(a) The National Environmental Policy Act (NEPA) is our basic national charter for protection of the environment. It establishes policy, sets goals (section 101), and provides means (section 102) for carrying out the policy. Section 102(2) contains “action-forcing” provisions to make sure that federal agencies act according to the letter and spirit of the Act. The regulations that follow implement section 102(2). Their purpose is to tell federal agencies what they must do to comply with the procedures and achieve the goals of the Act. The President, the federal agencies, and the courts share responsibility for enforcing the Act so as to achieve the substantive requirements of section 101.

(b) NEPA procedures must insure that environmental information is available to public officials and citizens before decisions are made and before actions are taken. The information must be of high quality. Accurate scientific analysis, expert agency comments, and public scrutiny are essential to implementing NEPA. Most important, NEPA documents must concentrate on the issues that are truly significant to the action in question, rather than amassing needless detail.

(c) Ultimately, of course, it is not better documents but better decisions that count. NEPA's purpose is not to generate paperwork—even excellent paperwork—but to foster excellent action. The NEPA process is intended to help public officials make decisions that are based on understanding of environmental consequences, and take actions that protect, restore, and enhance the environment. These regulations provide the direction to achieve this purpose.”

When the law is properly constructed and implemented, project bottlenecks and delay of actions will be prevented. The law will define the process for making determinations of the level of impacts that can be categorically excluded (CatEx) and allow staff most familiar with the activity to make those determinations.

¹ Title 40 of the Code of Federal Regulations – Chapter V Part 1500

For actions that do not fit within an exclusion category, an assessment of the potential and cumulative impacts, will be documented by subject matter experts. These subject matter experts who are familiar the particular resource impacted, can evaluate the impacts that would be unique to the project scope and its location. These subject matter experts can then propose and oversee mitigation measures employed to reduce those impacts.

Need

The Oneida Nation seeks to obtain responsibility from the United States Bureau of Indian Affairs (BIA) to assign leases on trust land owned by the Nation. A requirement to obtain that authority requires that the Nation complete the equivalent of an analysis of that action under NEPA. is a federal requirement and federal agencies each have their own implementing guidance to meet this requirement. The process has historically created undue delays in projects that range from the simple paper transaction, release of federal funds and the completion of major infrastructure projects.

Title 19 – Environmental Protection

Chapter 1 – Environmental Policy Act

Sec.

19-01.010	Title
19-01.020	Purpose and Scope
19-01.030	Authority
19-01.040	Jurisdiction
19-01.050	Findings
19-01.060	Construction
19-01.070	Definitions
19-01.080	Action Significantly Affecting the Quality of the Environment
19-01.090	Preliminary Determination of Significance
19-01.100	Use of Preliminary Determination
19-01.110	Draft EIS Preparation and Content
19-01.120	Agencies with Special Expertise
19-01.130	Circulation of Draft EIS
19-01.140	Public Hearing
19-01.150	Preparation and Circulation of Final EIS
19-01.160	Planning Commission Decision
19-01.170	Repealer
19-01.180	Severability

Legislative History

Enacted:

Environmental Protection, Ord. 177 (9/5/03), BIA (10/28/03).

Repealed or Superseded:

Tribal Environmental Policy Act, Ord. 168 (6/3/03), BIA (6/12/03) (repealing Ord. 43A).

Amending Ord. 58, Ord. unnumbered (7/12/89), Enacting Res. 89-7-65.

Establishing the Swinomish Cultural and Environmental Protection Agency, Ord. 58, Enacting Res. 88-4-18 (5/5/88).

Environmental Policy Act, Ord. 43A (11/3/77), BIA (2/3/78).

[Ed. Note. Ord. unnumbered (7/12/89) and Ord. 58 were repealed with Title 21 – Archaeological and Cultural Resources]

19-01.010 Title.

This Chapter shall be referred to as the Tribal Environmental Policy Act.

[History] Ord. 177 (9/5/03); Ord. 168 (6/3/03).

19-01.020 Purpose and Scope.

- (A) The primary purpose of this Act is to promote the general welfare of tribal members and others living on Reservation lands, by creating and maintaining conditions under which humanity and nature can exist in productive and enjoyable harmony.
- (B) Specific goals are:
- (1) To ensure that the Reservation is safe, healthful, productive, and aesthetically and culturally pleasing;
 - (2) To preserve areas of historic, archeological and cultural significance;
 - (3) To ensure an environment that is compatible with the desired Swinomish lifestyle - present and future; and
 - (4) To attain the widest range of beneficial uses of the environment without degradation, risk to health and safety, or other undesirable and unintended consequences.

[History] Ord. 177 (9/5/03); Ord. 168 (6/3/03).

19-01.030 Authority.

This Chapter is enacted in accordance with Article VI, Section 1(k), (l) and (r), of the Constitution of the Swinomish Indian Tribal Community.

[History] Ord. 177 (9/5/03); Ord. 168 (6/3/03).

19-01.040 Jurisdiction.

Jurisdiction over the people and property subject to this Chapter shall be to the maximum extent permitted by law.

[History] Ord. 177 (9/5/03); Ord. 168 (6/3/03).

19-01.050 Findings.

[Reserved]

[History] Ord. 177 (9/5/03); Ord. 168 (6/3/03).

19-01.060 Construction.

[Reserved]

[History] Ord. 177 (9/5/03); Ord. 168 (6/3/03).

19-01.070 Definitions.

- (A) **“Planning Commission”** means the Swinomish Planning Commission or its designee, except in Section 19-01.140, where it only means the Swinomish Planning Commission.
- (B) **“Planning Department”** means the Office of Planning and Community Development of the Swinomish Indian Tribal Community.

[History] Ord. 177 (9/5/03); Ord. 168 (6/3/03).

19-01.080 Action Significantly Affecting the Quality of the Environment.

- (A) The Planning Commission shall write or cause to be written a detailed statement for every action significantly affecting the quality of the environment. The statement shall include:
 - (1) The environmental impact of the proposed action;
 - (2) Any adverse environmental effects which cannot be avoided should the proposal be implemented;
 - (3) Alternatives to the proposed action;
 - (4) The relationship between local short-term uses of the environment and the maintenance and enhancement of long-term productivity; and
 - (5) Any irreversible and irretrievable commitments of resources that would be involved in the proposed action should it be implemented.
- (B) The Planning Commission shall utilize a systematic, interdisciplinary approach, which will insure the integrated use of the natural and social sciences and the environmental design arts in planning and in decision-making that may have an impact on the environment.
- (C) The Planning Commission shall identify and develop methods and procedures that will ensure that presently unquantified environmental amenities and values may be given appropriate consideration in decision-making along with economic and technical considerations. Federal or jointly developed federal-tribal environmental review documents may be considered in fulfillment of the requirements of this Chapter.

- (D) The Planning Commission may require proponents of an action to provide information or reports to assist in the determination of the environmental impacts and significance of such actions.
- (E) The Planning Commission shall study, develop and describe appropriate alternatives to recommended courses of action in any proposal that involves unresolved conflicts concerning alternative uses of available resources.
- (F) The Planning Commission may develop a list of activities with no appreciable impact on the environment that are exempt from the requirements of this Chapter. The Planning Department may require the proponent of the action to submit information regarding the proposed action to determine whether the proposed action fits within one of the exemptions on the list.

[History] Ord. 177 (9/5/03); Ord. 168 (6/3/03).

19-01.090 Preliminary Determination of Significance.

- (A) The Planning Commission shall identify actions significantly affecting the quality of the environment.
- (B) In making this preliminary determination, the Planning Commission shall consider:
 - (1) Whether the action is highly controversial;
 - (2) Whether an otherwise minor action will have cumulatively significant impact;
 - (3) Any secondary effects;
 - (4) The nature of the setting where the proposed action would be taken;
 - (5) Any mitigation requirements, which will reduce the environmental effects of the proposed action; and
 - (6) All known and probable beneficial and detrimental environmental effects. Even if on balance the Planning Commission believes that the effect will be beneficial, the action may still have a significant effect on the environment.

[History] Ord. 177 (9/5/03); Ord. 168 (6/3/03).

19-01.100 Use of Preliminary Determination.

- (A) If the Planning Commission determines:
 - (1) That the action does not significantly affect the quality of the environment, it shall prepare a declaration of non-significance, which shall be located in the

Tribal Office and published in a local newspaper of suitable size and general circulation. No action shall be taken for ten (10) days following publication of such declaration of non-significance; or

- (2) That the action has a significant effect on the quality of the environment; it shall prepare a declaration of significance, which shall be marked and designated as such and filed in the Planning Department.
- (B) If the Planning Department issues a declaration of significance, the proposed action shall not proceed until the Planning Department issues an Environmental Impact Statement (EIS).

[History] Ord. 177 (9/5/03); Ord. 168 (6/3/03).

19-01.110 Draft EIS Preparation and Content.

- (A) When an EIS is required, the Planning Commission shall prepare a draft EIS which shall satisfy, to the fullest extent possible, the requirements of Section 19-01.080.
- (B) The draft EIS shall include the following:
 - (1) A description of the proposed action, its purposes and the environment, which will be affected;
 - (2) A description of any effect it may have on population or growth;
 - (3) The relationship of the proposed action to land use plans for the affected area;
 - (4) The positive and negative, known and probable, effects of the proposed action on the environment. This should include secondary as well as primary effects;
 - (5) Alternatives to the proposed action that might reduce or eliminate adverse impacts including sufficient analysis of the environmental benefits, costs and risks of such alternatives;
 - (6) A brief section summarizing those environmental effects discussed in Section 19-01.110(B)(4) that are adverse and unavoidable;
 - (7) A brief discussion of the extent to which the proposed action involves tradeoffs between short-term gains at the expense of long-term environmental losses, or vice-versa; and
 - (8) A description of those impacts discussed in Section 19-01.110(B)(6) that irreversibly curtail the range of potential uses of the environment.

[History] Ord. 177 (9/5/03); Ord. 168 (6/3/03).

19-01.120 Agencies with Special Expertise.

In preparing the draft EIS, the Planning Commission may consult with, and obtain comments from, agencies with special expertise.

[History] Ord. 177 (9/5/03); Ord. 168 (6/3/03).

19-01.130 Circulation of Draft EIS.

- (A) Copies of the draft EIS shall be kept in the Tribal Office for public inspection.
- (B) Copies of the draft EIS shall be sent to those agencies consulted during preparation of the draft EIS.
- (C) Any person may request copies of the draft EIS from the Planning Commission. Copies shall be provided at no more than the cost of printing and mailing.
- (D) A notice announcing the availability of the draft EIS shall be published in a local newspaper of suitable size and general circulation.
- (E) Agencies and the public shall have thirty (30) days to comment on the proposed action. The Planning Commission may grant a fifteen (15) day extension when it believes such an extension is necessary.
- (F) Copies of all the comments shall be kept in the Tribal Office for public inspection.

[History] Ord. 177 (9/5/03); Ord. 168 (6/3/03).

19-01.140 Public Hearing.

- (A) After publication of the draft EIS, the Swinomish Planning Commission shall hold a public hearing, whenever appropriate, for the consideration of environmental aspects of the proposed action and to provide the public with relevant information.
- (B) In determining whether a public hearing is appropriate, the Swinomish Planning Commission shall consider such factors as the magnitude of the proposed action, the degree of interest in it, the complexity of the issues, and the extent to which the public has already been involved.
- (C) Ten (10) days prior to the hearing, the Swinomish Planning Commission or its designee shall cause to be published a notice of the time and place of the hearing in a local newspaper of suitable size and general circulation in Skagit County.

[History] Ord. 177 (9/5/03); Ord. 168 (6/3/03).

19-01.150 Preparation and Circulation of Final EIS.

- (A) The Planning Commission shall review the environmental effects of the proposed action in light of the opposing views and responsible opinions that were brought to the Planning Commission's attention during the thirty (30) day comment period.
- (B) The Planning Commission should make meaningful reference in the final EIS to any responsible opposing view not adequately discussed in the draft EIS and should indicate the Planning Commission's response to the issues raised.
- (C) The revised EIS, together with substantive comments received on the draft EIS (or summaries thereof) shall be circulated in the same manner as the draft EIS.
- (D) If the Planning Commission determines that the draft EIS is sufficient and needs no revision, it shall circulate a statement to that effect. The draft EIS, together with the statement, shall constitute the final EIS.

[History] Ord. 177 (9/5/03); Ord. 168 (6/3/03).

19-01.160 Planning Commission Decision.

The Planning Commission may not take action on the proposal for seven (7) days after publication of availability of the final EIS.

[History] Ord. 177 (9/5/03); Ord. 168 (6/3/03).

19-01.170 Repealer.

This Chapter hereby repeals and supersedes Ordinances 168 and 43A.

19-01.180 Severability.

If any section, subsection, clause or phrase of this Chapter is for any reason determined to be invalid or unconstitutional, such determination shall not affect the validity or constitutionality of the remainder of this Chapter.

[History] Ord. 177 (9/5/03); Ord. 168 (6/3/03).



Oneida Nation
 Oneida Business Committee
 Legislative Operating Committee
 PO Box 365 • Oneida, WI 54155-0365
 Oneida-nsn.gov



AGENDA REQUEST FORM

- 1) Request Date: 11/1/2017
- 2) Contact Person(s): Susan White/Bonnie Pigman
 Dept: Trust Enrollment
 Phone Number: 490-3932 Email: bpigman@oneidanation.org
- 3) Agenda Title: Removal Law amendments
- 4) Detailed description of the item and the reason/justification it is being brought before the LOC:
Pursuant to section 109-5-1 of the Legislative Procedures Act, the Trust Enrollment
Department is requesting revisions to the Removal Law. The Removal Law was
originally added to the Active Files List on 12/17/2014 but was not added back on
for the 2017-2020 term.

List any supporting materials included and submitted with the Agenda Request Form

- 1) Memo from Susan White 10/16/17
- 2) Draft #9 Removal Law 2/24/17
- 3) _____
- 4) _____
- 5) Please list any laws, policies or resolutions that might be affected:
Comprehensive Policy Governing Boards/Committees/Commissions and proposed Sanctions & Penalties Law
- 6) Please list all other departments or person(s) you have brought your concern to:
Oneida Trust Enrollment Committee and Oneida Business Committee
- 7) Do you consider this request urgent? ☒ Yes ☐ No
 If yes, please indicate why:
Amendments needed to support actions of the Oneida Trust Enrollment Committee

I, the undersigned, have reviewed the attached materials, and understand that they are subject to action by the Legislative Operating Committee.

Signature of Requester:

Please send this form and all supporting materials to:

LOC@oneidanation.org
 or
Legislative Operating Committee (LOC)
 P.O. Box 365
 Oneida, WI 54155
 Phone 920-869-4376

Trust Enrollment Department

PO Box 365, Oneida WI 54155
(920) 869-6200 * 1-800-571-9902
Fax: (920) 869-2995

TrustEnrollments@oneidanation.org

<https://oneida-nsn.gov/resources/enrollments/>

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To: LOC
From: Susan White, Trust Enrollment Director
Date: October 16, 2018
RE: Removal Law

Pursuant to section 109-5-1 of the Legislative Procedures Act, the Trust Enrollment Department is requesting revisions to the Removal Law. The last known draft to the current Removal Law was dated 2017 02 24. Because the proposed Sanctions and Penalties law only addressed behaviors of Boards, Committees and Commissions, it is important the Removal law be updated to address removal consequences based on the behaviors. Specifically the Department is requesting the following changes be made to Removal Law Draft 9 dated 2017 02 24:

1. Change (d) under Definitions to "Qualified voter" and all subsequent language in document of "Eligible Voter" to "Qualified voter".
2. Change the word "designee" for (h) under Definitions to "Oneida Business Committee member". The responsibilities should not be placed on support staff.
3. Add "or removal request" to end of sentence for section 104.5-1 including similar removal request language found in Part II Removal of Elected Officials.
4. Change the title of "Oneida Enrollments Department" throughout document to "Oneida Trust Enrollment Department".
5. Under section 104.5-2(d), it is not the responsibility of the Oneida Trust Enrollment Department to determine if a petition contains the requisite number of Qualified voters.
 - a. Change the word "signatures" to "Qualified voters" in this section and all other sections the language exists. The Trust Enrollment Department does not verify signatures. They do two (2) things: 1. identify if the people listed on any petition are Qualified voters, and 2. Provide a memo to the Nation's Secretary the verification results of the petition.
6. Section 104.11. The only role or tasks after a Judiciary decision is received, should be by the Nation's Secretary, which is to carry out the decision and notify respective parties. I recommend removing language that the OBC have the ability to overturn a Judiciary decision.

Title 1. Government and Finances – Chapter 104**REMOVAL****Kwah Oná Aluwalihutákwas Kayanláhsla***Just when they will remove him our kind of laws*

104.1. Purpose and Policy

104.2. Adoption, Amendment, Repeal

104.3. Definitions

Part I. REMOVAL OF ONEIDA BUSINESS COMMITTEE MEMBERS

104.4. Grounds for Removal

104.5. Initiating the Removal Process

104.6. Preliminary Review, Hearing

104.7. Final Determination – General Tribal Council Meeting

PART II. REMOVAL OF ELECTED OFFICIALS

104.8. Grounds for Removal

104.9. Initiating the Removal Process

104.10. Final Determination at Oneida Business Committee Meeting

PART III. EXPULSION OF ELECTED OFFICIALS**104.1. Purpose and Policy**

104.1-1. *Purpose.* The purpose of this law is to establish the process by which the elected officials of the Oneida Nation may be removed from office.

104.1-2. *Policy.* It is the policy of the Oneida Nation to provide an orderly and fair process for the removal of elected officials.

104.2. Adoption, Amendment, Repeal

104.2-1. This law was adopted by the General Tribal Council by resolution GTC-01-09-06-A and amended by Resolutions BC-05-28-14-B and GTC _____.

104.2-2. This law may be amended or repealed by the General Tribal Council pursuant to the procedures set out in the Legislative Procedures Act.

104.2-3. Should a provision of this law or the application thereof to any person or circumstances be held as invalid, such invalidity shall not affect other provisions of this law which are considered to have legal force without the invalid portions.

104.2-4. In the event of a conflict between a provision of this law and a provision of another law, the provisions of this law shall control. Provided that, this law repeals the following:

(a) GTC-6-13-79 (Adoption of Ordinance for the Removal of Oneida Tribal Business Committee Members)

(b) BC-3-8-85-A (Adoption of Legislatively Appointed Committee Removal Ordinance)

(c) BC-1-03-96-B (BC Adoption of Removal Law)

(d) GTC-1-17-98-A (GTC Adoption of Removal Law)

104.2-5. This law is adopted under authority of the Constitution of the Oneida Nation.

104.3. Definitions

104.3-1. This section shall govern the definitions of words or phrases used within this law. All words not defined herein shall be used in their ordinary and everyday sense.

(a) “Business day” means Monday through Friday 8:00 a.m. to 4:30 p.m., excluding Nation holidays.

(b) “Counsel” means an attorney or advocate.

(c) “Elected official” means:

(1) any person elected to a position on a board, committee or commission of the Oneida Nation; except that for the purposes of this law, Oneida Business Committee members are addressed separately and are not included in the definition of elected official.

(2) any person appointed to fill a vacant elected position on a board, committee or commission of the Oneida Nation.

(3) elected judges of the Oneida Judiciary.

(d) "Eligible voter" means a person able to vote under the Constitution of the Oneida Nation.

(e) "Entity" means the board, committee, commission, or Judiciary; to which an official is elected to serve.

(f) "Judiciary" means the judicial system that was established by Oneida General Tribal Council resolution GTC-01-07-13-B to administer the judicial authorities and responsibilities of the Nation.

(g) "Nation" means the Oneida Nation.

(h) "Secretary" means the Secretary of the Oneida Business Committee and/or designee.

PART I. REMOVAL OF ONEIDA BUSINESS COMMITTEE MEMBERS

104.4. Grounds for Removal – Oneida Business Committee

104.4-1. A member of the Oneida Business Committee may be removed from office for any of the following reasons:

(a) failure to attend four (4) regularly scheduled meetings within a single term without an excused written explanation;

(b) intentional misuse of Nation funds;

(c) alcohol use while performing official responsibilities or use of illegal drugs at any time;

(d) failure to continue to meet the qualifications for office as identified in the Oneida Constitution;

(e) violating a law of the Nation which specifies removal as a penalty; or

(f) felony conviction while in office.

104.4-2. In addition to removal from office, Oneida Business Committee members who commit misconduct may be subject to consequences as provided in any laws of the Nation that govern sanctions and penalties for elected officials.

104.5. Initiating the Removal Process

104.5-1. The process for removing an Oneida Business Committee member commences with the filing of a petition.

104.5-2. *Petition.* Any eligible voter may file a petition with the Secretary seeking the removal of a member of the Oneida Business Committee. A petition may request the removal of no more than one (1) person, and shall be signed by a number of eligible voters equal to at least thirty percent (30%) of the votes cast in the previous general election.

(a) The petitioner shall use a petition form which shall be developed and approved by the Secretary, and made available through the Secretary's office. Each petition shall include, at a minimum:

(1) the name and term of office of the elected official who is the subject of the removal petition.

(2) a clear statement of the facts upon which removal is sought and the specific grounds for removal, in not more than three hundred (300) words.

(3) sufficient lines for each signatory to print and sign his or her name, the date he or she signed the petition, and his or her date of birth and enrollment number.

(b) A petition shall be filed with the Secretary within thirty (30) days after the date the first signature is obtained on the petition. A petition may not be amended after it is filed with the Secretary.

(c) Upon receipt of a petition, the Secretary shall promptly:

(a) submit the petition to the Oneida Enrollments Department to verify that the persons who signed the petition are eligible voters; and

(b) Notify the Oneida Business Committee member sought to be removed that a petition has been filed seeking his or her removal; and provide him or her with a copy of the uncertified petition.

(d) Within five (5) business days after receiving the petition, the Enrollments Department shall notify the Secretary as to whether the petition contains the requisite number of signatures.

(1) If a petition does not contain the requisite number of signatures, the Secretary shall so certify to the Oneida Business Committee and file the petition without taking further action; the matter shall be at an end for lack of requisite signatures. No additional names may be added to the petition, and the petition may not be used in any other proceeding.

(2) If a petition contains the requisite number of signatures, the Secretary shall promptly cause a certified copy of the petition to be served upon the Oneida Business Committee member sought to be removed and forward a copy of the same to the Judiciary.

104.5-2. In the event the removal of the Secretary or Chairperson is sought, the Oneida Business Committee Vice Chairperson shall perform the duties assigned to the Secretary under this law.

104.6. Preliminary Review, Hearing

104.6-1. An Oneida Business Committee member whose removal is sought has the right to, at his or her expense, be represented by counsel of his or her choice; at any hearing or other judicial proceeding conducted in accordance with this law.

104.6-2. *Preliminary Review.* Within thirty (30) days after the Secretary forwards a verified petition to the Judiciary, the Judiciary shall schedule and conduct a preliminary review to determine whether the allegations set forth therein would constitute sufficient grounds for removal. If the Judiciary determines that the petition alleges sufficient grounds for removal, the matter shall proceed to a full hearing under 104.6-3.

(a) *Motion Challenging Authenticity of Signatures.* Within five (5) business days after receiving the certified copy of the petition from the Secretary, the Oneida Business Committee member whose removal is sought may file a written motion for the Judiciary to review the authenticity and/or sufficiency of the number of signatures on the petition or the validity of an entity's action in adopting a removal request. Such motions shall be disposed of during the preliminary review, in accordance with the following:

(1) The Judiciary shall provide the petitioner the opportunity to present a written rebuttal to the motion.

(2) The Oneida Business Committee member whose removal is sought shall have the burden of showing through clear and convincing evidence that some or all of the signatures on the petition are not authentic or that a petition does not contain the minimum required number of valid signatures.

(3) If the Judiciary determines that some or all of the signatures are not authentic and that the petition does not contain the minimum required number of valid signatures, the petition shall be dismissed and the matter shall be at an end.

104.6-3. Within twenty (20) calendar days after the preliminary review has been completed, the Judiciary shall schedule a hearing to determine whether each allegation of the petition or removal request has been proven by clear and convincing evidence, and whether such allegations constitute sufficient grounds for removal.

(a) An Oneida Business Committee member whose removal is sought shall have the right to present witnesses on his or her behalf; and to cross-examine adverse witnesses.

(b) If the Judiciary determines that sufficient grounds have not been proven, the Judiciary shall dismiss the petition or removal request. If the Judiciary determines that the sufficient grounds have been proven, the Judiciary shall forward the written decision to the Oneida Business Committee Chairperson and/or designee.

104.7. Final Determination at General Tribal Council Meeting

104.7-1. *Special Meeting.* Within forty-five (45) days of receiving the decision from the Judiciary, the Oneida Business Committee Chairperson shall call a special General Tribal Council meeting for the purpose of considering the removal. The only agenda item for the meeting shall be to consider the removal of one (1) Oneida Business Committee member.

104.7-2. *Right to address the Council.* The Oneida Business Committee member whose removal is sought shall have the right to address General Tribal Council personally.

104.7-3. *Determination.* An Oneida Business Committee member may only be removed from office upon a two-thirds (2/3) majority vote of the General Tribal Council at the special meeting.

104.7-4. *Quorum.* If the General Tribal Council meeting fails to obtain a quorum, the removal petition shall be dismissed.

104.7-5. *Non-appealable.* There is no appeal from the determination of the General Tribal Council.

104.7-6. Any Oneida Business Committee member who has been removed from office in accordance with this law shall be ineligible for election or appointment to any Oneida entity for one (1) year following the date of the removal.

PART II. REMOVAL OF ELECTED OFFICIALS

104.8. Grounds for Removal

104.8-1. An elected official may be removed from office for any of the following reasons:

(a) failure to attend four (4) regularly scheduled meetings within a single term without an excused written explanation;

(b) failure to attend fifty percent (50%) of the entity's regular scheduled meetings within a twelve (12) month period for any reason;

(c) violation of the bylaws or other governing documents of the entity; including but not limited to, duly adopted rules, standard operating procedures, and/or memoranda of agreement entered into with other governmental bodies.

(d) intentional misuse of Nation funds;

(e) alcohol use while performing official responsibilities or use of illegal drugs at any time;

(f) failure to continue to meet the qualifications for office as identified in bylaws and by Oneida law;

(g) violating a law of the Nation which specifies removal as a penalty;

(h) felony conviction while in office; or

(i) meeting additional grounds for removal as provided in the board, committee or commission bylaws.

104.8-2. In addition to removal from office, elected officials who commit misconduct may be subject to consequences as provided in any laws of the Nation that govern sanctions and penalties for elected officials.

104.8-3. *Separate proceedings for judges of the Judiciary.* In addition to the processes established by this law, elected judges of the Judiciary are also subject to removal through the disciplinary process identified in section 150.12 of the Judiciary law. In accordance with that law, when the Judiciary issues a disciplinary report ordering the removal of an elected judge, the disciplinary report shall have the same force and effect as a hearing decision issued in accordance with this law, and shall be forwarded for a final determination by the Oneida Business Committee in accordance with 104.8.

104.9. Initiating the Removal Process.

104.9-1. The process for removing an elected official commences with the filing of a petition or a removal request.

104.9-2. *Petitions.* Any eligible voter may file a petition with the Secretary seeking the removal of an elected official. A petition may request the removal of no more than one (1) person, and shall be signed by a number of eligible voters equal to at least thirty percent (30%) of the votes cast in the previous general election.

(a) The petitioner shall use a petition form which shall be developed and approved by the Secretary, and made available through the Secretary's office. Each petition shall include, at a minimum:

(1) the name and term of office of the elected official who is the subject of the removal petition.

(2) a clear statement of the facts upon which removal is sought and the specific grounds for removal, in not more than three hundred (300) words.

(3) Sufficient lines for each signatory to print and sign his or her name, the date he or she signed the petition, and his or her date of birth and enrollment number.

(b) A petition shall be filed with the Secretary within thirty (30) days after the date the first signature is obtained on the petition. A petition may not be amended after it is filed with the Secretary.

(c) Upon receipt of a petition, the Secretary shall promptly:

(a) submit the petition to the Oneida Enrollments Department to verify that the persons who signed the petition are eligible voters; and

(b) Notify the elected official sought to be removed that a petition has been filed seeking his or her removal; and provide him or her with a copy of the uncertified petition.

(d) Within five (5) business days after receiving the petition, the Enrollments Department shall notify the Secretary as to whether the petition contains the requisite number of signatures.

(1) If a petition does not contain the requisite number of signatures, the Secretary shall so certify to the Oneida Business Committee and file the petition without taking further action; the matter shall be at an end for lack of requisite signatures. No additional names may be added to the petition, and the petition may not be used in any other proceeding.

- (2) If a petition contains the requisite number of signatures, the Secretary shall promptly cause a certified copy of the petition to be served upon the elected official sought to be removed and forward a copy of the same to the Judiciary.

104.9-3. *Removal Requests*. An entity may file a removal request with the Secretary, seeking removal of an elected official serving on the entity, in accordance with the following:

(a) An entity may only file a removal request if the entity has, by majority vote, adopted such action at a duly-called meeting. The removal request shall be filed within thirty (30) calendar days after the date of the meeting at which the removal request was adopted. When submitting a removal request, the entity shall attach a copy of the minutes from the meeting at which the entity adopted the action.

(b) A removal request may request the removal of no more than one (1) elected official.

(c) A removal request may not be amended after it is filed with the Secretary.

(d) A removal request shall clearly state the facts upon which it is based and the specific grounds for removal, in not more than three hundred (300) words.

(e) After verifying the action of the entity in adopting the removal request, the Secretary shall promptly cause a certified copy of the removal request to be served upon the elected official sought to be removed and forward a copy of the same to the Judiciary.

(f) If the Secretary determines that a removal request does not meet the requirements of subsection (a), the Secretary shall so certify to the Oneida Business Committee and file the removal request without taking further action; the matter shall be at an end for lack of valid action by the entity. The removal request may not be amended, corrected or used in any other proceeding.

104.10. Preliminary Review and Hearing

104.10-1. An elected official whose removal is sought has the right to, at his or her expense, be represented by counsel of his or her choice at any hearing or other proceeding conducted in accordance with this law.

104.10-2. *Preliminary Review*. Within thirty (30) days after the Secretary forwards a petition or removal request to the Judiciary, the Judiciary shall schedule and conduct a preliminary review to determine whether the allegations set forth therein would constitute sufficient grounds for removal. If the Judiciary determines that the petition or removal request alleges sufficient grounds for removal, the matter shall proceed to a full hearing under 104.10-3.

(a) *Motion Challenging Authenticity of Signatures or Validity of Entity Action*. Within five (5) business days after receiving the certified copy of the petition or removal request from the Secretary, the elected official whose removal is sought may file a written motion for the Judiciary to review the authenticity and/or sufficiency of the number of signatures on the petition or the validity of an entity's action in adopting a removal request. Such motions shall be disposed of during the preliminary review, in accordance with the following:

(1) *Motion to review the authenticity and/or sufficiency of the number of signatures on a petition*.

(a) The Judiciary shall provide the petitioner the opportunity to present a written rebuttal to the motion.

(b) The elected official shall have the burden of showing through clear and convincing evidence that some or all of the signatures on the petition are not authentic or that a petition does not contain the minimum required number of valid signatures.

(c) If the Judiciary determines that some or all of the signatures are not authentic and that the petition does not contain the minimum required number of valid signatures, the petition shall be dismissed and the matter shall be at an end.

(2) *Motion to review the action taken by a board, committee or commission in approving a removal request.*

(a) The Judiciary shall provide the entity the opportunity to present a written rebuttal to the motion.

(b) The elected official shall have the burden of showing through clear and convincing evidence that the entity action was not valid.

(c) If the Judiciary determines that the action taken by the entity in approving a removal request was invalid, the action shall be dismissed and the matter shall be at an end.

104.10-3. *Hearing.* Within twenty (20) calendar days after the preliminary review has been completed, the Judiciary shall schedule a hearing to determine whether each allegation of the petition or removal request has been proven by clear and convincing evidence, and whether such allegations constitute sufficient grounds for removal.

(a) An elected official whose removal is sought shall have the right to present witnesses on his or her behalf; and to cross-examine adverse witnesses.

(b) If the Judiciary determines that sufficient grounds have not been proven, the Judiciary shall dismiss the petition or removal request. If the Judiciary determines that the sufficient grounds have been proven, the Judiciary shall forward the written decision to the Oneida Business Committee Chairperson and/or designee.

104.11. Final Determination at Oneida Business Committee Meeting

104.11-1. *Special Meeting.* Within forty-five (45) calendar days of receiving the decision from the Judiciary, a special Oneida Business Committee meeting shall be called for the purpose of considering the removal. The only agenda item for the meeting shall be to consider the removal of one (1) elected official.

104.11-2. *Right to address the Oneida Business Committee.* An elected official whose removal is sought shall have the right to address the Oneida Business Committee personally.

104.11-3. *Determination.* An elected official may only be removed from office upon the affirmative vote of six (6) members of the Oneida Business Committee at the special meeting.

104.11-4. *Quorum.* If the Oneida Business Committee meeting fails to obtain a quorum, the removal petition or removal request shall be dismissed.

104.11-5. *Non-appealable.* There is no appeal from the determination of the Oneida Business Committee.

104.11-6. Any official who has been removed from office in accordance with this law shall be ineligible for election or appointment to any Oneida entity for one (1) year following the date of the removal.

End.

Adopted – GTC-01-09-06-A

Amended – BC-05-28-14-B



Oneida Nation
 Oneida Business Committee
 Legislative Operating Committee
 PO Box 365 • Oneida, WI 54155-0365
 Oneida-nsn.gov



AGENDA REQUEST FORM

- 1) Request Date: 11/1/2017
- 2) Contact Person(s): Krystal John and Rae Skenandore
 Dept: Law Office/Land Commission
 Phone Number: x4375 or x4337 Email: kjohn4@oneidanation.org
- 3) Agenda Title: Real Property Law Emergency Amendments
- 4) Detailed description of the item and the reason/justification it is being brought before the LOC:
Revisions required to removing residential leasing responsibilities from DOLM and
transferring them to Comprehensive Housing Division and to clarify jurisdiction under
the law applies to all tribal fee land and not just fee land within the reservation - which
will clarify and affirm the Oneida Land Commissions authority.

List any supporting materials included and submitted with the Agenda Request Form

- | | |
|----------------------------------------|--------------------------------------|
| 1) <u>Proposed Redline Draft</u> | 3) <u>BC Minutes Excerpt 9/27/17</u> |
| 2) <u>BC Meeting Materials 9/27/17</u> | 4) _____ |

- 5) Please list any laws, policies or resolutions that might be affected:

- 6) Please list all other departments or person(s) you have brought your concern to:
Comprehensive Housing Division (CHD), DOLM, Land Commission

- 7) Do you consider this request urgent? ☒ Yes ☐ No

If yes, please indicate why:

One is to clarify jurisdiction and the other is to prevent update the law to align with recent OBC action.

I, the undersigned, have reviewed the attached materials, and understand that they are subject to action by the Legislative Operating Committee.

Signature of Requester:

Krystal L. John

Digitally signed by Krystal L. John
 DN: cn=Krystal L. John, o=Oneida Law Office, ou, email=kjohn4@oneidanation.org, c=US
 Date: 2017.10.27 10:10:00 -0500

Please send this form and all supporting materials to:

LOC@oneidanation.org

or

Legislative Operating Committee (LOC)

P.O. Box 365

Oneida, WI 54155

Phone 920-869-4376

Title 6. Property and Land – Chapter 601
REAL PROPERTY
Tokálske Kayanláhsla Tsi? Ni'yohuntsya'té
The real/certain laws of the territory of the nation

601.1.	Purpose and Policy	601.7.	Title Transfer
601.2.	Adoption, Amendment, Repeal	601.8.	Probate
601.3.	Definitions	601.9.	Leasing of Real Property
601.4.	General Provisions	601.10.	Records
601.5.	Holding of Ownership	601.11.	Real Estate Education Requirements and Certifications
601.6.	Legal Descriptions	601.12.	Organization

601.1. Purpose and Policy

601.1-1. *Purpose.* The purpose of this law is to provide regulations and procedures for the transfer, control and management of the territory within the Reservation and all tribal land; to integrate these regulations and procedures with the real property laws and practices of other federal and state sovereigns which may hold jurisdiction within the Reservation; and to establish licensing and certification requirements for the Nation's employees dealing with real property transactions.

601.1-2. *Policy.* It is the policy of the Nation to set out the responsibilities and expectations for persons purchasing and/or managing real property on behalf of the Nation and/or within the Reservation and to provide real property holder's rights and responsibilities. In addition, it is the Nation's policy that probated estates shall be settled expeditiously and without undue delay.

601.2. Adoption, Amendment, Repeal

601.2-1. This law was adopted by the Oneida Business Committee by resolution BC-5-29-96-A and amended by resolutions BC-3-01-06-D, BC-04-28-10-E, BC-02-25-15-C and BC-05-13-15-B.

601.2-2. This law may be amended or repealed by the Oneida Business Committee pursuant to the procedures set out in the Legislative Procedures Act.

601.2-3. Should a provision of this law or the application thereof to any person or circumstances be held as invalid, such invalidity shall not affect other provisions of this law which are considered to have legal force without the invalid portions.

601.2-4. In the event of a conflict between a provision of this law and a provision of another law, the provisions of this law shall control. Provided that, the Land Ordinance is applicable only to valid land assignments existing as of January 1, 2016 and is hereby repealed upon the expiration of the last existing land assignment.

601.2-5. This law is adopted under authority of the Constitution of the Oneida Nation.

601.3. Definitions

601.3-1. This section shall govern the definitions of words and phrases used within this law. All words not defined herein shall be used in their ordinary and everyday sense, subject to 601.4-5.

(a) "Broker" means a person who acts as an agent and negotiates the sale, purchase or rental of real property on behalf of others for a fee.

(b) "Certified Survey Map" means a map which provides the legal description of real property and is officially filed and approved by the county, Tribal or municipal governments.

(c) “Comprehensive Housing Division” means the division within the Nation under the direction of the Comprehensive Housing Division Director which consists of all residential services offered by the Nation, including but not limited to, all rental programs, the rent-to-own program, and the residential sales and mortgages programs. the entity responsible for housing matters as defined by Oneida Business Committee Resolution.⁺

(d) “Easement” means a real property right to cross or otherwise utilize the land of another for a specified purpose.

(e) “Estate” means a person’s interest in real property or other property.

(f) “Fiduciary” means a person required to act for the benefit of another person on all matters within the scope of their relationship and by such a relationship owes another duties of good faith, trust, confidence and candor. For the purposes of this law, both brokers and salespersons are “fiduciaries.”

(g) “Guardian Ad Litem” means a guardian appointed by the Judiciary on behalf of an incompetent or minor party.

(h) “Individual Fee Land” means real property held in fee status by an individual or group of individuals.

(i) “Individual Trust Land” means individual Tribal land held in trust by the United States of America for the benefit of a Tribal member.

(j) “Judiciary” means the judicial system that was established by Oneida General Tribal Council resolution GTC-01-07-13-B to administer the judicial authorities and responsibilities of the Nation.

(k) “Land Use License” means an agreement entered into by the Nation providing a party the right to occupy and/or utilize a specified piece of Tribal land for a specific purpose and a specific duration, which may require the Nation to be compensated for such use.

(l) “Leasehold Mortgage” means a mortgage, deed of trust, or other instrument that pledges a lessee’s leasehold interest as security for a debt or other obligation owed by the lessee to a lender or other mortgagee.

(m) “Nation” means the Oneida Nation.

(n) “Personal Representative” means a person to whom authority to administer a decedent’s estate have been granted by the Division of Land Management or the Judiciary.

(o) “Probate” or “Administration” means any proceeding relating to a decedent’s estate, whether there is or is not a will.

(p) “Real Property” means land and anything growing on, attached to, or erected on the land, excluding anything that may be severed without injury to the land.

(q) “Reservation” means all the property within the exterior boundaries of the Reservation of the Oneida Nation, as created pursuant to the 1838 Treaty with the Oneida 7 Stat. 566, and any lands added thereto pursuant to federal law.

(r) “Restricted Fee Status” means an interest in real property which includes a provision in the deed or will that, upon the happening or failure to happen of a certain event, the title of the purchaser or devisee will be limited, enlarged, changed or terminated.

⁺ See BC Resolutions 08-10-16-L, 10-12-16-B and 10-12-16-D defining the Comprehensive Housing Division for purposes of the Mortgage and Foreclosure law, Eviction and Termination law and Landlord-Tenant law respectively.

(s) “Rule” means a set of requirements, including fee schedules, enacted by the Comprehensive Housing Division, Division of Land Management, Oneida Planning Department and/or the Oneida Land Commission in accordance with the Administrative Rulemaking law based on authority delegated in this law in order to implement, interpret and/or enforce this law.

(t) “TAAMS” (Trust Asset and Accounting Management System) means the Bureau of Indian Affairs system for maintaining and tracking land title documents and all legal documents relating to land transactions.

(u) “Title Status Report” means a report issued by the Bureau of Indian Affairs after a title examination which shows the proper legal description of a tract of Tribal land; current ownership, including any applicable conditions, exceptions, restrictions or encumbrances on records; and whether the land is in unrestricted, restricted, trust, or other status as indicated by the records in a Land Titles and Records Office.

(v) “Tribal Fee Land” means ~~Tribal~~ land held in fee status by the Nation ~~within the Reservation~~.

(~~v~~~~w~~) “Tribal Land” means Tribal fee land and Tribal trust land.

(~~w~~~~x~~) “Tribal Member” means an individual who is an enrolled member of the Nation.

(~~x~~~~y~~) “Tribal Trust Land” means the surface estate of land or any interest therein held by the United States in trust for the Nation; land held by the Nation subject to federal restrictions against alienation or encumbrance; land reserved for federal purposes; and/or land held by the United States in trust for the Nation under Section 17 of the Indian Reorganization Act, 25 U.S.C §477, et. seq.

601.4. General Provisions

601.4-1. *Applicable Real Property.* The provisions of this law extend to all Tribal member’s individual fee land and Tribal member’s individual trust land within the Reservation boundaries and all Tribal land.

601.4-2. *Tribal Land Base.* The Division of Land Management shall administer all transactions which add real property to the Tribal land base under the provisions of this law.

601.4-3. *Sale of Tribal Land Prohibited.* The sale of Tribal land is specifically prohibited by this law, unless the intent of the transaction is the consolidation or partition of Tribal trust land and/or individual trust land.

601.4-4. *New Land Assignments Prohibited.* The Nation may not acknowledge any new land assignments. Further, in order to be eligible for a Tribal loan issued against a real property interest held as a land assignment, the land assignment shall first be converted to a residential lease.

601.4-5 *Wisconsin Probate Code and its Related Chapters.* In instances where the Nation lacks definition, procedure, or legal precedent in a probate matter, the Nation shall use Wisconsin’s Probate Code and its related chapters for guidance.

601.4-6. *Wisconsin Real Property Law.* The Nation shall follow all applicable portions of the Wisconsin Real Property Law when acquiring individual fee land.

601.4-7. *No Waiver of Sovereign Immunity.* Nothing in this law may be construed as a waiver of the Nation’s sovereign immunity.

601.5. Holding of Ownership

601.5-1. Interests in real property by more than one (1) person may be held in the following ways:

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(a) *Joint Tenancy with the Right of Survivorship*. Pursuant to this ownership mechanism each owner has an equal, undivided interest in the real property. When an owner dies, his/her share is divided among the remaining owners; the last living owner owns the entire property.

(1) Real property owned by married persons is held under this mechanism unless they have executed a valid marital property agreement specifically stating that the real property in question is held as tenants in common.

(b) *Tenancy in Common*. Pursuant to this ownership mechanism each owner has a percentage of divided interest in the real property. When an owner dies, his/her interest is divided among his/her devisees or heirs.

(1) Real property owned by more than one (1) person, other than married persons, is owned under this mechanism unless a deed or transfer document specifically states the real property is held as joint tenants with rights of survivorship.

601.6. Legal Descriptions

601.6-1. The legal description for any real property transferred under this law shall be derived from a certified survey map or survey completed by a registered land surveyor according to currently accepted minimum industry standards for property surveys. If the plat of survey changes the legal description of the certified survey map for the same piece of property, the certified survey map's legal description shall be used on transfer documents along with the survey description, which shall be designated as "Also Known As ..." Section, township, range and fourth principal meridian shall be included in all legal descriptions.

601.6-2. Every land survey shall be made in accordance with the county register of deeds' records for fee land, and in accordance with the Oneida Nation Register of Deed's records for Tribal Trust Lands and Individual Trust Lands. The surveyor shall acquire data necessary to retrace record title boundaries such as deeds, maps, certificates of title, title status reports, Tribal leases, Tribal home purchase agreements, center line and other boundary line locations.

601.6-3. Legal descriptions defining land boundaries shall be complete, providing unequivocal identification of line or boundaries.

601.6-4. All surveys prepared for the Nation shall comply with survey requirements outlined in the Wisconsin Administrative Code, Chapter A-E7 and indicate setbacks, building locations and encroachments, as applicable.

601.6-5. Legal descriptions shall be used on transfer documents formalizing a purchase, real estate sale, lease, foreclosure, probate transfer, trust acquisition and Tribal resolutions.

601.6-6. When real estate is listed, noticed and/or advertised as available for sale, rent or lease to Tribal members, the address is an adequate legal description of the real property.

601.7. Title Transfer

601.7-1. *Trust Acquisition*. The Division of Land Management shall use title companies duly registered with the Department of Interior and approved by the Division of Land Management to update abstracts or provide title insurance on real property scheduled for trust acquisition.

(a) Title companies shall follow general guidelines provided by the federal government in terms of form, content, period of search, destroyed or lost records and abstracter's certificate.

(b) When researching land title for real property within the Reservation which is being considered for trust acquisition, the Division of Land Management staff shall request the title company to search the title back to the original allottee, in order to assure that patents or Indian deeds were legally issued.

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(c) Any valid liens or encumbrances shown by the commitment for title insurance shall be eliminated before the title is transferred into trust.

(d) After land is in trust both a title search of county records and a title status report requested by the Division of Land Management from the Bureau of Indian Affairs shall verify all valid encumbrances, if any, on the title. For the purposes of this section, a valid encumbrance is one that has been preapproved, in writing, by the Division of Land Management based on a standard operating procedure that is effective upon approval by the Oneida Land Commission.

(e) Division of Land Management applications to convert Tribal fee land into Tribal trust land require an Oneida Land Commission resolution approving the said conversion.

601.7-2. *Deeds.* A deed is the formal document used by the Division of Land Management to transfer title from one party to another.

(a) A valid deed shall:

(1) Be in writing;

(2) Identify the grantor (seller) and grantee (buyer);

(3) Provide the legal description of the real property;

(4) Identify the interest conveyed, as well as any conditions, reservations, exceptions, or rights of way attached to the interest;

(5) Be signed by or on behalf of each of the grantors (sellers);

(6) Be signed by or on behalf of each spouse of each of the grantors (sellers), if applicable; and

(7) Be delivered to the grantee (buyer).

(b) In addition to the requirements listed in section 601.7-3(a), a deed prepared for trust acquisition shall include:

(1) The federal authority for trust acquisition;

(2) Any exceptions or exclusions from the State of Wisconsin's fees or other transfer requirements;

(3) The approximate acreage of the real property being transferred to trust; and

(4) The authority and signature of the appropriate Department of Interior official who accepts the real property into trust.

(c) A deed transferring fee simple title shall be recorded in the appropriate register of deeds office, provided that, once the real property is in trust, the title shall be recorded with the Oneida Nation Register of Deeds and the Bureau of Indian Affairs Land Titles and Records Office.

601.7-3. *Involuntary Transfer of Title.* All involuntary transfers of title require a hearing and order from the Judiciary, and may occur in the following ways:

(a) *Eminent Domain.* Eminent domain is the right of the Nation's government to acquire Tribal member individual fee land within the Reservation for public uses without the consent of private owners.

(1) For the purposes of this section, public uses include, but are not limited to, environmental protection, streets, highways, sanitary sewers, public utility/sites, waste treatment facilities and public housing.

(2) Prior to exercising eminent domain, the Nation shall first attempt to negotiate an agreeable taking by making an offer to purchase based on an appraisal of the real property. The appraisal amount may be based on an appraisal provided by the Nation. In the event the property owner objects to the Nation's appraisal, they may obtain an independent appraisal at their own cost. For the purposes of this section, an appraisal means process for estimating a piece of real property's value.

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- 222 (3) The Nation's exercise of eminent domain may be appealed to the Judiciary.
- 223 (b) Foreclosure. Foreclosures may occur subject to the Mortgage and Foreclosure law
- 224 when a Tribal member ceases payment on a leasehold mortgage.
- 225 (c) Tribal Land Consolidation. Section 207 of the Indian Land Consolidation Act
- 226 (Pub.L. No. 97-459, 96 Stat. 2515, and amended on October 30, 1984 by Pub.L. No. 98-
- 227 608, 98 Stat. 3171) is incorporated into this law, which provides a mechanism for real
- 228 property within the Reservation to escheat, or pass, to the Nation.
- 229 (1) Pursuant to section 207 of the Indian Land Consolidation Act, an ownership
- 230 interest in real property escheats, or passes, to the Nation under the following
- 231 circumstances, provided that the Nation shall provide just compensation for the
- 232 interest:
- 233 (A) The real property is within the Reservation boundaries;
- 234 (B) The decedent's ownership in the given parcel of land is two percent
- 235 (2%) or less of the total acreage; and
- 236 (C) The interest is incapable of earning one hundred dollars (\$100.00) in
- 237 any one (1) of the five (5) years immediately following the decedent's
- 238 death,
- 239 (2) A decedent's heirs may appeal a land consolidation under this section to the
- 240 Judiciary.
- 241 (3) Land consolidation is subject to the probate requirements, as included in this
- 242 law and accompanying rules.
- 243 (d) Transferring Interests Inherited by Non-Tribal Members. If the owner of an interest
- 244 of real property which is held in trust or restricted fee status located within the
- 245 Reservation devises such interest to a non-Tribal member, the Nation may acquire the
- 246 said interest by paying the fair market value of the interest determined as of the date of
- 247 the decedent's death. Such transfer is effective upon receipt of an order transferring
- 248 inherited interests from the Judiciary pursuant to section 205 of the Indian Land
- 249 Consolidation Act.
- 250 (1) An order transferring inherited interests may not be granted if:
- 251 (A) While the decedent's estate is pending, the non-Indian devisee
- 252 denounces his or her interest in favor of a Tribal member person;
- 253 (B) The interest is part of a family farm that is devised to a member of the
- 254 immediate family of the decedent, provided that such a restriction shall be
- 255 recorded as part of the deed relating to the interest involved; or
- 256 (C) The devisee agrees in writing that the Nation may acquire the interest
- 257 for fair market value only if the interest is offered for sale to a person or
- 258 entity that is not a member of the immediate family of the owner of the
- 259 interest.
- 260 (e) Easements for Landlocked Properties. The Division of Land Management and the
- 261 Oneida Land Commission shall jointly develop rules regarding requests for easements for
- 262 landlocked properties.
- 263 601.7-4. Division of Land Management shall work with the Oneida Law Office in order to
- 264 pursue an involuntary transfer of title.
- 265
- 266 **601.8. Probate**
- 267 601.8-1. The Division of Land Management shall process and administer probate estates and,
- 268 where necessary, shall refer probate estates to the Oneida Judiciary for formal administration.

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The Division of Land Management and the Oneida Land Commission shall jointly create any rules necessary to administer probate estates. The Division of Land Management shall:

- (a) Process applications for probate administration;
- (b) Receive proof of heirship demonstrating a party is entitled to receive an intestate decedent's property pursuant to applicable laws and rules;
- (c) Receive consent to serve forms and in undisputed matters, issue domiciliary letters;
- (d) Require and receive affidavits of service;
- (e) Receive waiver and consent to probate administration forms and any related affidavits;
- (f) Issue notice to creditors of the probate's administration, receive creditor claims for consideration and settlement, and issue discharge of creditors when appropriate;
- (g) Receive and process all estate inventories;
- (h) Receive and process, when possible, land transactions in accordance with this law and receive proof of recording documents;
- (i) Receive estate receipts;
- (j) In undisputed matters, receive and process statement of personal representative to close estate and issue discharge of personal representative; and
- (k) Refer disputed matters to the Judiciary, transfer probate and related documents, and participate in the Judiciary's proceedings as necessary.

601.8-2. The Judiciary shall hear and administer disputed probate estates or matters requiring appointment of a guardian ad litem and shall have all the above powers conferred upon the Division of Land Management in such cases. In addition, the Judiciary shall hear and administer probate estates in which the Division of Land Management seeks appointment as a personal representative.

601.9. Leasing of Real Property

601.9-1. In accordance with the Leasing law, The-the Division of Land Management shall administer and process all leasing of Tribal land for ~~residential~~, agricultural and commercial purposes and the Comprehensive Housing Division shall administer and process all leasing of Tribal land for residential purposes in accordance with the Leasing law. The Leasing law definition of Tribal land does not include Tribal fee land; however, pursuant to this law, the ~~Division of Land Management~~ the responsible parties designated herein shall administer and process ~~all~~ leases of both of Tribal fee land and Tribal trust land in accordance with the Leasing law. ~~lasting longer than one (1) year that are not made as part of the homeownership program using federal funding in accordance with the Leasing law.~~

601.10. Records

601.10-1. *Purpose.* The Division of Land Management shall oversee the administration of the Oneida Nation Register of Deeds which shall accept and record documents related to real property located within the Reservation and all Tribal fee land.

601.10-2. *Types of Records.* The Oneida Nation Register of Deeds may only accept documents that provide evidence of activities affecting real property title, preserve the record of a title document and give constructive notice of changes to a title document. Further, said documents shall be originals, signed duplicates or certified copies. The following documents may be accepted by the Oneida Nation Register of Deeds.

- (a) Deeds;
- (b) Probate orders;
- (c) Mortgages and other valid liens;

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- (d) Easements, covenants, and restrictions;
- (e) Certified survey maps and plats of survey;
- (f) Patents;
- (g) Declarations of involuntary transfer or taking;
- (h) Satisfactions;
- (i) Leases made pursuant to the Leasing law;
- (j) Home ownership agreements made pursuant to the Landlord-Tenant law;
- (k) Marriage agreements; and
- (l) Correction of title defects.

601.10-3. *Accessibility*. The Oneida Nation Register of Deeds shall provide open access to land records and title documents.

601.10-4. *Trust Land*. All documents pertaining to Tribal trust land and Individual trust land shall be recorded with the Oneida Nation Register of Deeds and the Bureau of Indian Affairs Land Titles and Records Office.

601.10-5. *Tribal Seal*. The Nation's Secretary shall provide the Division of Land Management with the Nation's seal to be used to authenticate documents which are certified by the Oneida Nation Register of Deeds.

601.11. Real Estate Education Requirements and Certifications

601.11-1. *Wisconsin Real Estate Education and Exam Required*. All persons engaging in the acquisition of Tribal fee land on behalf of the Nation, specifically those performing real estate closings, shall pass the Wisconsin Real Estate License Exam. Such persons are not required to obtain a Wisconsin Real Estate License, but are required to fulfill the pre-license education requirement, pass the licensing exam and fulfill a minimum of twelve (12) hours or four (4) courses of continuing education requirements as required of Wisconsin real estate licensees. The Division of Land Management Director shall select which continuing education courses are required and the Oneida Law Office shall provide the Director with a recommendation. In addition to Wisconsin's minimum education requirements as applied to the Nation's real estate employees in this law, the Division of Land Management shall require such employees to attend real estate training specific to the Nation's goals and unique positions as the Oneida Law Office shall offer on an as-needed basis.

(a) While Wisconsin real estate law allows persons engaged in the sale of real estate to earn a commission, persons acquiring Tribal fee land on behalf of the Nation are regular employees of the Nation and, therefore, shall waive any commission for which they might otherwise be eligible.

(b) It is critical to the Oneida Nation's goal to reacquire property within the original Reservation boundaries to have employees educated and experienced in executing real estate transactions. Accordingly, the Division of Land Management shall employ a minimum of one (1) employee whose primary focus is real estate acquisitions and shall ensure that a minimum of two (2) employees are educated and trained as backups to the primary.

601.11-2. *TAAMS Certification Required*. All persons responsible for encoding leasing information shall obtain a TAAMS certification, which includes, but is not limited to, the following positions:

- (a) Residential and Commercial Leasing Specialists;
- (b) Land Title and Trust Manager; and
- (c) Title Examiner.

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601.11-3. *Fiduciary Responsibility.* All persons engaged in the buying or selling of Tribal land shall, at all times, act as a fiduciary to the Nation. Further, all such persons shall comply with all applicable Tribal and federal laws.

601.12. Organization

601.12-1. *Comprehensive Housing Division.* The Comprehensive Housing Division shall oversee all residential transactions, ~~excluding residential leases~~, within the Reservation and shall process and administer said transactions using the applicable of the Landlord-Tenant law, the Mortgage and Foreclosure law, the Leasing law and/or the Eviction and Termination law. In addition, the Oneida Land Commission and the Comprehensive Housing Division shall exercise joint rulemaking authority to provide process requirements, including but not limited to advertising, notice, prequalification, and selection, that apply in all circumstances when the Nation is selling a residential property.

601.12-2. *Oneida Land Commission.* The Oneida Land Commission is comprised of seven (7) elected Tribal members and shall:

(a) Interpret the provisions of this law and create policy to guide the Division of Land Management in implementing the same;

(b) Approve or deny all easements and land use licenses;

(c) Review and adopt the Division of Land Management's standard operating procedures for entering into agriculture and commercial leases pursuant to the Leasing law;

(d) Approve or deny all acquisition of Tribal land;

(e) Allocate and assign land uses to all Tribal land, except those uses governed by the Public Use of Tribal Land law, based on the Land Use Technical Unit rules which the Oneida Planning Department shall develop in collaboration with affected Oneida divisions and departments and the Oneida Land Commission; and

(f) Name all buildings, roads, parks and the like on Tribal land.

601.12-3. *Division of Land Management.* The Division of Land Management shall implement this law in accordance with the policy directives provided by the Oneida Land Commission. The Division of Land Management shall:

(a) Forward requests for easements and land use licenses to the Oneida Land Commission based on the easement and land use license rules jointly developed by the Division of Land Management and the Oneida Land Commission;

(b) Administer and oversee the Oneida Nation Register of Deeds;

(c) Enter into and administer ~~residential~~, agricultural and commercial leases pursuant to the Leasing law and the Eviction and Termination law and any corresponding rules;

(d) Prepare title reports and process trust transactions; and

(e) Process land acquisition transactions as approved by the Oneida Land Commission.

End.

Adopted - BC-5-29-96-A
Amended-BC-3-01-06-D
Amended-BC-04-28-10-E
Amended - BC-02-25-15-C
Amended-BC-05-13-15-B

C. New Business

1. Approve final Comprehensive Housing Division Organizational Chart and accept next steps as information (1:14:53)

Sponsor: Dana McLester, Division Director/Comprehensive Housing

Motion by Lisa Summers to approve the final Comprehensive Housing Division Organization Chart dated September 27, 2017; to accept the next steps as information; and to move the chart into open session, seconded by David P. Jordan. Motion carried unanimously:

Ayes: Daniel Guzman King, David P. Jordan, Trish King, Kirby Metoxen, Brandon Stevens, Ernie Stevens III, Lisa Summers, Jennifer Webster

Motion by Lisa Summers for the Oneida Business Committee sub-teams to provide an update on the transitions of the Public Works Division, Land & Environment Division and Community & Economic Division and that the Direct Reports for these areas be included for the discussion, noting that Councilwoman Jennifer Webster's Office will be in charge of coordinating the update, seconded by Trish King. Motion carried unanimously:

Ayes: Daniel Guzman King, David P. Jordan, Trish King, Kirby Metoxen, Brandon Stevens, Ernie Stevens III, Lisa Summers, Jennifer Webster

2. Review resolution entitled Strategic Workforce Planning - Budget - Implementation for Oneida Nation (1:16:32)

Sponsor: Trish King, Treasurer

Motion by Lisa Summers to move the resolution entitled Strategic Workforce Planning - Budget - Implementation for Oneida Nation into open session, seconded by Kirby Metoxen. Motion carried unanimously:

Ayes: Daniel Guzman King, David P. Jordan, Trish King, Kirby Metoxen, Brandon Stevens, Ernie Stevens III, Lisa Summers, Jennifer Webster

Resolution moved into open session as item V.I.

Motion by Lisa Summers that the supplemental meeting materials submitted by the Human Resources Dept. be accepted as information, seconded by Jennifer Webster. Motion carried unanimously:

Ayes: Daniel Guzman King, David P. Jordan, Trish King, Kirby Metoxen, Brandon Stevens, Ernie Stevens III, Lisa Summers, Jennifer Webster

Motion by Lisa Summers that the Officers be responsible for sending out the identified correspondence to the organization regarding this resolution being implemented, seconded by Trish King. Motion carried unanimously:

Ayes: Daniel Guzman King, David P. Jordan, Trish King, Kirby Metoxen, Brandon Stevens, Ernie Stevens III, Lisa Summers, Jennifer Webster

3. Discuss the Nation's Property Tax Liability Threshold and determine the appropriate next steps based on the discussion (1:20:58)

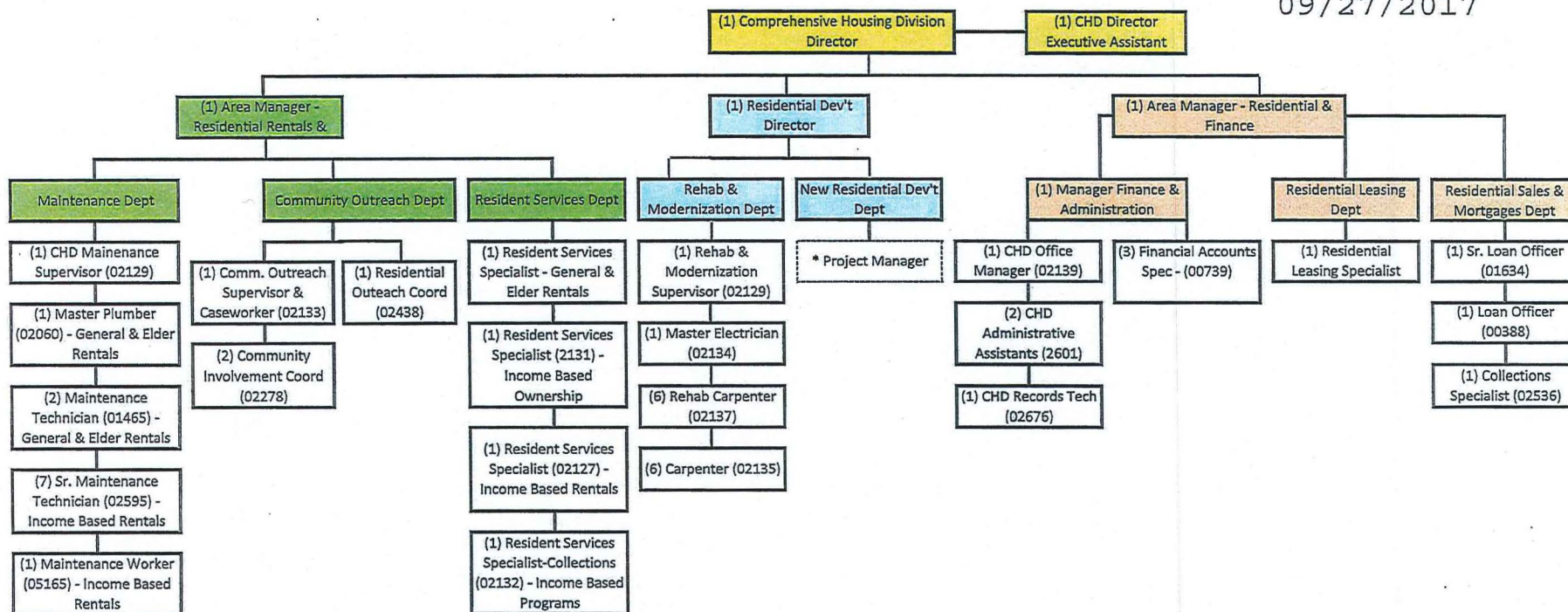
Sponsor: Lisa Summers, Secretary

Motion by Lisa Summers to accept the request as information; and to defer the request to the Land Management Division Director for follow-up, seconded by Brandon Stevens. Motion carried unanimously:

Ayes: Daniel Guzman King, David P. Jordan, Trish King, Kirby Metoxen, Brandon Stevens, Ernie Stevens III, Lisa Summers, Jennifer Webster

MOVED TO OPEN SESSION FROM EXECUTIVE SESSION ITEM - XII.C.01.

09/27/2017



Oneida Business Committee (OBC) approval of this organizational chart supersedes prior OBC action taken by motion at the November 13, 2013 meeting regarding Oneida Housing Authority management.

----- Original message -----

From: LOC <LOC@oneidanation.org>

Date: 10/16/17 1:29 PM (GMT-06:00)

To: "David P. Jordan" <djordan1@oneidanation.org>, "Leyne C. Orosco" <lorosco@oneidanation.org>, "Kirby W. Metoxen" <KMETOX@oneidanation.org>, "Rosa J. Laster" <rlaster@oneidanation.org>, "Jennifer A. Webster" <JWEBSTE1@oneidanation.org>, "Jessica L. Wallenfang" <JWALLENF@oneidanation.org>, "Ernest L. Stevens" <esteven4@oneidanation.org>, "Shannon M. King" <sking1@oneidanation.org>, "Daniel P. Guzman" <dguzman@oneidanation.org>, "Melinda J. Danforth" <mdanforj@oneidanation.org>

Subject: E-Poll Request: LOC 4th Quarter Report

Executive Summary

The LOC's FY17 Fourth Quarter Report is due to the Secretary's Office this week. Because the 10/18/17 LOC meeting has been cancelled, due to the NCAI annual conference- an e-poll is necessary to approve the fourth quarter report and forward to the Secretary's Office.

Requested Action

Motion to approve the Legislative Operating Committee's FY17 Fourth Quarter Report and forward to the Business Committee for approval.

Deadline for Response

October 18, 2017 at 4:30pm.

Thank You-

From: David P. Jordan Sent: Mon 10/16/2017 1:33 PM
To: LOC
Cc: Leyne C. Orosco; Kirby W. Metoxen; Rosa J. Laster; Jennifer A. Webster; Jessica L. Wallenfang; Ernest L. Stevens; Shannon M. King; Daniel P. Guzman; Melinda J. Danforth
Subject: Re: E-Poll Request: LOC 4th Quarter Report

Approve

From: Jennifer A. Webster Sent: Mon 10/16/2017 1:35 PM
To: LOC; David P. Jordan; Leyne C. Orosco; Kirby W. Metoxen; Rosa J. Laster; Jessica L. Wallenfang; Ernest L. Stevens; Shannon M. King; Daniel P. Guzman; Melinda J. Danforth
Cc:
Subject: Re: E-Poll Request: LOC 4th Quarter Report

Approve,
Jenny

From: Ernest L. Stevens Sent: Mon 10/16/2017 2:39 PM
To: LOC; David P. Jordan; Leyne C. Orosco; Kirby W. Metoxen; Rosa J. Laster; Jennifer A. Webster; Jessica L. Wallenfang; Shannon M. King; Daniel P. Guzman; Melinda J. Danforth
Cc:
Subject: Re: E-Poll Request: LOC 4th Quarter Report

Approve

From: Kirby W. Metoxen Sent: Mon 10/16/2017 3:03 PM
To: LOC; David P. Jordan; Leyne C. Orosco; Rosa J. Laster; Jennifer A. Webster; Jessica L. Wallenfang; Shannon M. King; Daniel P. Guzman; Melinda J. Danforth; Ernest L. Stevens
Cc:
Subject: Re: E-Poll Request: LOC 4th Quarter Report

I approve. KIRBY

From: Daniel P. Guzman Sent: Mon 10/16/2017 3:17 PM
To: LOC; David P. Jordan; Leyne C. Orosco; Kirby W. Metoxen; Rosa J. Laster; Jennifer A. Webster; Jessica L. Wallenfang; Ernest L. Stevens; Shannon M. King; Melinda J. Danforth
Cc:
Subject: Re: E-Poll Request: LOC 4th Quarter Report

Approve

----- Original Message -----

Subject: E-Poll: Community Support Fund Extension

From: LOC <LOC@oneidanation.org>

Date: Oct 17, 2017, 3:34 PM

To: "David P. Jordan" <djordan1@oneidanation.org>, "Leyne C. Orosco" <lorosco@oneidanation.org>, "Kirby W. Metoxen" <KMETOX@oneidanation.org>, "Rosa J. Laster" <rlaster@oneidanation.org>, "Jennifer A. Webster" <JWEBSTE1@oneidanation.org>, "Jessica L. Wallenfang" <JWALLENF@oneidanation.org>, "Ernest L. Stevens" <esteven4@oneidanation.org>, "Shannon M. King" <sking1@oneidanation.org>, "Daniel P. Guzman" <dguzman@oneidanation.org>, "Melinda J. Danforth" <mdanforj@oneidanation.org>

Executive Summary

This resolution will extend the Effective Date of the Community Support Fund Law for a third time. Because the 10/18/17 LOC meeting is cancelled, and this resolution needs to be considered by the Business Committee on 10/25/17, an e-poll is necessary.

Requested Action

Approve the SOE for Resolution: Third Extension of the Effective Date of the Community Support Fund Law and forward to the Business Committee for consideration.

Deadline for Response

October 19, 2017 at 10:00am

You will find the back-up material attached.

Thank You-

From: Kirby W. Metoxen
To: LOC
Cc:
Subject: Fwd: E-Poll: Community Support Fund Extension

Message Community Support Rule.pdf (283 KB)

Support Kirby
Get [Outlook for Android](#)

From: Jennifer A. Webster
To: LOC; David P. Jordan; Leyne C. Orosco; Kirby W. Metoxen; Rosa J. Laster; Jessica L. Wallenfang; Ernest L. Stevens; Shannon M. King; Daniel P. Guzman; Melinda J. Danforth
Cc: Clorissa N. Santiago
Subject: Re: E-Poll: Community Support Fund Extension

Support.
Jenny

From: David P. Jordan
To: LOC; Leyne C. Orosco; Kirby W. Metoxen; Rosa J. Laster; Jennifer A. Webster; Jessica L. Wallenfang; Ernest L. Stevens; Shannon M. King; Daniel P. Guzman; Melinda J. Danforth
Cc: Clorissa N. Santiago
Subject: RE: E-Poll: Community Support Fund Extension

Support

From: Daniel P. Guzman
To: LOC; David P. Jordan; Leyne C. Orosco; Kirby W. Metoxen; Rosa J. Laster; Jennifer A. Webster; Jessica L. Wallenfang; Ernest L. Stevens; Shannon M. King; Melinda J. Danforth
Cc: Clorissa N. Santiago
Subject: Re: E-Poll: Community Support Fund Extension

Approve

LOC	1	10/27/2017 9:44 AM
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December 2017

December 2017

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Nov 26 - Dec 2								
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Dec 3 - 9				3:00pm 4:30pm FW: LOC Prep (BC_Exec_Conf_Room) - Jennifer A. F	9:00am 3:00pm LOC (BC_Conf_Room) - LOC			
		10	11	12	13	14	15	16
Dec 10 - 16					8:30am 4:30pm BC Meeting (Business Committee Conference Room, 2nd Floor Norbert			
		17	18	19	20	21	22	23
Dec 17 - 23				3:00pm 4:30pm LOC Prep (BC 3:00pm 4:30pm LOC Prep (BC 3:00pm 4:30pm LOC Prep (BC	9:00am 3:00pm LOC (BC_Conf_Room) - LOC			
		24	25	26	27	28	29	30
Dec 24 - 30					8:30am 4:30pm BC Meeting (Business Committee Conference Room, 2nd FI			
		31	Jan 1, 18	2	3	4	5	6
Dec 31 - Jan 6								