



Oneida Business Committee

Executive Session and Regular Meeting
8:30 AM Wednesday, May 13, 2020
BC Conference Room, 2nd floor, Norbert Hill Center

Agenda

Meeting agenda is available here: oneida-nsn.gov/government/business-committee/agendas-packets/. Materials for the "General Tribal Council" section of the agenda, if any, are available to enrolled members of the Oneida Nation; to obtain a copy, visit the BC Support Office, 2nd floor, Norbert Hill Center and present a valid Tribal I.D. or go to <https://goo.gl/uLp2jE>. Scheduled times are subject to change.

NOTICE

All regular, special, and emergency Business Committee meetings in the months of March, April and May will be closed to the public. This is preventative measure as a result of the COVID-19 pandemic. Audio recordings are made of all meetings of the Business Committee. Video recordings are made of regular meetings of the Business Committee. All recordings are available on the Nation's website at: <https://oneida-nsn.gov/government/business-committee/recordings/>. If you have comments regarding open session items, please submit them to TribalSecretary@oneidanation.org no later than close of business the day prior to a Business Committee meeting. Comments will be noticed to the Business Committee.

I. CALL TO ORDER

II. OPENING

III. ADOPT THE AGENDA

IV. MINUTES

- A. **Approve the April 22, 2020, regular Business Committee meeting minutes**
Sponsor: Lisa Summers, Secretary
- B. **Approve the May 6, 2020, special Business Committee meeting minutes**
Sponsor: Lisa Summers, Secretary

V. RESOLUTIONS

- A. Adopt resolution entitled Amendments to the Curfew Law**
Sponsor: David P. Jordan, Councilman
- B. Adopt resolution entitled Amendments to the Domestic Animals Law**
Sponsor: David P. Jordan, Councilman
- C. Adopt resolution entitled Amended Domestic Animals Law Fine, Penalty, and Licensing Fee Schedule**
Sponsor: David P. Jordan, Councilman
- D. Adopt resolution entitled Amendments to the Oneida Food Services Law**
Sponsor: David P. Jordan, Councilman
- E. Adopt resolution entitled Oneida Food Service Law Fine, Penalty, and Licensing Fee Schedule**
Sponsor: David P. Jordan, Councilman
- F. Adopt resolution entitled Pardon and Forgiveness Law Application Fee**
Sponsor: Lisa Summers, Secretary
- G. Adopt resolution entitled Suspension of the Pardon and Forgiveness Law Application Fee due to the COVID-19 Public Health State of Emergency**
Sponsor: Lisa Summers, Secretary
- H. Adopt resolution entitled Adoption of Emergency Amendments to the Election Law**
Sponsor: David P. Jordan, Councilman
- I. Adopt resolution entitled Oneida Nation Support of the Wisconsin Department of Transportation's Southern Bridge Corridor Project**
Sponsor: Melinda J. Danforth, Director/Intergovernmental Affairs

VI. UNFINISHED BUSINESS

- A. Approve the Gaming operations re-opening date**
Sponsor: Louise Cornelius, Gaming General Manager

EXCERPT FROM MAY 6, 2020: Motion by Kirby Metoxen to accept the Gaming operations re-opening safety plans and defer the Gaming operations re-opening date to the May 13, 2020, regular Business Committee meeting agenda, seconded by Daniel Guzman King. Motion carried.

VII. TABLED BUSINESS

- A. Update and progress report regarding the implementation procedures for BC resolution # 03-11-20-C (tabled 4/8/20 – No requested action)**

VIII. NEW BUSINESS

- A. Consider request from the Oneida Election Board regarding the 2020 Primary Election**
Sponsor: Shannon Metoxen, Interim Chair/Oneida Election Board
- B. Research Request: Tate-Univ. of Wisconsin/Madison-Contemporary Culture - Review recommendation and determine next steps**
Sponsor: Jo Anne House, Chief Counsel

IX. EXECUTIVE SESSION**A. REPORTS**

- 1. Accept the Gaming General Manager FY-2020 2nd quarter executive report**
Sponsor: Louise Cornelius, Gaming General Manager
- 2. Accept the Intergovernmental Affairs, Communications, and Self-Governance May 13, 2020 report**
Sponsor: Melinda J. Danforth, Director/Intergovernmental Affairs
- 3. Accept the Retail Enterprise FY-2020 2nd quarter executive report**
Sponsor: Eric McLester, Retail General Manager
- 4. Accept the General Manager report**
Sponsor: Debbie Thundercloud, General Manager
- 5. Accept the Chief Counsel report**
Sponsor: Jo Anne House, Chief Counsel

B. TABLED BUSINESS

- 1. Joint Marketing Standard Operating Procedures regarding Tickets & Merchandise Distribution (tabled 4/8/20 – No requested action)**

C. UNFINISHED BUSINESS

- 1. Determine next steps regarding Oneida Golf Enterprise requests**
Sponsor: Eric McLester, Business Compliance Analyst

EXCERPT FROM APRIL 22, 2020: Motion by Lisa Summers to accept the Oneida Golf Enterprise update and defer item #2 of the update to the May 13, 2020, regular Business Committee meeting agenda, seconded by David P. Jordan. Motion carried.

- 2. Accept the Human Resources Area Manager report**
Sponsor: Geraldine Danforth, Area Manager/Human Resources

EXCERPT FROM APRIL 22, 2020: Motion by Lisa Summers to accept the Human Resources Area Manager report as information and defer to the May 13, 2020, regular Business Committee meeting agenda, seconded by Jennifer Webster. Motion carried.

D. NEW BUSINESS

1. **Retro-approve the attorney contract - Hawks Quindel SC - file # 2020-0343**
Sponsor: Jo Anne House, Chief Counsel
2. **Approve the attorney contract - Husch Blackwell LLP - file # 2020-0360**
Sponsor: Jo Anne House, Chief Counsel
3. **Approve the FY 2020 Section 105(l) lease modification and authorize the Chairman to sign - file # 2019-1044, 2019-1045, 2019-1046, 2019-1047**
Sponsor: Jennifer Webster, Councilwoman
4. **Consider request to develop a request for proposal - financial systems**
Sponsor: Trish King, Treasurer
5. **Enter the e-poll results into the record regarding the authorized participation in the Amicus Brief being developed by Hobbs Strauss**
Sponsor: Lisa Summers, Secretary
6. **Enter the e-poll results into the record regarding the approved participation in the Amicus Brief being developed by Hawks Quindel, S.C.**
Sponsor: Lisa Summers, Secretary

X. ADJOURN

Posted on the Oneida Nation's official website, www.oneida-nsn.gov pursuant to the Open Records and Open Meetings law (§ 107.14.)

The meeting packet of the open session materials for this meeting is available by going to the Oneida Nation's official website at: oneida-nsn.gov/government/business-committee/agendas-packets/

For information about this meeting, please call the Business Committee Support Office at (920) 869-4364 or (800) 236-2214

Approve the April 22, 2020, regular Business Committee meeting minutes

Business Committee Agenda Request

1. Meeting Date Requested: 05/13/20

2. General Information:

Session: Open

Executive – must qualify under §107.4-1.

Justification: *Choose reason for Executive.*

3. Supporting Documents:

Contract Document(s)

Legal Review

Resolution

Correspondence

Minutes

Statement of Effect

Fiscal Impact Statement

Report

Travel Documents

Other: *Describe*

4. Budget Information:

Budgeted

Budgeted – Grant Funded

Unbudgeted

Not Applicable

Other: *Describe*

5. Submission:

Authorized Sponsor: Lisa Summers, Secretary

Primary Requestor: _____

Additional Requestor: (Name, Title/Entity)

Additional Requestor: (Name, Title/Entity)

Submitted By: LLIGGINS

DRAFT**Oneida Business Committee**

Regular Meeting
8:30 AM Wednesday, April 22, 2020
BC Conference Room, 2nd floor, Norbert Hill Center

Minutes**EXECUTIVE SESSION**

Present: Chairman Tehassi Hill, Vice-Chairman Brandon Stevens, Treasurer Trish King, Secretary Lisa Summers, Council members: Daniel Guzman King, David P. Jordan, Kirby Metoxen, Ernie Stevens III, Jennifer Webster;

Not Present: n/a

Arrived at: n/a

Others present: Jo Anne House, Larry Barton, Debbie Thundercloud, Melinda J. Danforth, Eric McLester;

REGULAR MEETING

Present: Chairman Tehassi Hill, Vice-Chairman Brandon Stevens, Treasurer Trish King, Secretary Lisa Summers, Council members: Daniel Guzman King, David P. Jordan, Kirby Metoxen, Ernie Stevens III, Jennifer Webster;

Not Present: n/a

Arrived at: n/a

Others present: Jo Anne House, Larry Barton, Debbie Thundercloud, Melinda J. Danforth, Lisa Liggins, Clorissa Santiago;

I. CALL TO ORDER

Meeting called to order by Chairman Tehassi Hill at 8:40 a.m.

II. OPENING (00:00:07)

Opening provided by Councilman Daniel Guzman King.

III. ADOPT THE AGENDA (00:01:28)

Motion by Lisa Summers to adopt the agenda with one (1) change [add item X.A.2. Accept the Human Resources Area Manager report], seconded by Jennifer Webster. Motion carried:

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

DRAFT

IV. MINUTES

- A. Approve the April 8, 2020, regular Business Committee meeting minutes (00:02:21)**
Sponsor: Lisa Summers, Secretary

Motion by David P. Jordan to approve the April 8, 2020, regular Business Committee meeting minutes, seconded by Kirby Metoxen. Motion carried:

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

V. RESOLUTIONS

- A. Adopt resolution entitled Amendments to the Children's Burial Fund Policy (00:02:53)**
Sponsor: David P. Jordan, Councilman

Motion by Jennifer Webster to adopt resolution 04-22-20-A Amendments to the Children's Burial Fund Policy, seconded by Lisa Summers. Motion carried:

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

- B. Enter the e-poll results into the record regarding BC resolution # 04-16-20-A Resolution to Add Coronavirus-Related Distributions to the Nation's 401(k) Plans - file # 2018-1487 (00:05:44)**
Sponsor: Lisa Summers, Secretary

Motion by David P. Jordan to enter the e-poll results into the record regarding BC resolution # 04-16-20-A Resolution to Add Coronavirus-Related Distributions to the Nation's 401(k) Plans - file # 2018-1487, seconded by Kirby Metoxen. Motion carried:

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

DRAFT

VI. STANDING COMMITTEES

A. LEGISLATIVE OPERATING COMMITTEE

1. **Accept the Children's Code Implementation six (6) month review (00:06:32)**
Sponsor: David P. Jordan, Councilman

Motion by Jennifer Webster to accept the Children's Code Implementation six (6) month review and request another review in six (6) months, seconded by Lisa Summers. Motion carried:

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

VII. TABLED BUSINESS

- A. **Update and progress report regarding the implementation procedures for BC resolution # 03-11-20-C 9 (tabled 4/8/20)**

No action; item remains on the table.

VIII. NEW BUSINESS

- A. **Accept the Professional Assessment Duration of COVID-19 Outbreak report (00:15:03)**
Sponsor: Kaylynn Gresham, Director/Emergency Management

Motion by Jennifer Webster to accept the Professional Assessment Duration of COVID-19 Outbreak report, seconded by Lisa Summers. Motion carried:

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

DRAFT**IX. GENERAL TRIBAL COUNCIL****A. Determine next steps for the July 2020 semi-annual General Tribal Council meeting (00:20:33); (00:26:10)**

Sponsor: Lisa Summers, Secretary

Motion by David P. Jordan to defer this item to be addressed after executive session, seconded by Kirby Metoxen. Motion carried:

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

Item X. was addressed next.

Motion by Jennifer Webster to that, in the best interest of public health and safety [in accordance with recommendations from the Professional Assessment Duration of COVID-19 Outbreak report - item VIII.A of today's agenda], the 2020 semi-annual General Tribal Council meeting is delayed until such time it is safe to hold a General Tribal Council meeting, seconded by Brandon Stevens. Motion carried:

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

Motion by Jennifer Webster to direct the Secretary to monitor future alternative dates, noting that any date that is identified is dependant upon the Public Health Officer report update, seconded by Lisa Summers. Motion carried:

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

Motion by Jennifer Webster to request a communication mailing to the membership that would include the appropriate documents [1) the Professional Assessment Duration of COVID-19 Outbreak report; and 2) the legal opinion dated April 22, 2020, regarding Consitutional Meetings; Elections - COVID-19 Pandemic], seconded by Kirby Metoxen. Motion carried:

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

Item XI. was addressed next.

DRAFT

X. EXECUTIVE SESSION (00:22:40)

Motion by David P. Jordan to go into executive session at 9:03 a.m., seconded by Brandon Stevens.
Motion carried:

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

Roll call for the record:

*Present: Councilman Daniel Guzman King; Chairman Tehassi Hill; Councilman David P. Jordan;
Treasurer Trish King; Councilman Kirby Metoxen; Vice-Chairman Brandon Stevens; Councilman
Ernie Stevens III; Secretary Lisa Summers; Councilwoman Jennifer Webster;*

Motion by David P. Jordan to come out of executive session at 11:49 a.m., seconded by Lisa Summers. Motion carried:

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

A. REPORTS

1. Accept the Chief Counsel report (00:23:26)

Sponsor: Jo Anne House, Chief Counsel

Motion by Lisa Summers to accept the Chief Counsel/IGAC report dated April 22, 2020, including the identified follow up on the CARES Act litigation, the coorespondence between the Nation and the State of WI, and the cooperative governance agreement between the Nation and the City of Green Bay, seconded by Ernie Stevens III. Motion carried:

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

Motion by Lisa Summers to accept the legal opinion [dated April 22, 2020] regarding Constitutional Meetings; Elections - COVID-19 Pandemic and to release the opinion to open session under item IX.A. Determine next steps for the July 2020 semi-annual meeting, seconded by Brandon Stevens. Motion carried:

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

B. TABLED BUSINESS

1. Joint Marketing Standard Operating Procedures regarding Tickets & Merchandise Distribution (tabled 4/8/20)

No action; item remains on the table.

DRAFT**C. NEW BUSINESS****1. Determine next steps regarding three (3) items for Oneida Golf Enterprise (00:25:10)**

Sponsor: Eric McLester, Business Compliance Analyst

Motion by Lisa Summers to accept the Oneida Golf Enterprise update and defer item #2 of the update to the May 13, 2020, regular Business Committee meeting agenda, seconded by David P. Jordan.

Motion carried:

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

2. Accept the Human Resources Area Manager report (00:25:35)

Sponsor: Geraldine Danforth, Area Manager/Human Resources

Motion by Lisa Summers to accept the Human Resources Area Manager report as information and defer to the May 13, 2020, regular Business Committee meeting agenda, seconded by Jennifer Webster. Motion carried:

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

Item IX.A. was addressed next.

XI. ADJOURN (00:32:55)

Motion by Daniel Guzman King to adjourn at 11:59 a.m., seconded by Ernie Stevens III. Motion carried:

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

Minutes prepared by Lisa Liggins, Information Management Specialist
Minutes approved as presented on _____.

Lisa Summers, Secretary
ONEIDA BUSINESS COMMITTEE

Approve the May 6, 2020, special Business Committee meeting minutes

Business Committee Agenda Request

1. Meeting Date Requested: 05/11/20

2. General Information:

Session: Open

Executive – must qualify under §107.4-1.

Justification: *Choose reason for Executive.*

3. Supporting Documents:

Contract Document(s)

Legal Review

Resolution

Correspondence

Minutes

Statement of Effect

Fiscal Impact Statement

Report

Travel Documents

Other: *Describe*

4. Budget Information:

Budgeted

Budgeted – Grant Funded

Unbudgeted

Not Applicable

Other: *Describe*

5. Submission:

Authorized Sponsor: Lisa Summers, Secretary

Primary Requestor: _____

Additional Requestor: (Name, Title/Entity)

Additional Requestor: (Name, Title/Entity)

Submitted By: LLIGGINS

DRAFT**Oneida Business Committee**

Special Meeting
1:30 PM Wednesday, May 06, 2020
BC Conference Room, 2nd floor, Norbert Hill Center

Minutes**SPECIAL MEETING**

Present: Chairman Tehassi Hill, Vice-Chairman Brandon Stevens, Treasurer Trish King, Secretary Lisa Summers, Council members: Daniel Guzman King, David P. Jordan, Kirby Metoxen, Ernie Stevens III, Jennifer Webster;

Not Present: n/a

Arrived at: n/a

Others present: Jo Anne House, Larry Barton, Debbie Thundercloud, Lisa Liggins, Ralinda Ninham-Lamberies, Louise Cornelius, Chad Fuss;

I. CALL TO ORDER

Meeting called to order by Chairman Tehassi Hill at 1:40 p.m.

II. OPENING (00:00:15)

Opening provided by Chairman Tehassi Hill.

III. ADOPT THE AGENDA (00:03:48)

Motion by David P. Jordan to adopt the agenda as presented, seconded by Jennifer Webster. Motion carried:

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

IV. RESOLUTIONS**A. Extension of Declaration of Public Health State of Emergency Until June 11, 2020 (00:04:20)**

Sponsor: Tehassi Hill, Chairman

Motion by Lisa Summers to adopt resolution 05-06-20-A Extension of Declaration of Public Health State of Emergency Until June 11, 2020 with two (2) noted changes [1) in line 34, update the figure to reflect today's count; and 2) include language "within Oneida Nation jurisdiction"], seconded by Daniel Guzman King. Motion carried:

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

DRAFT**V. NEW BUSINESS****A. Approve the Gaming operations re-opening date (00:23:47); (00:26:00)**

Sponsor: Louise Cornelius, Gaming General Manager

Motion by Lisa Summers to defer this item until after Executive Session, seconded by Brandon Stevens. Motion carried:

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

Item VI. was addressed next.

Motion by Kirby Metoxen to accept the Gaming operations re-opening safety plans and defer the Gaming operations re-opening date to the May 13, 2020, regular Business Committee meeting agenda, seconded by Daniel Guzman King. Motion carried:

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

Item VII. was addressed next.

VI. EXECUTIVE SESSION (00:24:20)

Motion by David P. Jordan to go into executive session at 2:05 p.m., seconded by Daniel Guzman King. Motion carried:

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

Motion by David P. Jordan to come out of executive session at 4:57 p.m., seconded by Ernie Stevens III. Motion carried:

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

Roll call for the record:

Present: Councilman Daniel Guzman King; Chairman Tehassi Hill; Councilman David P. Jordan; Treasurer Trish King; Councilman Kirby Metoxen; Vice-Chairman Brandon Stevens; Councilman Ernie Stevens III; Secretary Lisa Summers; Councilwoman Jennifer Webster;

A. NEW BUSINESS**1. Review the Gaming operations re-opening plans (00:25:00)**

Sponsor: Louise Cornelius, Gaming General Manager

Motion by Jennifer Webster to accept the discussion regarding the Gaming operations re-opening plans as information, seconded by Brandon Stevens. Motion carried:

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

DRAFT

2. Review the Paycheck Protection Program report/information and determine next steps (00:25:29)

Sponsor: Trish King, Treasurer

Motion by Trish King to accept the discussion regarding the Paycheck Protection Program report/information as information, seconded by David P. Jordan. Motion carried:

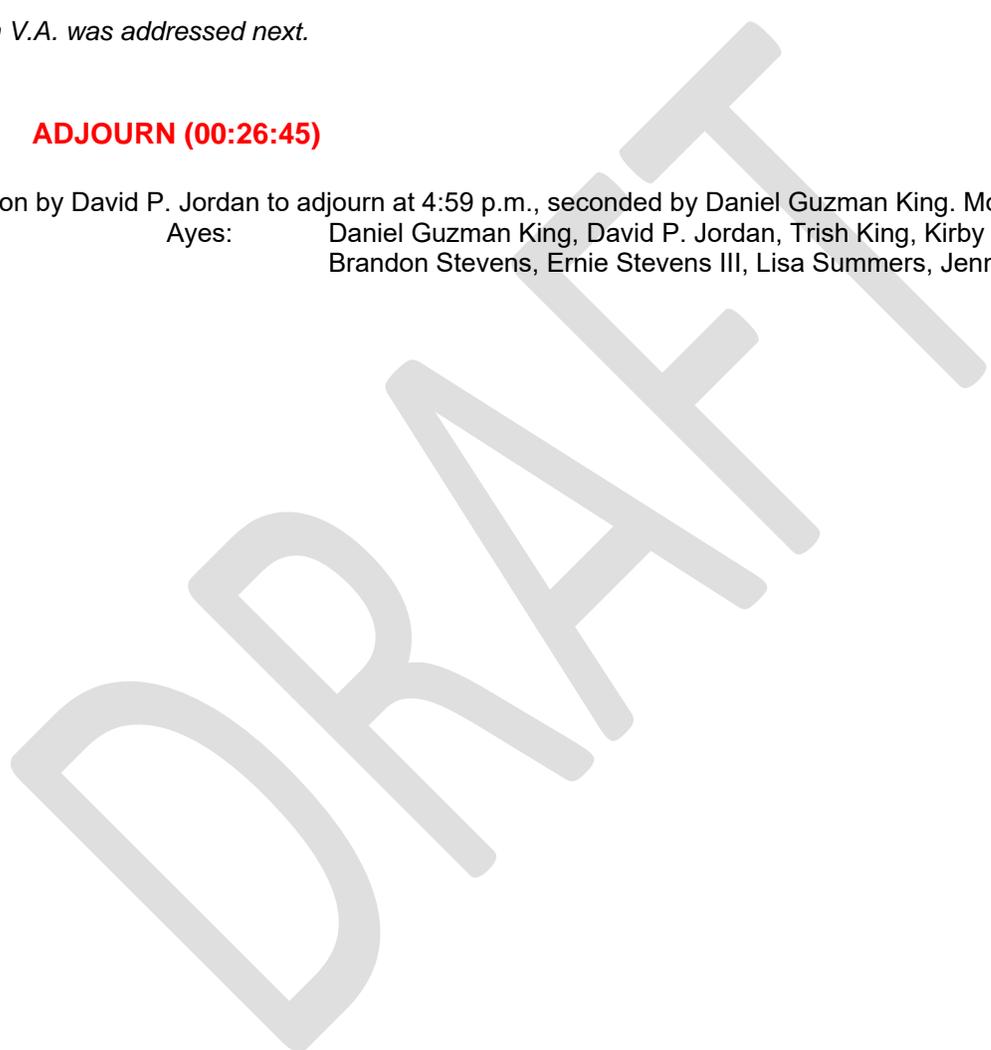
Ayes: Daniel Guzman King, David P. Jordan, Trish King, Kirby Metoxen, Brandon Stevens, Ernie Stevens III, Lisa Summers, Jennifer Webster

Item V.A. was addressed next.

VII. ADJOURN (00:26:45)

Motion by David P. Jordan to adjourn at 4:59 p.m., seconded by Daniel Guzman King. Motion carried:

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



Minutes prepared by Lisa Liggins, Information Management Specialist
Minutes approved as presented on _____.

Lisa Summers, Secretary
ONEIDA BUSINESS COMMITTEE

Oneida Business Committee Agenda Request

Adopt resolution entitled Amendments to the Curfew Law

1. Meeting Date Requested: 5 / 13 / 20

2. General Information:

Session: Open Executive - See instructions for the applicable laws, then choose one:

Agenda Header:

Accept as Information only

Action - please describe:

Adopt the resolution "Amendments to the Curfew Law"

3. Supporting Materials

Report Resolution Contract

Other:

1. <input type="text" value="Adoption Packet"/>	3. <input type="text"/>
2. <input type="text"/>	4. <input type="text"/>

Business Committee signature required

4. Budget Information

Budgeted - Tribal Contribution Budgeted - Grant Funded Unbudgeted

5. Submission

Authorized Sponsor / Liaison:

Primary Requestor/Submitter: Clorissa N. Santiago, LRO Senior Staff Attorney
Your Name, Title / Dept. or Tribal Member

Additional Requestor: _____
Name, Title / Dept.

Additional Requestor: _____
Name, Title / Dept.



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 [D]
 DATE: May 13, 2020
 RE: Curfew Law Amendments

Please find the following attached backup documentation for your consideration of the proposed amendments to the Curfew law:

1. Resolution: Amendments to the Curfew Law
2. Statement of Effect: Amendments to the Curfew Law
3. Curfew Law Amendments Legislative Analysis
4. Curfew Law Amendments (Redline)
5. Curfew Law Amendments (Clean)
6. Curfew Law Fiscal Impact Statement

Overview

On February 5, 2020, the Legislative Operating Committee (LOC) added the Curfew law amendments to its Active Files List upon recommendation by the Oneida Law Office. The purpose of the Curfew law is to protect the health, safety, and welfare of persons and property within the Reservation by regulating the activities of minors on the Reservation during certain hours, while imposing certain obligations and responsibilities upon the parents, guardians, and/or legal custodians of a minor for the control and supervision of that minor. [3 O.C. 308.1-1].

This resolution adopts amendments to the Curfew law which will:

- Remove an incorrect reference to the Nation's territorial jurisdiction as the Nation's territorial jurisdiction is provided by the Constitution and Bylaws of the Oneida Nation and the Nation's Judiciary law; and
- Remove a duplicative provision regarding personal jurisdiction as personal jurisdiction is already provided by the Nation's Judiciary law.

The Legislative Operating Committee developed the proposed amendments to the Curfew law through collaboration with representatives from the Oneida Law Office.

In accordance with the Legislative Procedures Act, a public meeting on the proposed amendments to the Curfew law was scheduled for April 2, 2020. After the public meeting was scheduled, the world was hit with a COVID-19 pandemic resulting in many countries experiencing the effects of health issues and mortality related to COVID-19 and vast economic impacts. On March 12, 2020, Chairman Tehassi Hill signed a "Declaration of Public Health State of Emergency" regarding COVID-19 which declared a Public Health State of Emergency for the Nation until April 12, 2020. This Public Health State of emergency was extended through May 12, 2020, through the adoption

of resolution BC-03-28-20-A. On March 24, 2020, the Nation's COVID-19 Core Decision Making Team issued a "*Safer at Home*" declaration which orders all individuals present within the Oneida Reservation to stay at home or at their place of residence, with certain exceptions allowed. This declaration prohibits all public gatherings of any number of people. Then on March 27, 2020, the Nation's COVID-19 Core Decision Making Team issued a "*Suspension of Public Meetings under the Legislative Procedures Act*" declaration which suspended the Legislative Procedures Act's requirement to hold a public meeting during the public comment period, but allows members of the community to still participate in the legislative process by submitting written comments, questions, data, or input on proposed legislation to the Legislative Operating Committee via e-mail during the public comment period. On March 30, 2020, the Legislative Operating Committee provided additional notice that the April 2, 2020, public meeting was canceled.

Although the April 2, 2020, public meeting for the proposed amendments to the Curfew law was canceled, the public comment period was still held open until April 9, 2020, for the submission of written comments. No written comments were received during the public comment period.

Requested Action

Approve the Resolution: Amendments to the Curfew Law

Oneida Nation

Post Office Box 365

Phone: (920)869-2214

Oneida, WI 54155



BC Resolution # _____ Amendments to the Curfew Law

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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 Curfew law (“the Law”) was adopted by the Oneida Business Committee through resolution BC-10-09-19-F; and

WHEREAS, the purpose of the Law is to protect the health, safety, and welfare of persons and property within the Reservation by regulating the activities of minors on the Reservation during certain hours, while imposing certain obligations and responsibilities upon the parents, guardians, and/or legal custodians of a minor for the control and supervision of that minor; and

WHEREAS, the Legislative Operating Committee worked collaboratively with representatives from the Oneida Law Office to develop the amendments to this Law; and

WHEREAS, the amendments to the Law remove an incorrect reference to the Nation’s territorial jurisdiction, as the Nation’s territorial jurisdiction is provided by the Constitution and Bylaws of the Oneida Nation and the Nation’s Judiciary law; and

WHEREAS, the amendments to the Law remove a duplicative provision regarding personal jurisdiction as personal jurisdiction is already provided by the Nation’s Judiciary law; and

WHEREAS, in accordance with the Legislative Procedures Act a legislative analysis and fiscal impact statement were completed for the amendments to the Law; and

WHEREAS, a public meeting on the proposed amendments to this Law was scheduled for April 2, 2020, in accordance with the Legislative Procedures Act, with the public comment period set to be held open until April 9, 2020; and

WHEREAS, after the public meeting was scheduled, the world was hit with a COVID-19 pandemic resulting in many countries experiencing the effects of health issues and mortality related to COVID-19 and vast economic impacts; and

WHEREAS, on March 12, 2020, Chairman Tehassi Hill signed a “*Declaration of Public Health State of Emergency*” regarding COVID-19 which declared a Public Health State of Emergency for

43 the Nation until April 12, 2020, which was then extended through May 12, 2020, through
44 the adoption of resolution BC-03-28-20-A; and
45

46 **WHEREAS,** on March 24, 2020, the Nation's COVID-19 Core Decision Making Team issued a "*Safer*
47 *at Home*" declaration which prohibits all public gatherings of any number of people and
48 orders all individuals present within the Oneida Reservation to stay at home or at their
49 place of residence, with certain exceptions allowed; and
50

51 **WHEREAS,** on March 27, 2020, the Nation's COVID-19 Core Decision Making Team issued a
52 "*Suspension of Public Meetings under the Legislative Procedures Act*" declaration which
53 suspended the Legislative Procedures Act's requirement to hold a public meeting during
54 the public comment period, but allows members of the community to still participate in the
55 legislative process by submitting written comments, questions, data, or input on proposed
56 legislation to the Legislative Operating Committee via e-mail during the public comment
57 period; and
58

59 **WHEREAS,** on March 30, 2020, the Legislative Operating Committee provided additional notice that
60 the April 2, 2020, public meeting was canceled; and
61

62 **WHEREAS,** although the April 2, 2020, public meeting was canceled, the public comment period was
63 still held open until April 9, 2020; and
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65 **NOW THEREFORE BE IT RESOLVED,** that the amendments to the Curfew law are hereby adopted and
66 shall be effective on May 29, 2020.



Statement of Effect
Amendments to the Curfew Law

Summary

This resolution adopts amendments to the Curfew law which remove an erroneous reference to the Nation's territorial jurisdiction and remove a duplicative reference to personal jurisdiction.

Submitted by: Clorissa N. Santiago, Senior Staff Attorney, Legislative Reference Office
Date: May 4, 2020

Analysis by the Legislative Reference Office

The Curfew law was adopted by the Oneida Business Committee for the purpose of protecting the health, safety, and welfare of persons and property within the Reservation by regulating the activities of minors on the Reservation during certain hours, while imposing certain obligations and responsibilities upon the parents, guardians, and/or legal custodians of a minor for the control and supervision of that minor. [3 O.C. 308.1-1]

This resolution seeks amendments to the Curfew law which will:

- Remove an incorrect reference to the Nation's territorial jurisdiction, as the Nation's territorial jurisdiction is provided by the Constitution and Bylaws of the Oneida Nation and the Nation's Judiciary law; and
- Remove a duplicative provision regarding personal jurisdiction as personal jurisdiction is already provided by the Nation's Judiciary law.

The Legislative Procedures Act ("the LPA") was adopted by the General Tribal Council for the purpose of providing a process for the adoption or amendment of laws of the Nation. [1 O.C. 109.1-1]. The LPA requires that for all proposed legislation both a legislative and fiscal analysis be developed. [1 O.C. 109.6 and 109.7]. The proposed amendments to the Curfew law comply with these requirements.

The LPA also requires that there be an opportunity for public review during a public meeting and public comment period. [1 O.C. 109.8]. In accordance with the LPA, a public meeting on the proposed amendments to the Curfew law was scheduled for April 2, 2020, with the public comment period set to be held open until April 9, 2020.

After the public meeting was scheduled, the world was hit with a COVID-19 pandemic resulting in many countries experiencing the effects of health issues and mortality related to COVID-19 and vast economic impacts. In accordance with the Emergency Management and Homeland Security law, on March 12, 2020, Chairman Tehassi Hill signed a "Declaration of Public Health State of Emergency" regarding COVID-19 which declared a Public Health State of Emergency for the Nation until April 12, 2020. [3 O.C. 302.8-1].

On March 17, 2020, the Oneida Business Committee adopted emergency amendments to the Emergency Management and Homeland Security law to create and delegate authority to a COVID-19 Core Decision Making Team (“COVID-19 Team”). [3 O.C. 302.10]. When a public health emergency has been declared, the COVID-19 Team has the authority to declare exceptions to the Nation’s laws, policies, procedures, regulations, or standard operating procedures during the emergency period which will be of immediate impact for the purposes of protecting the health safety, and general welfare of the Nation’s community, members, and employees. [3 O.C. 302.10-2]. These declarations remain in effect for the duration of the Public Health State of Emergency. [3 O.C. 302.10-3].

On March 24, 2020, the Nation’s COVID-19 Team made a “*Safer at Home*” declaration which prohibits all public gatherings of any number of people and orders all individuals present within the Oneida Reservation to stay at home or at their place of residence, with certain exceptions allowed.

Then on March 27, 2020, the Nation’s COVID-19 Core Decision Making Team issued a “*Suspension of Public Meetings under the Legislative Procedures Act*” declaration which suspended the Legislative Procedures Act's requirement to hold a public meeting during the public comment period, but allows members of the community to still participate in the legislative process by submitting written comments, questions, data, or input on proposed legislation to the Legislative Operating Committee via e-mail during the public comment period.

On March 28, 2020, the Oneida Business Committee took action to extend the Public Health State of Emergency through May 12, 2020, through the adoption of resolution BC-03-28-20-A.

On March 30, 2020, the Legislative Operating Committee provided additional notice that the April 2, 2020, public meeting was canceled. Although the April 2, 2020, public meeting for the Curfew law amendments was canceled, the public comment period was still held open until April 9, 2020.

Adoption of this resolution complies with the process and procedures of the LPA as it has been modified by the COVID-19 Team’s “*Suspension of Public Meetings under the Legislative Procedures Act*” declaration.

This resolution provides that the amendments to the Curfew law would become effective on May 29, 2020, in accordance with the LPA. [1 O.C. 109.9-3].

Conclusion

Adoption of this resolution would not conflict with any of the Nation’s laws. Adoption of this resolution complies with the Legislative Procedures Act as it has been modified by the COVID-19 Core Decision Making Team’s “*Suspension of Public Meetings under the Legislative Procedures Act*” declaration.



AMENDMENTS TO CURFEW LAW LEGISLATIVE ANALYSIS

SECTION 1. EXECUTIVE SUMMARY

<i>Analysis by the Legislative Reference Office</i>	
Intent of the Amendments	<ul style="list-style-type: none"> ▪ Remove an incorrect reference to the Nation’s territorial jurisdiction as the Nation’s territorial jurisdiction is provided by the Constitution and Bylaws of the Oneida Nation and the Nation’s Judiciary law; and ▪ Remove a duplicative provision regarding personal jurisdiction as personal jurisdiction is already provided by the Nation’s Judiciary law.
Purpose	To protect the health, safety, and welfare of persons and property within the Reservation by regulating the activities of minors on the Reservation during certain hours, while imposing certain obligations and responsibilities upon the parents, guardians, and/or legal custodians of a minor for the control and supervision of that minor [3 O.C. 308.1-1].
Affected Entities	Oneida Police Department and Oneida Family Court
Related Legislation	Judiciary law, Citations law
Public Meeting	Although the April 2, 2020, public meeting was canceled due to the Nation’s COVID-19 Core Decision Making Team’s declaration titled, “ <i>Suspension of Public Meetings under the Legislative Procedures Act,</i> ” the public comment period was still held open until April 9, 2020.
Fiscal Impact	A fiscal impact statement was provided by the Finance Department on April 27, 2020.

SECTION 2. LEGISLATIVE DEVELOPMENT

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2 **A. Background.** The Curfew law was first adopted by the Oneida Business Committee on October 9,
3 2019, for the purpose of protecting the health, safety, and welfare of persons and property within the
4 Reservation by regulating the activities of minors on the Reservation during certain hours, while
5 imposing certain obligations and responsibilities upon the parents, guardians, and/or legal custodians
6 of a minor for the control and supervision of that minor. [3 O.C. 308.1-1].
- 7 **B.** Upon a review of the Nation’s Code of Laws, the Oneida Law Office and Legislative Operating
8 Committee (LOC) identified references to the Nation’s jurisdiction that were either inaccurate or
9 duplicative. In consultation with the Oneida Law Office, the LOC proposes technical amendments to
10 the Curfew law to remove these inaccurate or unnecessary references. The intent of these changes is
11 not to alter how the Curfew law is currently being enforced, but to ensure that all references to
12 jurisdiction in the Nation’s Code of Laws are accurate.

SECTION 3. CONSULTATION AND OUTREACH

- 14 **A.** Representatives from the following departments or entities participated in the development of this law
15 and legislative analysis: Oneida Law Office.
- 16 **B.** The following laws were reviewed in the drafting of this analysis: Judiciary law, Domestic Animals
17 law, Oneida Nation Gaming Ordinance, Tribal Environmental Response law, Judiciary Rules of
18 Evidence, and Citations law.

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SECTION 4. PROCESS

- A. The amendments to this law have followed the process set forth in the Legislative Procedures Act.
- The LOC added the amendments to the Active Files List on February 5, 2020.
 - A public meeting was scheduled for April 2, 2020.
 - On March 27, 2020, the Nation’s COVID-19 Core Decision Making Team issued a “*Suspension of Public Meetings under the Legislative Procedures Act*” declaration which suspended the Legislative Procedures Act’s requirement to hold a public meeting during the public comment period.
 - The public comment period for the amendments to the Curfew law was held open until April 9, 2020.
 - A fiscal impact statement was provided by the Finance Department on April 27, 2020.
- B. At the time this legislative analysis was developed the following work meetings had been held regarding the development of these amendments:
- February 19, 2020: LOC work meeting.
 - April 15, 2020: LOC work meeting.
 - April 23, 2020: LOC work meeting.
- C. **COVID-19 Pandemic’s Effect on the Legislative Process.** The public meeting for the proposed amendments to this law was canceled due to the COVID-19 pandemic.
- On March 4, 2020, the Legislative Operating Committee approved the public meeting packet and forwarded the Curfew law amendments to a public meeting to be held on April 2, 2020. The public comment period was scheduled to remain open until April 9, 2020.
 - After the public meeting was scheduled, the world was hit with a COVID-19 pandemic resulting in many countries experiencing the effects of health issues and mortality related to COVID-19 and vast economic impacts.
 - On March 12, 2020, Chairman Tehassi Hill signed a “*Declaration of Public Health State of Emergency*” regarding COVID-19 which declared a Public Health State of Emergency for the Nation until April 12, 2020, and set into place the necessary authority for action to be taken and allows the Nation to seek reimbursement of emergency management actions that may result in unexpected expenses.
 - On March 24, 2020, the Nation’s COVID-19 Core Decision Making Team issued a “*Safer at Home*” declaration which orders all individuals present within the Oneida Reservation to stay at home or at their place of residence, with certain exceptions allowed. This declaration prohibits all public gatherings of any number of people.
 - Then on March 27, 2020, the Nation’s COVID-19 Core Decision Making Team issued a “*Suspension of Public Meetings under the Legislative Procedures Act*” declaration which suspended the Legislative Procedures Act’s requirement to hold a public meeting during the public comment period, but allows members of the community to still participate in the legislative process by submitting written comments, questions, data, or input on proposed legislation to the Legislative Operating Committee via e-mail during the public comment period.
 - On March 28, 2020 the Oneida Business Committee adopted resolution BC-03-28-20-A titled, “*Extension of March 12th Declaration of Public Health State of Emergency*” which extended the Nation’s Public Health State of Emergency declaration until May 12, 2020.
 - On March 30, 2020, the Legislative Operating Committee provided additional notice that the April 2, 2020, public meeting was canceled.
 - The public comment period was still held open until April 9, 2020. No written comments were received during the public comment period.

SECTION 5. CONTENTS OF THE LEGISLATION

- 70 **A. Deletion of Territorial Jurisdiction Section.** These amendments delete an incorrect reference to the
 71 Nation’s territorial jurisdiction for this law. The Curfew law incorrectly states that the territorial
 72 jurisdiction of this law is limited to land owned by the Nation or individual trust and/or fee land of a
 73 member of the Nation.
- 74 ■ *Territorial Jurisdiction.* The Nation’s territorial jurisdiction is properly defined in the Constitution
 75 and Bylaws of the Oneida Nation and the Nation’s Judiciary law (see below).
 - 76 ■ *Conclusion.* Since the reference included in the Curfew law is inaccurate, unnecessary and already
 77 located in the Nation’s Constitution and Judiciary law, it has been deleted for clarity.

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79 **Table 1. Comparison: Territorial Jurisdiction as Referenced in Constitution and Laws of the Nation.**

<i>Deleted Language in Current Curfew law</i>	<i>Language in Constitution of the Oneida Nation</i>	<i>Language in Judiciary law</i>
This law extends <u>within the Reservation to all land owned by the Nation and individual trust and/or fee land of a member of the Nation</u> [3 O.C. 308.4-3].	The jurisdiction of the Oneida Nation shall extend <u>to the territory within the present confines of the Oneida Reservation</u> and to such other lands as may be hereafter added thereto within or without said boundary lines under any law of the United States, except as otherwise provided by law [Article 1 – Territory]	“The territorial jurisdiction of the Trial Court shall extend to the Reservation and all lands held in trust by the United States for the benefit of the Tribe within the State of Wisconsin.” [8 O.C. 801.5-3].

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81 **B. Deletion of Personal Jurisdiction Section.** These amendments also delete references to the Nation’s
 82 personal jurisdiction from this law. The personal jurisdiction of the Nation is already provided for in
 83 the Nation’s Judiciary law.
- 84 ■ *Personal Jurisdiction.* The Judiciary law already clarifies that the Nation has personal jurisdiction
 85 over members of the Oneida Nation, members of other federally-recognized Indian tribes, and any
 86 “non-Indians” who have consented to the jurisdiction of the Nation (examples include a contract
 87 or lease agreement.)
 - 88 ■ *Conclusion.* Since the Nation’s personal jurisdiction is already provided for in the Judiciary law, it
 89 has been deleted from this law for clarity.

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91 **Table 2. Comparison: Personal Jurisdiction in laws of the Nation.**

<i>Deleted Language in Current Curfew law</i>	<i>Language in Judiciary law</i>
<i>Personal Jurisdiction.</i> This law applies to: (a) All members of the Nation; the Nation’s entities and corporations; and members of other federally-recognized tribes; (b) Individuals and businesses leasing, occupying or otherwise using fee land owned by the Nation or by individual members of the Nation; and/or lands held in trust on behalf of the Nation or individual members of the Nation; and (c) Individuals who have consented to the jurisdiction of the Nation or as otherwise consistent with federal law. An individual	<i>Personal Jurisdiction</i> (a) Indians. The Trial Court shall have jurisdiction over all Indians. 8 O.C. 801 – Page 5 (b) Non-Indians. The Trial Court shall have jurisdiction over non-Indians who have consented to the jurisdiction of the Tribe or Trial Court or as otherwise consistent with federal law. (1) Consent to Jurisdiction. For purposes of subsection 801.5-4(b) above, a person shall have consented to the jurisdiction of the Trial Court by: (A) entering into a consensual relationship with the Tribe,

<p>shall be considered to have consented to the jurisdiction of the Nation:</p> <p>(1) By entering into a consensual relationship with the Nation, or with the Nation’s entities, corporations, or members of the Nation, including but not limited to contracts or other agreements; or</p> <p>(2) By other facts which manifest an intent to consent to the authority of the Nation, including failure to raise an objection to the exercise of personal jurisdiction in a timely manner. [3 O.C. 304.4-1].</p>	<p>Tribal entities, Tribal corporations, or Tribal members, including but not limited to contracts or other agreements; or</p> <p>(B) other facts which the Trial Court determines manifest an intent to consent to the authority of the Tribe or the jurisdiction of the Trial Court, including failure to raise an objection to the exercise of personal jurisdiction in a timely manner. [8 O.C. 801.5-4].</p>
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SECTION 6. EXISTING LEGISLATION

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A. *References to Territorial Jurisdiction in Other Oneida laws.* The following laws of the Nation also include references to the Nation’s territorial jurisdiction:

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- *Domestic Animals law.* The Domestic Animals law provides that “This law extends within the Reservation to all land owned by the Nation and individual trust and/or fee land of a member of the Nation.” [3 O.C. 304.4-2].

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- The reference to territorial jurisdiction in the Domestic Animals law is similar to the provision that was included in this Law, and therefore is also erroneous. The LOC has added the Domestic Animals law to its Active Files List for amendments to address this issue.

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- *Judiciary law.* The Judiciary law provides “The territorial jurisdiction of the Trial Court shall extend to the Reservation and all lands held in trust by the United States for the benefit of the Tribe within the State of Wisconsin.” [8 O.C. 801.5-3].

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- The reference to territorial jurisdiction in the Judiciary law is correct and no amendments are necessary.

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- *Oneida Nation Gaming Ordinance.* The Oneida Nation Gaming Ordinance provides “This Ordinance extends to all land within the exterior boundaries of the Reservation of the Tribe, as established pursuant to the 1838 Treaty with the Oneida, 7 Stat. 566, and any lands added thereto pursuant to federal law.” [5 O.C. 501.3-1].

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- The reference to territorial jurisdiction in the Oneida Nation Gaming Ordinance is correct and no amendments are necessary.

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- *Tribal Environmental Response law.* The Tribal Environmental Response law provides “This law extends to all land within the exterior boundaries of the Reservation of the Nation, as established pursuant to the 1838 Treaty with the Oneida, 7 Stat. 566, any lands added thereto pursuant to federal law and all lands held in trust for the Nation within the State of Wisconsin.” [4 O.C. 401.4-2].

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- The reference to territorial jurisdiction in the Tribal Environmental Response law is correct and no amendments are necessary.

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- *Judiciary Rules of Evidence law.* The Judiciary Rules of Evidence provides that “ The Court may judicially notice a fact that shall not subject to reasonable dispute because it: (a) is generally known within the Court’s territorial jurisdiction; or (b) may be accurately and readily determined from sources whose accuracy cannot reasonably be questioned.” [8 O.C. 804.5-2(a)].

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- The reference to territorial jurisdiction in the Judiciary Rules of Evidence is correct and no amendments are necessary.

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- 126 **B. *References to other Laws of the Nation.*** The following laws of the Nation are referenced in this Law:
 127 ▪ *Citations law.* This Law provides that a citation for a violation of this Law shall be processed in
 128 accordance with the procedure contained in the Nation’s laws and policies governing citations. [3
 129 *O.C. 308.6-3(b)*].
- 130 ▪ The Citations law is the Nation’s law governing citations. The Citations law provides how
 131 a citation action is started – such as who has the authority to issue a citation, the
 132 requirements of the form of the citation, and how a citation is served and filed; stipulations
 133 for the settlement of a citation; and the citation hearing procedures. [8 *O.C. 807*].
 - 134 ▪ Any citations issued by the Oneida Police Department for a violation of this Law must
 135 comply with the requirements and procedures of the Citations law.
- 136 ▪ *Hunting, Fishing and Trapping law.* This Law provide that a minor shall not be in violation of the
 137 curfew, if at the time of the alleged violation the minor was engaged in hunting, fishing, or trapping
 138 in accordance with the laws, policies, and rules of the Nation. [3 *O.C. 308.5-3(g)*].
- 139 ▪ The Hunting, Fishing and Trapping law provides an adequate and flexible system for the
 140 protection, management, supervision, conservation, and enhancement of all wildlife and
 141 natural resources on the reservation; as well as an enforceable system of licensing and
 142 permitting which establishes clear rules pursuant to the Administrative Rulemaking law
 143 related to hunting, fishing and trapping, and associated fines and penalties for violations of
 144 this law and the said rules. [4 *O.C. 406.1-1*].
 - 145 ▪ A minor must be following all provisions of the Hunting, Fishing and Trapping law and
 146 accompanying rules in order to receive the exemption for breaking curfew hours.

147 **SECTION 7. ENFORCEMENT AND ACCOUNTABILITY**

- 149 **A. *Enforcement.*** The Oneida Police Department is delegated the authority to enforce violations of curfew.
 150 [3 *O.C. 308.6-1*]. The Oneida Police Department can issue warnings and citations for violations of this
 151 Law. [3 *O.C. 308.6-1*].
- 152 **B. *Accountability.*** A minor and/or his or her parents, guardians, or legal custodians can be held
 153 accountable by the Family Court for violations of curfew by the issuance of the following penalties:
- 154 ▪ Fines;
 - 155 ▪ Community service;
 - 156 ▪ Participation in family counseling and/or parenting programs; and
 - 157 ▪ Any other penalty as deemed appropriate by the Family Court. [3 *O.C. 308.7-1(a)-(d)*].
- 158 **C. *Fine and Penalty Schedule Resolution.*** The Oneida Business Committee adopted a Curfew Law
 159 Penalty and Fine Schedule through resolution BC-10-09-19-G. This resolution sets forth specific fine
 160 amounts to be used by the Family Court if it is determined that a fine is the most appropriate penalty.
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162 **SECTION 8. OTHER CONSIDERATIONS**

- 163 **A. *Fiscal Impact.*** A fiscal impact statement was provided by the Finance Department on April 27, 2020.
- 164 ▪ Under the Legislative Procedures Act, a fiscal impact statement is required for all legislation except
 165 emergency legislation [1 *O.C. 109.6-1*].
 - 166 ▪ A fiscal impact statement shall be submitted by agencies as directed by the Legislative Operating
 167 Committee and may be prepared by any agency who may receive funding if the legislation is
 168 enacted; who may administer a program if the legislation is enacted; who may have financial
 169 information concerning the subject matter of the legislation; or by the Finance Office, upon request
 170 of the Legislative Operating Committee [1 *O.C. 109.6-1(a) and (b)*].

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Title 3. Health and Public Safety - Chapter 308

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We'll put our arms across to stop them

CURFEW

308.1. Purpose and Policy

308.2. Adoption, Amendment, Repeal

308.3. Definitions

308.4. Jurisdiction

308.5. Curfew

308.6. Enforcement of Curfew Violations

308.7. Penalties of Curfew Violations

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308.1. Purpose and Policy

308.1-1. *Purpose.* The purpose of this law is to protect the health, safety, and welfare of persons and property within the Reservation by regulating the activities of minors on the Reservation during certain hours, while imposing certain obligations and responsibilities upon the parents, guardians, and/or legal custodians of a minor for the control and supervision of that minor.

308.1-2. *Policy.* It is the policy of the Nation to support all drug use prevention initiatives of the Nation by protecting the health, safety, and welfare of persons through the establishment of a curfew for minors in public spaces within the Reservation during certain hours in an effort to minimize the opportunity for harm to come to minors during those hours.

308.2. Adoption, Amendment, Repeal

308.2-1. This law was adopted by the Oneida Business Committee by resolution BC-10-09-19-F₂ and amended by resolution BC- - - - .

308.2-2. This law may be amended or repealed by the Oneida Business Committee and/or General Tribal Council pursuant to the procedures set out in the Legislative Procedures Act.

308.2-3. 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.

308.2-4. 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.

308.2-5. This law is adopted under authority of the Constitution of the Oneida Nation.

308.3. Definitions

308.3-1. 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.

(a) "Court of Appeals" means the branch of the Nation's Judiciary delegated the authority of final appeal within the Nation's Judiciary, as authorized by Oneida General Tribal Council resolution GTC-03-19-17-A .

(b) "Family Court" means the branch of the Nation's Judiciary delegated the authority to administer the judicial authorities and responsibilities of the Nation related to the family and/or children, as authorized by Oneida General Tribal Council resolution GTC-03-19-17-A.

(c) "Guardian" means the person, department, and/or agency appointed the duty and authority of guardianship of a child by a Court for the purpose of managing and caring for the child. A guardian has the right to make major decisions affecting a child including education, religious and cultural upbringing, the right to consent to marriage, to enlistment

38 in the armed forces, to major surgery and medical treatment and to adoption, or make
39 recommendations as to adoption.

40 (d) “Legal custodian” means any person, department, and/or agency, other than a parent
41 or guardian, to whom legal custody of a child has been granted by Court order and has the
42 rights and responsibilities for the following:

43 (1) To have physical custody of the child as determined by the Court, if physical
44 custody is not with the person having legal custody;

45 (2) To protect, educate and discipline the child so long as it is in the child’s best
46 interest; and

47 (3) To provide the child with adequate food, shelter, education, ordinary medical
48 care and other basic needs, according to court order. In an emergency situation, a
49 custodian shall have the authority to consent to surgery as well as any other
50 emergency medical care needs.

51 (e) “Member of the Nation” means an individual enrolled in the Oneida Nation.

52 (f) “Minor” means a person age sixteen (16) years old or younger.

53 (g) “Nation” means the Oneida Nation.

54 (h) “Parent” means the biological or adoptive parent of a child.

55 (j) “Public space” means any public streets, highways, roads, alleys, parks, vacant lots, or
56 any public lands.

57 (j) “Relative” means any person connected with a child by blood, marriage or adoption.

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

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62 **308.4. Jurisdiction**

63 304.4-1. *Jurisdiction of the Court.* The Family Court has jurisdiction over any action brought
64 under this law.

65 ~~308.4-2. *Personal Jurisdiction.* This law applies to:~~

66 ~~(a) All members of the Nation, individuals eligible for enrollment in the Nation, and~~
67 ~~members of other federally recognized tribes.~~

68 ~~(b) Individuals leasing, occupying or otherwise using fee land owned by the Nation or by~~
69 ~~individual members of the Nation; and/or lands held in trust on behalf of the Nation or~~
70 ~~individual members of the Nation.~~

71 ~~(c) Individuals who have consented to the jurisdiction of the Nation or as otherwise~~
72 ~~consistent with federal law. An individual shall be considered to have consented to the~~
73 ~~jurisdiction of the Nation:~~

74 ~~(1) By entering into a consensual relationship with the Nation, or with the Nation’s~~
75 ~~entities, corporations, or members of the Nation, including but not limited to~~
76 ~~contracts or other agreements; or~~

77 ~~(2) By other facts which manifest an intent to consent to the authority of the Nation,~~
78 ~~including failure to raise an objection to the exercise of personal jurisdiction in a~~
79 ~~timely manner.~~

80 ~~308.4-3. *Territorial Jurisdiction.* This law extends within the Reservation to all land owned by~~
81 ~~the Nation and individual trust and/or fee land of a member of the Nation.~~

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83 308.5. Curfew

84 308.5-1. *Curfew Established.* No minor shall be on any public space either on foot or in any
85 vehicle driven or parked, between the hours of 10:00 p.m. and 6:00 a.m. within the boundaries of
86 the Reservation, unless the minor is accompanied by a parent, guardian, or legal custodian.

87 308.5-2. *Parental Responsibility.* No parent, guardian, or legal custodian shall knowingly permit
88 or fail to take action to prevent the minor from being on any public space either on foot or in any
89 vehicle driven or parked, between the hours of 10:00 p.m. and 6:00 a.m. within the boundaries of
90 the Reservation.

91 308.5-3. *Exemptions to Curfew.* A minor shall not be in violation of the curfew, if at the time of
92 the alleged violation the minor was:

- 93 (a) in the performance of a duty directed by such parent, guardian, or legal custodian;
- 94 (b) engaged in employment or an employment related activity, or traveling to or returning
95 home from employment;
- 96 (c) engaged in interstate travel;
- 97 (d) attending an educational, cultural, religious, or recreational activity that was supervised
98 by adults, or traveling to or returning home from such activity;
- 99 (e) on the sidewalk in front of his or her home or an adjacent home;
- 100 (f) going to, attending, or returning home from a movie theatre;
- 101 (g) engaged in hunting, fishing, or trapping in accordance with the laws, policies, and rules
102 of the Nation;
- 103 (h) exercising rights protected by the Nation's Constitution and the United States
104 Constitution, such as free exercise of religion, freedom of speech, and the right of
105 assembly;
- 106 (i) involved in an emergency situation; and/or
- 107 (j) engaged in any other activity as deemed appropriate by the Oneida Police Department
108 officer.

109 308.6. Enforcement of Curfew Violations

110 308.6-1. *Enforcement Procedure.* A suspected violation of curfew shall be enforced by the Oneida
111 Police Department in the following ways:

- 112 (a) A minor who is suspected of violating curfew may be stopped by an Oneida Police
113 Department officer. No person shall assault, obstruct or flee from any Oneida Police
114 Department officer enforcing or attempting to enforce the provisions of this law.
- 115 (b) The Oneida Police Department officer shall ask the minor's name, age, and reason for
116 violating curfew. The minor shall provide the Oneida Police Department officer
117 identification if available. No person shall falsely represent his or her name or age to an
118 Oneida Police Department officer.
- 119 (c) If the Oneida Police Department officer reasonably believes based on the totality of the
120 circumstances that a violation of curfew has occurred and not one of the exemptions in
121 section 308.5-3 apply, the Oneida Police Department officer may take custody of the minor
122 for the purpose of returning such minor to the care and custody of a parent, guardian, or
123 legal custodian.
- 124 (d) Once the Oneida Police Department officer has taken the minor into his or her custody,
125 the minor shall provide the Oneida Police Department officer with contact information for
126 his or her parent, guardian, or legal custodian. The Oneida Police Department officer shall
127 contact the minor's parent, guardian, or legal custodian to come and pick up the minor and
128 take the minor into his or her care and custody. If the minor's parent, guardian, or legal
129

130 custodian is unable to pick the minor up, then the Oneida Police Department officer may
131 bring the minor home to release the minor to the custody and care of the minor's parent,
132 guardian, or legal custodian.

133 (e) If the Oneida Police Department officer is unable to contact the minor's parent,
134 guardian, or legal custodian after reasonable efforts are made, the Oneida Police
135 Department officer shall attempt to locate an adult relative or other responsible adult
136 willing and able to accept the care and custody of the minor, and may release the minor
137 into the care and custody of such person.

138 308.6-2. *Warning.* The first time a minor is held in custody by an Oneida Police Department
139 officer for a curfew violation the Oneida Police Department officer shall provide the minor and
140 the minor's parent, guardian, or legal custodian a warning and advise the minor and parent,
141 guardian, or legal custodian of the provisions of this law and that any subsequent curfew violations
142 may result in the issuance of a citation and the imposition of a penalty.

143 308.6-3. *Issuance of a Citation.* Any subsequent time a minor is held in custody by an Oneida
144 Police Department officer for a curfew violation the Oneida Police Department officer may issue
145 a citation to the minor and the minor's parent, guardian, or legal custodian.

146 (a) A citation for a violation of this law and/or any orders issued pursuant to this law may
147 include fines and other penalties, as well as conditional orders made by the Family Court.

148 (b) A citation for a violation of this law shall be processed in accordance with the
149 procedure contained in the Nation's laws and policies governing citations.

150 (c) All citations for violations of this law require a mandatory appearance at the citation
151 pre-hearing by the minor and his or her parent, guardian, or legal custodian.

152

153 **308.7. Penalties of Curfew Violations**

154 308.7-1. Upon a finding by the Family Court that a violation of this law has occurred, the minor
155 and/or the minor's parent, guardian, or legal custodian may be subject to the following penalties:

156 (a) *Fines.* An individual may be ordered to pay a fine as a result of a violation of this law.
157 The Oneida Business Committee shall hereby be delegated the authority to adopt through
158 resolution a fine schedule which sets forth specific fine amounts for violations of this law.

159 (1) All fines shall be paid to the Judiciary.

160 (2) Fines shall be paid within ninety (90) days after the order is issued or upheld
161 on final appeal, whichever is later.

162 (A) The ninety (90) day deadline for payment of fines may be extended if
163 an alternative payment plan is approved by the Family Court.

164 (3) If an individual does not pay his or her fine the Family Court may seek to collect
165 the money owed through the Nation's garnishment and/or per capita attachment
166 process or any other collection process available to the Family Court.

167 (4) Community service may be substituted for part or all of any fine at the minimum
168 wage rate of the Nation for each hour of community service.

169 (b) *Community service.* An individual may be ordered to perform community service.
170 Community service can be used in lieu of, or in addition to, a fine.

171 (1) All community service assignments shall be approved by the Family Court.

172 The Family Court shall give preference to culturally relevant community service
173 assignments and/or community service assignments that focus on the betterment of
174 the individual's community.

175 (2) The Family Court shall provide the individual a written statement of the terms
176 of the community service order, and a statement that the community service order
177 is monitored.

178 (3) The Family Court’s community service order shall specify:
179 (A) how many hours of community service the individual is required to
180 complete;
181 (B) the time frame in which the hours shall be completed;
182 (C) how the individual shall obtain approval for his or her community
183 service assignment;
184 (D) how the individual shall report his or her hours; and
185 (E) any other information the Family Court determines is relevant.

186 (c) *Family counseling and/or parenting programs.* An individual may be ordered to
187 participate in a family counseling and/or a parenting program.

188 (d) Any other penalty as deemed appropriate by the Family Court.

189 308.7-2. *Staying a Curfew Penalty.* The Family Court may stay the enforcement of a penalty
190 issued as a result of a curfew violation for a period of time to be determined by the Family Court.
191 If the individual maintains compliance with the law during the time period in which the penalty is
192 stayed, then the Family Court may dismiss the citation. If the individual commits another violation
193 of the law during the time period in which the penalty is stayed, then the penalty shall go into
194 effect.

195
196 *End.*

198 Adopted – BC-10-09-19-F

199 Amended – BC- - - -

Title 3. Health and Public Safety - Chapter 308

T<yethin<tshaw^=late> Kayanl^sla>

We'll put our arms across to stop them

CURFEW

308.1. Purpose and Policy

308.2. Adoption, Amendment, Repeal

308.3. Definitions

308.4. Jurisdiction

308.5. Curfew

308.6. Enforcement of Curfew Violations

308.7. Penalties of Curfew Violations

1
2 **308.1. Purpose and Policy**
3 308.1-1. *Purpose.* The purpose of this law is to protect the health, safety, and welfare of persons
4 and property within the Reservation by regulating the activities of minors on the Reservation
5 during certain hours, while imposing certain obligations and responsibilities upon the parents,
6 guardians, and/or legal custodians of a minor for the control and supervision of that minor.
7 308.1-2. *Policy.* It is the policy of the Nation to support all drug use prevention initiatives of the
8 Nation by protecting the health, safety, and welfare of persons through the establishment of a
9 curfew for minors in public spaces within the Reservation during certain hours in an effort to
10 minimize the opportunity for harm to come to minors during those hours.
11
12 **308.2. Adoption, Amendment, Repeal**
13 308.2-1. This law was adopted by the Oneida Business Committee by resolution BC-10-09-19-F,
14 and amended by resolution BC-__-__-__-__.
15 308.2-2. This law may be amended or repealed by the Oneida Business Committee and/or General
16 Tribal Council pursuant to the procedures set out in the Legislative Procedures Act.
17 308.2-3. Should a provision of this law or the application thereof to any person or circumstances
18 be held as invalid, such invalidity shall not affect other provisions of this law which are considered
19 to have legal force without the invalid portions.
20 308.2-4. In the event of a conflict between a provision of this law and a provision of another law,
21 the provisions of this law shall control.
22 308.2-5. This law is adopted under authority of the Constitution of the Oneida Nation.
23
24 **308.3. Definitions**
25 308.3-1. This section shall govern the definitions of words and phrases used within this law. All
26 words not defined herein shall be used in their ordinary and everyday sense.
27 (a) "Court of Appeals" means the branch of the Nation's Judiciary delegated the authority
28 of final appeal within the Nation's Judiciary, as authorized by Oneida General Tribal
29 Council resolution GTC-03-19-17-A .
30 (b) "Family Court" means the branch of the Nation's Judiciary delegated the authority to
31 administer the judicial authorities and responsibilities of the Nation related to the family
32 and/or children, as authorized by Oneida General Tribal Council resolution GTC-03-19-
33 17-A.
34 (c) "Guardian" means the person, department, and/or agency appointed the duty and
35 authority of guardianship of a child by a Court for the purpose of managing and caring for
36 the child. A guardian has the right to make major decisions affecting a child including
37 education, religious and cultural upbringing, the right to consent to marriage, to enlistment

38 in the armed forces, to major surgery and medical treatment and to adoption, or make
39 recommendations as to adoption.

40 (d) “Legal custodian” means any person, department, and/or agency, other than a parent
41 or guardian, to whom legal custody of a child has been granted by Court order and has the
42 rights and responsibilities for the following:

43 (1) To have physical custody of the child as determined by the Court, if physical
44 custody is not with the person having legal custody;

45 (2) To protect, educate and discipline the child so long as it is in the child’s best
46 interest; and

47 (3) To provide the child with adequate food, shelter, education, ordinary medical
48 care and other basic needs, according to court order. In an emergency situation, a
49 custodian shall have the authority to consent to surgery as well as any other
50 emergency medical care needs.

51 (e) “Member of the Nation” means an individual enrolled in the Oneida Nation.

52 (f) “Minor” means a person age sixteen (16) years old or younger.

53 (g) “Nation” means the Oneida Nation.

54 (h) “Parent” means the biological or adoptive parent of a child.

55 (j) “Public space” means any public streets, highways, roads, alleys, parks, vacant lots, or
56 any public lands.

57 (j) “Relative” means any person connected with a child by blood, marriage or adoption.

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

61

62 **308.4. Jurisdiction**

63 304.4-1. *Jurisdiction of the Court.* The Family Court has jurisdiction over any action brought
64 under this law.

65

66 **308.5. Curfew**

67 308.5-1. *Curfew Established.* No minor shall be on any public space either on foot or in any
68 vehicle driven or parked, between the hours of 10:00 p.m. and 6:00 a.m. within the boundaries of
69 the Reservation, unless the minor is accompanied by a parent, guardian, or legal custodian.

70 308.5-2. *Parental Responsibility.* No parent, guardian, or legal custodian shall knowingly permit
71 or fail to take action to prevent the minor from being on any public space either on foot or in any
72 vehicle driven or parked, between the hours of 10:00 p.m. and 6:00 a.m. within the boundaries of
73 the Reservation.

74 308.5-3. *Exemptions to Curfew.* A minor shall not be in violation of the curfew, if at the time of
75 the alleged violation the minor was:

76 (a) in the performance of a duty directed by such parent, guardian, or legal custodian;

77 (b) engaged in employment or an employment related activity, or traveling to or returning
78 home from employment;

79 (c) engaged in interstate travel;

80 (d) attending an educational, cultural, religious, or recreational activity that was supervised
81 by adults, or traveling to or returning home from such activity;

82 (e) on the sidewalk in front of his or her home or an adjacent home;

83 (f) going to, attending, or returning home from a movie theatre;

- 84 (g) engaged in hunting, fishing, or trapping in accordance with the laws, policies, and rules
85 of the Nation;
86 (h) exercising rights protected by the Nation's Constitution and the United States
87 Constitution, such as free exercise of religion, freedom of speech, and the right of
88 assembly;
89 (i) involved in an emergency situation; and/or
90 (j) engaged in any other activity as deemed appropriate by the Oneida Police Department
91 officer.

92

93 308.6. Enforcement of Curfew Violations

94 308.6-1. *Enforcement Procedure.* A suspected violation of curfew shall be enforced by the Oneida
95 Police Department in the following ways:

96 (a) A minor who is suspected of violating curfew may be stopped by an Oneida Police
97 Department officer. No person shall assault, obstruct or flee from any Oneida Police
98 Department officer enforcing or attempting to enforce the provisions of this law.

99 (b) The Oneida Police Department officer shall ask the minor's name, age, and reason for
100 violating curfew. The minor shall provide the Oneida Police Department officer
101 identification if available. No person shall falsely represent his or her name or age to an
102 Oneida Police Department officer.

103 (c) If the Oneida Police Department officer reasonably believes based on the totality of the
104 circumstances that a violation of curfew has occurred and not one of the exemptions in
105 section 308.5-3 apply, the Oneida Police Department officer may take custody of the minor
106 for the purpose of returning such minor to the care and custody of a parent, guardian, or
107 legal custodian.

108 (d) Once the Oneida Police Department officer has taken the minor into his or her custody,
109 the minor shall provide the Oneida Police Department officer with contact information for
110 his or her parent, guardian, or legal custodian. The Oneida Police Department officer shall
111 contact the minor's parent, guardian, or legal custodian to come and pick up the minor and
112 take the minor into his or her care and custody. If the minor's parent, guardian, or legal
113 custodian is unable to pick the minor up, then the Oneida Police Department officer may
114 bring the minor home to release the minor to the custody and care of the minor's parent,
115 guardian, or legal custodian.

116 (e) If the Oneida Police Department officer is unable to contact the minor's parent,
117 guardian, or legal custodian after reasonable efforts are made, the Oneida Police
118 Department officer shall attempt to locate an adult relative or other responsible adult
119 willing and able to accept the care and custody of the minor, and may release the minor
120 into the care and custody of such person.

121 308.6-2. *Warning.* The first time a minor is held in custody by an Oneida Police Department
122 officer for a curfew violation the Oneida Police Department officer shall provide the minor and
123 the minor's parent, guardian, or legal custodian a warning and advise the minor and parent,
124 guardian, or legal custodian of the provisions of this law and that any subsequent curfew violations
125 may result in the issuance of a citation and the imposition of a penalty.

126 308.6-3. *Issuance of a Citation.* Any subsequent time a minor is held in custody by an Oneida
127 Police Department officer for a curfew violation the Oneida Police Department officer may issue
128 a citation to the minor and the minor's parent, guardian, or legal custodian.

129 (a) A citation for a violation of this law and/or any orders issued pursuant to this law may
130 include fines and other penalties, as well as conditional orders made by the Family Court.

131 (b) A citation for a violation of this law shall be processed in accordance with the
132 procedure contained in the Nation's laws and policies governing citations.

133 (c) All citations for violations of this law require a mandatory appearance at the citation
134 pre-hearing by the minor and his or her parent, guardian, or legal custodian.
135

136 **308.7. Penalties of Curfew Violations**

137 308.7-1. Upon a finding by the Family Court that a violation of this law has occurred, the minor
138 and/or the minor's parent, guardian, or legal custodian may be subject to the following penalties:

139 (a) *Fines*. An individual may be ordered to pay a fine as a result of a violation of this law.
140 The Oneida Business Committee shall hereby be delegated the authority to adopt through
141 resolution a fine schedule which sets forth specific fine amounts for violations of this law.

142 (1) All fines shall be paid to the Judiciary.

143 (2) Fines shall be paid within ninety (90) days after the order is issued or upheld
144 on final appeal, whichever is later.

145 (A) The ninety (90) day deadline for payment of fines may be extended if
146 an alternative payment plan is approved by the Family Court.

147 (3) If an individual does not pay his or her fine the Family Court may seek to collect
148 the money owed through the Nation's garnishment and/or per capita attachment
149 process or any other collection process available to the Family Court.

150 (4) Community service may be substituted for part or all of any fine at the minimum
151 wage rate of the Nation for each hour of community service.

152 (b) *Community service*. An individual may be ordered to perform community service.
153 Community service can be used in lieu of, or in addition to, a fine.

154 (1) All community service assignments shall be approved by the Family Court.
155 The Family Court shall give preference to culturally relevant community service
156 assignments and/or community service assignments that focus on the betterment of
157 the individual's community.

158 (2) The Family Court shall provide the individual a written statement of the terms
159 of the community service order, and a statement that the community service order
160 is monitored.

161 (3) The Family Court's community service order shall specify:

162 (A) how many hours of community service the individual is required to
163 complete;

164 (B) the time frame in which the hours shall be completed;

165 (C) how the individual shall obtain approval for his or her community
166 service assignment;

167 (D) how the individual shall report his or her hours; and

168 (E) any other information the Family Court determines is relevant.

169 (c) *Family counseling and/or parenting programs*. An individual may be ordered to
170 participate in a family counseling and/or a parenting program.

171 (d) Any other penalty as deemed appropriate by the Family Court.

172 308.7-2. *Staying a Curfew Penalty*. The Family Court may stay the enforcement of a penalty
173 issued as a result of a curfew violation for a period of time to be determined by the Family Court.
174 If the individual maintains compliance with the law during the time period in which the penalty is
175 stayed, then the Family Court may dismiss the citation. If the individual commits another violation
176 of the law during the time period in which the penalty is stayed, then the penalty shall go into
177 effect.

178
179 *End.*
180
181 _____
182 Adopted – BC-10-09-19-F
Amended – BC-__-__-__-__

FINANCE ADMINISTRATION

Fiscal Impact Statement



MEMORANDUM

TO: Lawrence Barton, Chief Financial Officer

FROM: RaLinda Ninham-Lamberies, Assistant Chief Financial Officer

DATE: April 27, 2020

RE: **Fiscal Impact of the Curfew Law Amendment**

I. Estimated Fiscal Impact Summary

Law: Curfew Law		
Implementing Agency	Oneida Police Department Oneida Judiciary	
Estimated time to comply	10 days, in compliance with the Legislative Procedures Act	
Estimated Impact	Current Fiscal Year	10 Year Estimate
Total Estimated Fiscal Impact	None	None

II. Background

A. Legislative History

This law was adopted by the Oneida Business Committee by resolution BC-10-09-19-F. The required Curfew Law Penalty and Fine Schedule was adopted by the Oneida Business Committee by resolution BC-10-09-19-G.

B. Summary of Content

The amendment corrects a reference to the Nation's territorial jurisdiction and deletes reference to the Nation's personal jurisdiction.

III. Methodology and Assumptions

A "Fiscal Impact Statement" means an estimate of the total identifiable fiscal year financial effects associated with legislation and includes startup costs, personnel, office,

documentation costs, as well as an estimate of the amount of time necessary for an agency to comply with the Law after implementation.

Finance does NOT identify the source of funding for the estimated cost or allocate any funds to the legislation.

The analysis was completed based on the information provided as of the date of this memo.

IV. Executive Summary of Findings

- The Curfew Law incorrectly states the territorial jurisdiction is limited to land owned by the Nation or individual trust and/or fee land of a member of the Nation. The Nation's jurisdiction is defined in the Constitution and By-Laws of the Nation and the Nation's Judiciary. The amendment deletes the incorrect reference.
- The amendment deletes reference to the Nation's personal jurisdiction in the Curfew Law. The Judiciary law already defines the Nation's personal jurisdiction over members of the Oneida Nation, members of other federally recognized Indian tribes, and any "non-Indians" consenting to the jurisdiction of the Nation.

V. Agency

There are no startup, personnel, office or documentation costs associated with this legislation. The amendments will become effective 10 days from adoption.

VI. Financial Impact

No impact.

VII. Recommendation

Finance Department does not make a recommendation in regard to course of action in this matter. Rather, it is the purpose of this report to disclose potential financial impact of this legislation, so that the Oneida Business Committee and General Tribal Council has the information with which to render a decision.

Oneida Business Committee Agenda Request

Adopt resolution entitled Amendments to the Domestic Animals Law

1. Meeting Date Requested: 5 / 13 / 20

2. General Information:

Session: Open Executive - See instructions for the applicable laws, then choose one:

Agenda Header:

Accept as Information only

Action - please describe:

Adopt the resolution "Amendments to the Domestic Animals Law"

3. Supporting Materials

Report Resolution Contract

Other:

1. <input type="text" value="Adoption Packet"/>	3. <input type="text"/>
2. <input type="text"/>	4. <input type="text"/>

Business Committee signature required

4. Budget Information

Budgeted - Tribal Contribution Budgeted - Grant Funded Unbudgeted

5. Submission

Authorized Sponsor / Liaison:

Primary Requestor/Submitter: Clorissa N. Santiago, LRO Senior Staff Attorney
Your Name, Title / Dept. or Tribal Member

Additional Requestor: _____
Name, Title / Dept.

Additional Requestor: _____
Name, Title / Dept.



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 *DJ*
 DATE: May 13, 2020
 RE: Domestic Animals Law Amendments

Please find the following attached backup documentation for your consideration of the proposed amendments to the Domestic Animals law:

1. Resolution: Amendments to the Domestic Animals Law
2. Statement of Effect: Amendments to the Domestic Animals Law
3. Domestic Animals Law Amendments Legislative Analysis
4. Domestic Animals Law Amendments (Redline)
5. Domestic Animals Law Amendments (Clean)
6. Domestic Animals Law Fiscal Impact Statement

Overview

On February 5, 2020, the Legislative Operating Committee (LOC) added the Domestic Animals law amendments to its Active Files List upon recommendation by the Oneida Law Office. The purpose of the Domestic Animals law is to protect the health, safety, and welfare of the community by requiring certain basic measures to prevent the spread of disease carried by domestic animals; set minimum standards for treatment of animals; prohibit certain species of animals from being brought onto the Reservation; regulate the keeping of livestock on lots zoned residential with in the Reservation; and establish consequences for damages caused by domestic animals. [3 O.C. 304.1-1].

This resolution adopts amendments to the Domestic Animals law which will:

- Remove an incorrect reference to the Nation's territorial jurisdiction as the Nation's territorial jurisdiction is provided by the Constitution and Bylaws of the Oneida Nation and the Nation's Judiciary law;
- Remove a duplicative provision regarding personal jurisdiction as personal jurisdiction is already provided by the Nation's Judiciary law;
- Remove a duplicative provision regarding the citation process as the citation process is provided by the Nation's Citations law; and
- Include a new provision that prohibits the abandonment of an animal.

The Legislative Operating Committee developed the proposed amendments to the Domestic Animals law through collaboration with representatives from the Oneida Law Office, and Oneida Police Department.

In accordance with the Legislative Procedures Act, a public meeting on the proposed amendments

to the Domestic Animals law was scheduled for April 2, 2020. After the public meeting was scheduled, the world was hit with a COVID-19 pandemic resulting in many countries experiencing the effects of health issues and mortality related to COVID-19 and vast economic impacts. On March 12, 2020, Chairman Tehassi Hill signed a “*Declaration of Public Health State of Emergency*” regarding COVID-19 which declared a Public Health State of Emergency for the Nation until April 12, 2020. This Public Health State of Emergency was extended through May 12, 2020, through the adoption of resolution BC-03-28-20-A. On March 24, 2020, the Nation’s COVID-19 Core Decision Making Team issued a “*Safer at Home*” declaration which orders all individuals present within the Oneida Reservation to stay at home or at their place of residence, with certain exceptions allowed. This declaration prohibits all public gatherings of any number of people. Then on March 27, 2020, the Nation’s COVID-19 Core Decision Making Team issued a “*Suspension of Public Meetings under the Legislative Procedures Act*” declaration which suspended the Legislative Procedures Act's requirement to hold a public meeting during the public comment period, but allows members of the community to still participate in the legislative process by submitting written comments, questions, data, or input on proposed legislation to the Legislative Operating Committee via e-mail during the public comment period. On March 30, 2020, the Legislative Operating Committee provided additional notice that the April 2, 2020, public meeting was canceled.

Although the April 2, 2020, public meeting for the proposed amendments to the Domestic Animals law was canceled, the public comment period was still held open until April 9, 2020, for the submission of written comments. No written comments were received during the public comment period.

Requested Action

Approve the Resolution: Amendments to the Domestic Animals Law

Oneida Nation

Post Office Box 365

Phone: (920)869-2214

Oneida, WI 54155



BC Resolution # _____
Amendments to the Domestic Animals Law

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- 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 Domestic Animals law (“the Law”) was adopted by the Oneida Business Committee through resolution BC-03-13-96-B, and then amended through resolutions BC-06-22-11-G, BC-06-28-17-B, and BC-05-08-19-C; and
- WHEREAS,** the purpose of the Law is to protect the health, safety, and welfare of the community by requiring certain basic measures to prevent the spread of disease carried by domestic animals; set minimum standards for treatment of animals; prohibit certain species of animals from being brought onto the Reservation; regulate the keeping of livestock on lots zoned residential with in the Reservation; and establish consequences for damages caused by domestic animals; and
- WHEREAS,** the Legislative Operating Committee worked collaboratively with representatives from the Oneida Law Office and Oneida Police Department to develop the amendments to this Law; and
- WHEREAS,** the amendments to the Law remove an incorrect reference to the Nation’s territorial jurisdiction, as the Nation’s territorial jurisdiction is provided by the Constitution and Bylaws of the Oneida Nation and the Nation’s Judiciary law; and
- WHEREAS,** the amendments to the Law remove a duplicative provision regarding personal jurisdiction as personal jurisdiction is already provided by the Nation’s Judiciary law; and
- WHEREAS,** the amendments to the Law remove a duplicative provision regarding the citation process as the citation process is provided by the Nation’s Citations law; and
- WHEREAS,** the amendments to the Law include a new provision that prohibits the abandonment of an animal; and
- WHEREAS,** in accordance with the Legislative Procedures Act a legislative analysis and fiscal impact statement were completed for the amendments to the Law; and

- 42 **WHEREAS,** a public meeting on the proposed amendments to this Law was scheduled for April 2, 2020,
43 in accordance with the Legislative Procedures Act, with the public comment period set to
44 be held open until April 9, 2020; and
45
- 46 **WHEREAS,** after the public meeting was scheduled, the world was hit with a COVID-19 pandemic
47 resulting in many countries experiencing the effects of health issues and mortality related
48 to COVID-19 and vast economic impacts; and
49
- 50 **WHEREAS,** on March 12, 2020, Chairman Tehassi Hill signed a "*Declaration of Public Health State of*
51 *Emergency*" regarding COVID-19 which declared a Public Health State of Emergency for
52 the Nation until April 12, 2020, which was then extended through May 12, 2020, through
53 the adoption of resolution BC-03-28-20-A; and
54
- 55 **WHEREAS,** on March 24, 2020, the Nation's COVID-19 Core Decision Making Team issued a "*Safer*
56 *at Home*" declaration which prohibits all public gatherings of any number of people and
57 orders all individuals present within the Oneida Reservation to stay at home or at their
58 place of residence, with certain exceptions allowed; and
59
- 60 **WHEREAS,** on March 27, 2020, the Nation's COVID-19 Core Decision Making Team issued a
61 "*Suspension of Public Meetings under the Legislative Procedures Act*" declaration which
62 suspended the Legislative Procedures Act's requirement to hold a public meeting during
63 the public comment period, but allows members of the community to still participate in the
64 legislative process by submitting written comments, questions, data, or input on proposed
65 legislation to the Legislative Operating Committee via e-mail during the public comment
66 period; and
67
- 68 **WHEREAS,** on March 30, 2020, the Legislative Operating Committee provided additional notice that
69 the April 2, 2020, public meeting was canceled; and
70
- 71 **WHEREAS,** although the April 2, 2020, public meeting was canceled, the public comment period was
72 still held open until April 9, 2020; and
73
- 74 **NOW THEREFORE BE IT RESOLVED,** that the amendments to the Domestic Animals law are hereby
75 adopted and shall be effective on May 29, 2020.



Statement of Effect

Amendments to the Domestic Animals Law

Summary

This resolution adopts amendments to the Domestic Animals law which remove an erroneous reference to the Nation's territorial jurisdiction, remove a duplicative reference to personal jurisdiction, remove a duplicative reference to the citations process, and add a new provision prohibiting the abandonment of animals.

Submitted by: Clorissa N. Santiago, Senior Staff Attorney, Legislative Reference Office

Date: May 4, 2020

Analysis by the Legislative Reference Office

The Domestic Animals law was adopted by the Oneida Business Committee for the purpose of protecting the health, safety, and welfare of the community by requiring certain basic measures to prevent the spread of disease carried by domestic animals; setting minimum standards for treatment of animals; prohibit certain species of animals from being brought onto the Reservation; regulating the keeping of livestock on lots zoned residential with in the Reservation; and establishing consequences for damages caused by domestic animals [3 O.C. 304.1-1].

This resolution seeks amendments to the Domestic Animals law which will:

- Remove an incorrect reference to the Nation's territorial jurisdiction, as the Nation's territorial jurisdiction is provided by the Constitution and Bylaws of the Oneida Nation and the Nation's Judiciary law;
- Remove a duplicative provision regarding personal jurisdiction as personal jurisdiction is already provided by the Nation's Judiciary law;
- Remove a duplicative provision regarding the citation process as the citation process is provided by the Nation's Citations law; and
- Include a new provision prohibiting the abandonment of an animal. [3 O.C. 304.5-5].

The Legislative Procedures Act ("the LPA") was adopted by the General Tribal Council for the purpose of providing a process for the adoption or amendment of laws of the Nation. [1 O.C. 109.1-1]. The LPA requires that for all proposed legislation both a legislative and fiscal analysis be developed. [1 O.C. 109.6 and 109.7]. The proposed amendments to the Domestic Animals law comply with these requirements.

The LPA also requires that there be an opportunity for public review during a public meeting and public comment period. [1 O.C. 109.8]. In accordance with the LPA, a public meeting on the proposed amendments to the Domestic Animals law was scheduled for April 2, 2020, with the public comment period set to be held open until April 9, 2020.

After the public meeting was scheduled, the world was hit with a COVID-19 pandemic resulting in many countries experiencing the effects of health issues and mortality related to COVID-19 and vast economic impacts. In accordance with the Emergency Management and Homeland Security law, on March 12, 2020, Chairman Tehassi Hill signed a “*Declaration of Public Health State of Emergency*” regarding COVID-19 which declared a Public Health State of Emergency for the Nation until April 12, 2020. [3 O.C. 302.8-1].

On March 17, 2020, the Oneida Business Committee adopted emergency amendments to the Emergency Management and Homeland Security law to create and delegate authority to a COVID-19 Core Decision Making Team (“COVID-19 Team”). [3 O.C. 302.10]. When a public health emergency has been declared, the COVID-19 Team has the authority to declare exceptions to the Nation’s laws, policies, procedures, regulations, or standard operating procedures during the emergency period which will be of immediate impact for the purposes of protecting the health safety, and general welfare of the Nation’s community, members, and employees. [3 O.C. 302.10-2]. These declarations remain in effect for the duration of the Public Health State of Emergency. [3 O.C. 302.10-3].

On March 24, 2020, the Nation’s COVID-19 Team made a “*Safer at Home*” declaration which prohibits all public gatherings of any number of people and orders all individuals present within the Oneida Reservation to stay at home or at their place of residence, with certain exceptions allowed.

Then on March 27, 2020, the Nation’s COVID-19 Team issued a “*Suspension of Public Meetings under the Legislative Procedures Act*” declaration which suspended the Legislative Procedures Act's requirement to hold a public meeting during the public comment period, but allows members of the community to still participate in the legislative process by submitting written comments, questions, data, or input on proposed legislation to the Legislative Operating Committee via e-mail during the public comment period.

On March 28, 2020, the Oneida Business Committee took action to extend the Public Health State of Emergency through May 12, 2020, through the adoption of resolution BC-03-28-20-A.

On March 30, 2020, the Legislative Operating Committee provided additional notice that the April 2, 2020, public meeting was canceled. Although the April 2, 2020, public meeting for the Domestic Animals law amendments was canceled, the public comment period was still held open until April 9, 2020.

Adoption of this resolution complies with the process and procedures of the LPA as it has been modified by the COVID-19 Team’s “*Suspension of Public Meetings under the Legislative Procedures Act*” declaration.

This resolution provides that the amendments to the Domestic Animals law would become effective on May 29, 2020, in accordance with the LPA. [1 O.C. 109.9-3].

Conclusion

Adoption of this resolution would not conflict with any of the Nation’s laws. Adoption of this resolution complies with the Legislative Procedures Act as it has been modified by the COVID-19 Core Decision Making Team’s “*Suspension of Public Meetings under the Legislative Procedures Act*” declaration.



AMENDMENTS TO DOMESTIC ANIMALS LAW LEGISLATIVE ANALYSIS

SECTION 1. EXECUTIVE SUMMARY

<i>Analysis by the Legislative Reference Office</i>	
Intent of the Amendments	<ul style="list-style-type: none"> ▪ Remove an incorrect reference to the Nation’s territorial jurisdiction as the Nation’s territorial jurisdiction is provided by the Constitution and Bylaws of the Oneida Nation and the Nation’s Judiciary law; ▪ Remove a duplicative provision regarding personal jurisdiction as personal jurisdiction is already provided by the Nation’s Judiciary law; ▪ Remove a duplicative provision regarding the citation process as the citation process is provided by the Nation’s Citations law; and ▪ Include a provision prohibiting the abandonment of an animal.
Purpose	To protect the health, safety, and welfare of the community by requiring certain basic measures to prevent the spread of disease carried by domestic animals; set minimum standards for treatment of animals; prohibit certain species of animals from being brought onto the Reservation; regulate the keeping of livestock on lots zoned residential with in the Reservation; and establish consequences for damages caused by domestic animals [3 O.C. 304.1-1].
Affected Entities	Oneida Police Department; Oneida Environmental Health, Safety and Land Division; Oneida Conservation Department; Oneida Environmental Resource Board; Oneida Comprehensive Health Division, Oneida Land Commission; Oneida Emergency Management Coordinator, Oneida Judiciary.
Related Legislation	Judiciary law, Citations law
Public Meeting	Although the April 2, 2020, public meeting was canceled due to the Nation’s COVID-19 Core Decision Making Team’s declaration titled, “ <i>Suspension of Public Meetings under the Legislative Procedures Act</i> ” the public comment period was still held open until April 9, 2020.
Fiscal Impact	A fiscal impact statement was provided by the Finance Department on May 1, 2020.

SECTION 2. LEGISLATIVE DEVELOPMENT

- 1
- 2 **A. Background.** The Domestic Animals law was first adopted by the Oneida Business Committee on
- 3 March 13, 1996 and most recently amended on May 8, 2019 for the purpose of protecting the health,
- 4 safety, and welfare of the community by requiring certain basic measures to prevent the spread of
- 5 disease carried by domestic animals; setting minimum standards for the treatment of animals;
- 6 prohibiting certain species of animals from being brought onto the Reservation; regulating the keeping
- 7 of livestock on lots zoned residential within the Reservation; and establishing consequences for
- 8 damages caused by domestic animals. [3 O.C. 304.1-1].
- 9 ▪ Domestic animals are animals commonly owned as household pets, such as cats and dogs.
- 10 **B.** Upon a review of the Nation’s Code of Laws, the Oneida Law Office and Legislative Operating
- 11 Committee (LOC) identified references to the Nation’s jurisdiction that were either inaccurate or
- 12 duplicative. In consultation with the Oneida Law Office, the LOC proposes technical amendments to
- 13 the Domestic Animals law to remove these inaccurate or unnecessary references. The intent of these

14 changes is not to alter how the Domestic Animals law is currently being enforced, but to ensure that all
15 references to jurisdiction in the Nation's Code of Laws are accurate.
16

17 **SECTION 3. CONSULTATION AND OUTREACH**

- 18 A. Representatives from the following departments or entities participated in the development of this law
19 and legislative analysis:
20 ▪ Oneida Law Office; and
21 ▪ Oneida Police Department.
22 B. The following laws were reviewed in the drafting of this analysis: Judiciary law, Curfew law, Oneida
23 Nation Gaming Ordinance, Tribal Environmental Response law, Judiciary Rules of Evidence, and the
24 Citations law.
25

26 **SECTION 4. PROCESS**

- 27 A. The amendments to this law have followed the process set forth in the Legislative Procedures Act.
28 ▪ The Legislative Operating Committee added the amendments to the Active Files List on February
29 5, 2020.
30 ▪ A public meeting was scheduled for April 2, 2020.
31 ▪ On March 27, 2020, the Nation's COVID-19 Core Decision Making Team issued a "*Suspension of*
32 *Public Meetings under the Legislative Procedures Act*" declaration which suspended the
33 Legislative Procedures Act's requirement to hold a public meeting during the public comment
34 period.
35 ▪ The public comment period for the amendments to the Domestic Animals law was held open until
36 April 9, 2020.
37 ▪ A fiscal impact statement was provided by the Finance Department on May 1, 2020.
38 B. At the time this legislative analysis was developed, the following work meetings had been held
39 regarding the development of these amendments:
40 ▪ February 19, 2020: LOC work meeting.
41 ▪ April 15, 2020: LOC work meeting.
42 ▪ April 23, 3030: LOC work meeting.
43 C. ***COVID-19 Pandemic's Effect on the Legislative Process.*** The public meeting for the proposed
44 amendments to this law was canceled due to the COVID-19 pandemic.
45 ▪ On March 4, 2020, the Legislative Operating Committee approved the public meeting packet and
46 forwarded the Domestic Animals law amendments to a public meeting to be held on April 2, 2020.
47 The public comment period was scheduled to remain open until April 9, 2020.
48 ▪ After the public meeting was scheduled, the world was hit with a COVID-19 pandemic resulting
49 in many countries experiencing the effects of health issues and mortality related to COVID-19 and
50 vast economic impacts.
51 ▪ On March 12, 2020, Chairman Tehassi Hill signed a "*Declaration of Public Health State of*
52 *Emergency*" regarding COVID-19 which declared a Public Health State of Emergency for the
53 Nation until April 12, 2020, and set into place the necessary authority for action to be taken and
54 allows the Nation to seek reimbursement of emergency management actions that may result in
55 unexpected expenses.
56 ▪ On March 24, 2020, the Nation's COVID-19 Core Decision Making Team issued a "*Safer at*
57 *Home*" declaration which orders all individuals present within the Oneida Reservation to stay at
58 home or at their place of residence, with certain exceptions allowed. This declaration prohibits all
59 public gatherings of any number of people.
60 ▪ Then on March 27, 2020, the Nation's COVID-19 Core Decision Making Team issued a
61 "*Suspension of Public Meetings under the Legislative Procedures Act*" declaration which
62 suspended the Legislative Procedures Act's requirement to hold a public meeting during the public
63 comment period, but allows members of the community to still participate in the legislative process

- 64 by submitting written comments, questions, data, or input on proposed legislation to the Legislative
65 Operating Committee via e-mail during the public comment period.
- 66 ■ On March 28, 2020 the Oneida Business Committee adopted resolution BC-03-28-20-A titled,
67 “*Extension of March 12th Declaration of Public Health State of Emergency*” which extended the
68 Nation’s Public Health State of Emergency declaration until May 12, 2020.
 - 69 ■ On March 30, 2020, the Legislative Operating Committee provided additional notice that the April
70 2, 2020, public meeting was canceled.
 - 71 ■ The public comment period was still held open until April 9, 2020. No written comments were
72 received during the public comment period.

73
74 **SECTION 5. CONTENTS OF THE LEGISLATION**

- 75 **A. Deletion of Territorial Jurisdiction Section.** These amendments delete an incorrect reference to the
76 Nation’s territorial jurisdiction for this law. The Domestic Animals law erroneously states that the
77 territorial jurisdiction of this law is limited to land owned by the Nation or individual trust and/or fee
78 land of a member of the Nation.
- 79 ■ *Territorial Jurisdiction.* The Nation’s territorial jurisdiction is properly defined in the Constitution
80 and Bylaws of the Oneida Nation and the Nation’s Judiciary law (see below).
 - 81 ■ *Conclusion.* Since the reference included in the Domestic Animals law is inaccurate, unnecessary,
82 and already located in the Nation’s Constitution, it has been deleted for clarity.

83
84 **Table 1. Comparison: Territorial Jurisdiction in laws of the Nation.**

<u><i>Deleted Language in Current Domestic Animals law</i></u>	<u><i>Language in Oneida Constitution</i></u>	<u><i>Language in Judiciary law</i></u>
This law extends <u>within the Reservation to all land owned by the Nation and individual trust and/or fee land of a member of the Nation</u> [3 O.C. 304.4-2].	The jurisdiction of the Oneida Nation shall extend to <u>the territory within the present confines of the Oneida Reservation</u> and to such other lands as may be hereafter added thereto within or without said boundary lines under any law of the United States, except as otherwise provided by law [Article 1 – Territory]	“The territorial jurisdiction of the Trial Court shall extend to <u>the Reservation</u> and all lands held in trust by the United States for the benefit of the Tribe within the State of Wisconsin.” [8 O.C. 801.5-3].

- 85
86 **B. Deletion of Personal Jurisdiction Section.** These amendments also delete references to the Nation’s
87 personal jurisdiction from this law. The personal jurisdiction of the Nation is already provided for in
88 the Nation’s Judiciary law.
- 89 ■ *Personal Jurisdiction.* The Judiciary law already clarifies that the Nation has personal jurisdiction
90 over members of the Oneida Nation, members of other federally-recognized Indian tribes, and any
91 “non-Indians” who have consented to the jurisdiction of the Nation (examples include a contract
92 or lease agreement.)
 - 93 ■ *Conclusion.* Since the Nation’s personal jurisdiction is already properly defined in the Judiciary
94 law, it has been deleted from this law for clarity.

95
96 **Table 2. Comparison: Personal Jurisdiction in laws of the Nation.**

<u><i>Deleted Language in Current Domestic Animals law</i></u>	<u><i>Language in Judiciary law</i></u>

<p><i>Personal Jurisdiction.</i> This law applies to:</p> <p>(a) All members of the Nation; the Nation’s entities and corporations; and members of other federally-recognized tribes;</p> <p>(b) Individuals and businesses leasing, occupying or otherwise using fee land owned by the Nation or by individual members of the Nation; and/or lands held in trust on behalf of the Nation or individual members of the Nation; and</p> <p>(c) Individuals who have consented to the jurisdiction of the Nation or as otherwise consistent with federal law. An individual shall be considered to have consented to the jurisdiction of the Nation:</p> <p>(1) By entering into a consensual relationship with the Nation, or with the Nation’s entities, corporations, or members of the Nation, including but not limited to contracts or other agreements; or</p> <p>(2) By other facts which manifest an intent to consent to the authority of the Nation, including failure to raise an objection to the exercise of personal jurisdiction in a timely manner. [3 O.C. 304.4-1].</p>	<p><i>Personal Jurisdiction</i></p> <p>(a) Indians. The Trial Court shall have jurisdiction over all Indians.</p> <p>(b) Non-Indians. The Trial Court shall have jurisdiction over non-Indians who have consented to the jurisdiction of the Tribe or Trial Court or as otherwise consistent with federal law.</p> <p>(1) Consent to Jurisdiction. For purposes of subsection 801.5-4(b) above, a person shall have consented to the jurisdiction of the Trial Court by:</p> <p>(A) entering into a consensual relationship with the Tribe, Tribal entities, Tribal corporations, or Tribal members, including but not limited to contracts or other agreements; or</p> <p>(B) other facts which the Trial Court determines manifest an intent to consent to the authority of the Tribe or the jurisdiction of the Trial Court, including failure to raise an objection to the exercise of personal jurisdiction in a timely manner [8 O.C. 801.5-4].</p>
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97

98 **C. Updates to Enforcement and Citations Section.** The Citations section of the law has been updated to
99 reflect the Nation’s new Citations law.

100 ■ *Background.* On February 12, 2020, the Oneida Business Committee adopted a Citations law to
101 establish a consistent process for citations issued for violations of all laws of the Nation. The new
102 Citations law includes a detailed process regarding prehearings, hearings and appeals.

103 ■ *Conclusion.* Now that these details are included in the Citations law, it is unnecessary to include
104 the same information in the Domestic Animals law. Therefore, the duplicate citation information
105 has been deleted. Instead, a reference stating that citations will be processed in accordance with the
106 procedures in the Citations law has been added [3 O.C. 304.12-1].

107 **D. Inclusion of an Abandonment Provision.** These amendments add a new provision to the Law which
108 explicitly states that no person shall abandon an animal. [3 O.C. 304.5-5]. Abandoning an animal means
109 leaving behind a domestic animal at a location without providing minimum care. [3 O.C. 304.3-1(a)].

110 ■ *Conclusion.* Although the Law already contained a provision that prohibited the mistreatment of
111 an animal which causes harm, injury, or death to that animal [3 O.C. 304.5-4], the new
112 abandonment provision clarifies that abandoning an animal is also prohibited under this Law.

113

114 **SECTION 6. EXISTING LEGISLATION**

115 **A. References to Territorial Jurisdiction in Other Oneida laws.** The following laws of the Nation also

- 116 include references to the Nation’s territorial jurisdiction:
- 117 ▪ *Curfew law.* The Curfew law provides that “This law extends within the Reservation to all land
- 118 owned by the Nation and individual trust and/or fee land of a member of the Nation.” [3 O.C.
- 119 308.4-3].
- 120 ▪ The reference to territorial jurisdiction in the Curfew law is similar to the provision that
- 121 was included in this Law, and therefore is also erroneous. The LOC has added the Curfew
- 122 law to its Active Files List for amendments to address this issue.
- 123 ▪ *Judiciary law.* The Judiciary law provides “The territorial jurisdiction of the Trial Court shall
- 124 extend to the Reservation and all lands held in trust by the United States for the benefit of the Tribe
- 125 within the State of Wisconsin.” [8 O.C. 801.5-3].
- 126 ▪ The reference to territorial jurisdiction in the Judiciary law is correct and no amendments
- 127 are necessary.
- 128 ▪ *Oneida Nation Gaming Ordinance.* The Oneida Nation Gaming Ordinance provides “This
- 129 Ordinance extends to all land within the exterior boundaries of the Reservation of the Tribe, as
- 130 established pursuant to the 1838 Treaty with the Oneida, 7 Stat. 566, and any lands added thereto
- 131 pursuant to federal law.” [5 O.C. 501.3-1].
- 132 ▪ The reference to territorial jurisdiction in the Oneida Nation Gaming Ordinance is correct
- 133 and no amendments are necessary.
- 134 ▪ *Tribal Environmental Response law.* The Tribal Environmental Response law provides “This law
- 135 extends to all land within the exterior boundaries of the Reservation of the Nation, as established
- 136 pursuant to the 1838 Treaty with the Oneida, 7 Stat. 566, any lands added thereto pursuant to federal
- 137 law and all lands held in trust for the Nation within the State of Wisconsin.” [4 O.C. 401.4-2].
- 138 ▪ The reference to territorial jurisdiction in the Tribal Environmental Response law is correct
- 139 and no amendments are necessary.
- 140 ▪ *Judiciary Rules of Evidence law.* The Judiciary Rules of Evidence provides that “ The Court may
- 141 judicially notice a fact that shall not subject to reasonable dispute because it: (a) is generally known
- 142 within the Court’s territorial jurisdiction; or (b) may be accurately and readily determined from
- 143 sources whose accuracy cannot reasonably be questioned.” [8 O.C. 804.5-2(a)].
- 144 ▪ The reference to territorial jurisdiction in the Judiciary Rules of Evidence is correct and no
- 145 amendments are necessary.
- 146 **B. *References to other Laws of the Nation.*** The following laws of the Nation are referenced in this Law:
- 147 ▪ *Citations law.* This Law provides that a citation for a violation of this Law shall be processed in
- 148 accordance with the procedure contained in the Nation’s laws and policies governing citations. [3
- 149 O.C. 304.12-1].
- 150 ▪ The Citations law is the Nation’s law governing citations. The Citations law provides how
- 151 a citation action is started – such as who has the authority to issue a citation, the
- 152 requirements of the form of the citation, and how a citation is served and filed; stipulations
- 153 for the settlement of a citation; and the citation hearing procedures. [8 O.C. 807].
- 154 ▪ Any citations issued by the Oneida Police Department or Conversation Department for a
- 155 violation of this Law must comply with the requirements and procedures of the Citations
- 156 law.

157 **SECTION 7. ENFORCEMENT AND ACCOUNTABILITY**

- 159 **A. *Enforcement.*** Oneida Police Department Officers and Conservation Wardens are delegated the
- 160 authority to enforce this law through appropriate means, including but not limited to:
- 161 ▪ seizing any animal that is taken, employed, used, or possessed in violation of this law and/or
- 162 mistreated, rabid or otherwise in danger or dangerous;
- 163 ▪ issuing citations consistent with the fine and penalty schedule developed in accordance with this
- 164 law; and
- 165 ▪ using force, up to and including lethal force, to stop an immediate threat to public safety caused by

- 166 an animal. [3 O.C. 304.4-2].
- 167 **B. *Fine and Penalty Schedule Resolution.*** The Environmental, Health, Safety, and Land Division and
- 168 the Environmental Resource Board are delegated joint authority to develop a fine, penalty, and licensing
- 169 fee schedule that is adopted by the Oneida Business Committee through resolution. [3 O.C. 304.4-3].
- 170
 - 171 ■ The Oneida Business Committee adopted a Domestic Animals Law Fine, Penalty, and Licensing
 - 172 Fee Schedule through resolution BC-05-08-19-D. This resolution sets forth specific fines and
 - 173 penalties to be used by the Nation’s Trial Court for addressing violations of this Law.

174 **SECTION 8. OTHER CONSIDERATIONS**

- 175 **A. *Revision to the Domestic Animals Law Fine, Penalty, and Licensing Fee Schedule Resolution.*** In
- 176 accordance with this Law, the Oneida Business Committee adopted a Domestic Animals Law Fine,
- 177 Penalty, and Licensing Fee schedule through resolution BC-05-08-19-D. Due to a change in citations
- 178 throughout the law, and the inclusion of an abandonment provision, the Domestic Animals Law Fine,
- 179 Penalty, and Licensing Fee Schedule Resolution will have to be updated.
- 180
 - 181 ■ The Legislative Operating Committee intends to bring forth an amended Domestic Animals Law
 - 182 Fine, Penalty, and Licensing Fee Schedule Resolution for adoption when the proposed amendments
- 183 **B. *Fiscal Impact.*** A fiscal impact statement was provided by the Finance Department on May 1, 2020.
- 184
 - 185 ■ Under the Legislative Procedures Act, a fiscal impact statement is required for all legislation except
 - 186 emergency legislation [1 O.C. 109.6-1].
 - 187 ■ A fiscal impact statement shall be submitted by agencies as directed by the Legislative Operating
 - 188 Committee and may be prepared by any agency who may receive funding if the legislation is
 - 189 enacted; who may administer a program if the legislation is enacted; who may have financial
 - 190 information concerning the subject matter of the legislation; or by the Finance Office, upon request
 - 191 of the Legislative Operating Committee [1 O.C. 109.6-1(a) and (b)].
 - 192

Title 3. Health and Public Safety - Chapter 304

~~DOMESTIC ANIMALS~~

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matters concerning the pet animals

DOMESTIC ANIMALS

304.1. Purpose and Policy	304.4. Authority
304.2. Adoption, Amendment, Conflicts	304.5. Treatment of Animals
304.3. Definitions	304.6. Dogs and Cats
304.4. Jurisdiction	304.7. Livestock
304.5. Authority	304.8. Hens
304.6. Treatment of Animals	304.9. Prohibited Animals
304.7. Dogs and Cats	304.10. Dangerous Animals
304.8. Livestock	304.11. Owner Liability
304.9. Hens	304.12. Enforcement of Violations
304.10. Prohibited Animals	
304.11. Dangerous Animals	

304.1. Purpose and Policy

304.1-1. *Purpose.* The purpose of this law is to:

- (a) protect the health, safety, and welfare of the community by requiring certain basic measures to prevent the spread of disease carried by domestic animals;
- (b) set minimum standards for the treatment of animals;
- (c) prohibit certain species of animals from being brought onto the Reservation;
- (d) regulate the keeping of livestock on lots zoned residential within the Reservation; and
- (e) establish consequences for damages caused by domestic animals.

304.1-2. *Policy.* It is the policy of the Nation to protect the health, safety, and welfare of the community by:

- (a) requiring certain basic measures to prevent the spread of disease carried by domestic animals;
- (b) establishing requirements for licensing domestic animals, and
- (c) regulating the types of animals which may be kept as domestic animals.

304.2. Adoption, Amendment, Repeal

304.2-1. This law was adopted by Oneida Business Committee by resolution BC-03-13-96-B and amended by resolutions BC-06-22-11-G, BC-06-28-17-B, ~~and BC-05-08-19-C,~~ and BC- - -

304.2-2. This law may be amended or repealed by the Oneida Business Committee and/or General Tribal Council pursuant to the procedures set out in the Legislative Procedures Act.

304.2-3. 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.

304.2-4. 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.

304.2-5. This law is adopted under the authority of the Constitution of the Oneida Nation.

304.3. Definitions

304.3-1. 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.

~~(a)~~ (a) “Abandon” means leaving behind a domestic animal at a location without providing minimum care.

(b) “Court of Appeals” means the Nation’s Judiciary’s Court of Appeals, which is the

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35 court of final appeal within the Nation.

36 (bc) “District Quarantine” means a rabid or otherwise diseased domestic animal is
37 suspected or known to be within a discernible area and all such animals reasonably
38 suspected of being infected are subject to enforced isolation for a period of time to limit or
39 prevent the spread of disease or infection and during which time said animals are tested for
40 diseases, including rabies.

41 (ed) “Fine” means a monetary punishment issued to a person violating this law.

42 (de) “Hen” means a female chicken of the order and family gallus gallus domesticus.

43 (ef) “Husbandry practices” means accepted manner of managing resources, cultivating,
44 and caring for animals including the breeding, feeding, and tending of the animals.

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

48 (gh) “Livestock” means any equine (i.e. horse, donkey, etc.), bovine (i.e. cow, steer, heifer,
49 etc.), sheep, goat, pig.

50 (hi) “Nation” means the Oneida Nation.

51 (ij) “Owner” means any person who owns, harbors, keeps, controls or acts as a caretaker
52 for an animal. Absent evidence of alternative adult ownership, this law presumes that
53 domestic animals are owned by the adult homeowner or renter.

54 (jk) “Penalty” means a punishment, other than a fine, imposed on a person violating this
55 law and may include, but is not limited to, the confiscation of wildlife with return of the
56 same at the discretion of the Trial Court and restitution.

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

60 (lm) “Residential household” means a residential lot, except for those residential lots
61 designed as multi-family lots, in which each family unit within the lot constitutes a separate
62 household.

63 (mn) “Tethering” means the act of fastening an animal to a stationary object while
64 unattended so that the animal can only range within a set radius. Tethering does not include
65 the use of a leash to walk an animal.

66 (no) “Trial Court” means the Trial Court of the Oneida Nation Judiciary.

67 (op) “Quarantine” means the act of keeping an animal in enforced isolation for a period of
68 time to limit or prevent the spread of disease or infection and during which time said animal
69 is tested for diseases, including rabies.

70
71 **304.4. Authority Jurisdiction**

72 304.4-1. ~~Personal Jurisdiction. This law applies to:~~

73 ~~(a) All members of the Nation; the Nation’s entities and corporations; and members of~~
74 ~~other federally recognized tribes;~~

75 ~~(b) Individuals and businesses leasing, occupying or otherwise using fee land owned by~~
76 ~~the Nation or by individual members of the Nation; and/or lands held in trust on behalf of~~
77 ~~the Nation or individual members of the Nation; and~~

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~~(c) Individuals who have consented to the jurisdiction of the Nation or as otherwise consistent with federal law. An individual shall be considered to have consented to the jurisdiction of the Nation:~~

~~(1) By entering into a consensual relationship with the Nation, or with the Nation's entities, corporations, or members of the Nation, including but not limited to contracts or other agreements; or~~

~~(2) By other facts which manifest an intent to consent to the authority of the Nation, including failure to raise an objection to the exercise of personal jurisdiction in a timely manner.~~

~~304.4-2. Territorial Jurisdiction. This law extends within the Reservation to all land owned by the Nation and individual trust and/or fee land of a member of the Nation.~~

304.5. Authority

~~304.5-1. General.~~ This law governs the keeping of all domestic animals which are commonly owned as household pets. Domestic animals include, but are not limited to, dogs, cats, ferrets, rabbits, guinea pigs, turtles, birds, pigeons, hamsters, non-venomous reptiles, amphibians, and arachnids.

(a) Domestic animals do not include prohibited animals as identified by the prohibited animals resolution provided for in section 304.~~4~~9-2.

~~304.5-2. Authority of the Oneida Police Department and Conservation Department.~~ Oneida Police Officers and Conservation Wardens shall have the authority to:

(a) investigate complaints involving domestic animals;

(b) enforce the provisions of this law through appropriate means, including but not limited to:

(1) seizing any animal that is taken, employed, used, or possessed in violation of this law and/or mistreated, rabid or otherwise in danger or dangerous;

(2) issuing citations consistent with the fine and penalty schedule developed in accordance with this law; and

(3) using force, up to and including lethal force, to stop an immediate threat to public safety caused by an animal.

(A) Where lethal force is used, such execution shall be conducted in as humane manner as possible and, to the extent feasible, avoids damage to the animal's head for the purpose of rabies testing.

~~304.5-3. Fine, Penalty, and Licensing Fee Schedule.~~ The Environmental, Health, Safety, and Land Division and the Environmental Resource Board are hereby delegated joint authority to develop a fine, penalty, and licensing fee schedule. The fine, penalty, and licensing fee schedule shall be adopted by the Oneida Business Committee through resolution.

~~304.5-4. Disease Investigation and Quarantine.~~ The Environmental, Health, Safety, and Land Division, the Emergency Management Coordinator, and the Comprehensive Health Division are hereby delegated joint authority to establish standard operating procedures related to disease investigations and quarantines.

~~304.5-5. Issuance of Licenses.~~ The Environmental, Health, Safety, and Land Division shall make all decisions related to the issuance of a license and/or permit in accordance with this law, unless

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121 otherwise noted.

122

123 **304.65. Treatment of Animals**

124 304.65-1. *Food and Water.* An owner shall provide an animal with a daily supply of food and
125 water sufficient to maintain the animal in good health.

126 304.65-2. *Shelter.* An owner shall meet the minimum standards for indoor and outdoor shelter for
127 an animal. All shelter shall be structurally sound and maintained in good repair to protect the
128 animal from injury and to contain the animal.

129 (a) *Minimum indoor standards of shelter.* Minimum standards for indoor shelter include
130 the following:

131 (1) *Temperature.* The ambient temperature of the indoor shelter shall be
132 compatible with the health of the animal.

133 (2) *Ventilation.* Indoor shelter facilities shall be adequately ventilated by natural
134 or mechanical means to provide for the health of the animal at all times.

135 (b) *Minimum outdoor standards of shelter.* Minimum standards for outdoor shelter include
136 the following:

137 (1) *Shelter from Sunlight.* When sunlight is likely to cause heat exhaustion of an
138 animal tied or caged outside, sufficient shade by natural or artificial means shall be
139 provided to protect the animal from direct sunlight. Caged does not include farm
140 fencing used to confine livestock.

141 (2) *Climatic Conditions.* Natural or artificial shelter appropriate to the local
142 climatic conditions for the animal concerned shall be provided as necessary for the
143 health of the animal.

144 (3) *Adverse Weather.* If an animal is tied or confined unattended outdoors under
145 weather conditions which adversely affect the health of the animal, a weather
146 appropriate shelter of suitable size to accommodate the animal shall be provided.

147 (c) *Space Standards.* Enclosures shall be constructed and maintained so as to provide
148 sufficient space to allow each animal adequate freedom of movement. Inadequate space
149 may be indicated by evidence of debility, stress, or abnormal behavior patterns.

150 (1) *Dog Kennels.* Dog kennels shall meet the following space requirements where,
151 if there are multiple dogs in the same kennel, the base kennel space requirement is
152 based on the size of the largest dog and the additional kennel space requirements
153 are based on the size of each additional dog kept in the kennel:

154 (A) *Dog Size Between One and Thirty-Five Pounds.* A dog that weighs
155 between one (1) and thirty-five (35) pounds shall have a required base
156 kennel space of sixty (60) square feet. Required additional kennel space per
157 additional dog of this size is twelve (12) square feet.

158 (B) *Dog Size Between Thirty-Six and Seventy-Five Pounds.* A dog that
159 weighs between thirty-six (36) and seventy-five (75) pounds shall have a
160 required base kennel space of eighty (80) square feet. Required additional
161 kennel space per additional dog of this size is eighteen (18) square feet.

162 (C) *Dog Size Seventy-Six Pounds or Greater.* A dog that weighs seventy-
163 six (76) pounds or more shall have a required base kennel space of one

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164 hundred (100) square feet. Required additional kennel space per additional
165 dog of this size is twenty-four (24) square feet.

166 (d) *Sanitation Standards*. An owner shall meet the minimum standards of sanitation for
167 both indoor and outdoor shelter. Minimum sanitation standards require waste matter from
168 the animal to be removed within twenty-four (24) hours of its deposit.

169 (e) *Shelter Exception for Livestock*. In the case of livestock kept on farms on land zoned
170 agricultural, nothing in this section shall be construed as imposing shelter requirements or
171 standards more stringent than normally accepted husbandry practices.

172 304.65-3. *Tethering*. If a kennel or enclosed yard is not available, an owner may tether an
173 unsupervised animal as long as the owner meets the following conditions:

174 (a) the tether is connected to the animal with a buckle type collar or body harness made of
175 nylon or leather not less than one inch (1") in width and at least two inches (2") greater in
176 diameter than the animal's neck or torso;

177 (1) The use of a choke collar, prong collar head harness, or other similar type of
178 head harness or collar shall be prohibited for the use of tethering.

179 (b) the tether is at least twelve feet (12') long and allows the animal to move in all
180 directions unimpeded;

181 (c) the total weight of the tether does not exceed ten percent (10%) of the animal's body
182 weight;

183 (d) the animal is tethered so as to prevent injury, strangulation, or entanglement, and allows
184 the animal access to water and shelter;

185 (e) the tethered animal is not sick, injured, or nursing;

186 (f) the animal is not tethered on any vacant property or land or with an unoccupied
187 dwelling; and

188 (g) the animal is not tethered in a manner that allows the animal to cross onto public space
189 or property of others.

190 304.65-4. *Mistreatment of Animals*. No person shall treat any animal in a manner which causes
191 harm, injury or death. This section does not apply to:

192 (a) normal and accepted veterinary and/or care practices; or

193 (b) teaching, research or experimentation conducted at a facility regulated under federal or
194 applicable state law.

195 304.5-5. *Abandonment*. No person shall abandon any animal.

196 ~~304.5-6-5~~. *Mandatory Reporting*. An employee of the Nation shall report any animal
197 mistreatment witnessed during the regular course of his or her employment with the Nation to the
198 Oneida Police Department and any other appropriate entity.

199

200 **304.76. Dogs and Cats**

201 304.76-1. *License Required*. An owner shall be required to obtain a license for any dog or cat five
202 (5) months of age or older on an annual basis.

203 (a) *License Period*. The license year shall commence on January 1st and end on December
204 31st of every year.

205 (b) *License Eligibility*. To be eligible for a license, the owner shall provide:

206 (1) the licensing fee; and

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207 (2) proof of current rabies vaccination.
208 (c) *Placement of License Tag.* Upon the receipt of a license the owner shall be provided a
209 license tag for the dog or cat. The owner shall securely attach the license tag to the animal's
210 collar and shall require the animal wear the collar at all times.

211 (1) *Exception.* A dog or cat shall not be required to wear the collar if the dog or cat
212 is:

213 (A) hunting or actively involved in herding or controlling livestock if the
214 animal is under control of its owner;

215 (B) within the owner's residence and/or securely confined in a fenced area;
216 and/or

217 (C) being shown during a competition.

218 304.76-2. *Rabies Vaccinations Required.* An owner shall be required to obtain a rabies
219 vaccination for any dog or cat five (5) months of age or older.

220 304.76-3. *Limit on the Number of Dogs and Cats.* An individual may keep no more than two (2)
221 dogs or three (3) cats; and a total of no more than four (4) dogs and cats combined; in a single
222 residential household.

223 (a) *Exception.* The limit on the number of dogs and cats a person may keep or possess does
224 not apply to a person who:

225 (1) is eligible for any grandfather provisions included in this law's adopting
226 resolution;

227 (2) keeps or possesses a litter of pups or kittens, or a portion of a litter, for a period
228 not exceeding five (5) months from birth;

229 (3) resides on property zoned agricultural; and/or

230 (4) obtains a permit for the additional dog or cat.

231 (b) *Permit for Additional Dogs or Cats.* A person may keep more than two (2) dogs or
232 three cats (3) in a single residential household if the owner obtains a permit from the
233 Environmental, Health, Safety, and Land Division for the additional animal. The
234 application for the permit must be signed by the owner and contain the signature of the
235 homeowner of the residential household if the homeowner is not the applicant.

236 (1) By seeking a permit for an additional dog or cat the owner agrees that he or she
237 shall reduce the number of licensed dogs or cats on the premises if there are two (2)
238 or more nuisance complaints against the residential household within one (1)
239 calendar year caused by, or related to, the number of dogs or cats housed on the
240 premises.

241 (2) If two (2) or more nuisance complaints are received against the residential
242 household due to the number of dogs or cats housed on the premises, the owner
243 shall reduce the number of animals within thirty (30) days.

244 304.76-4. *Running at Large.* An owner shall not allow a dog or cat to run at large by being any
245 place except upon the premises of the owner, unless the dog or cat is crated, penned, or on a leash
246 under the control of a person physically able to control the animal.

247 (a) A stray dog or cat running at large may be referred to the Oneida Police Department or
248 Oneida Conservation Department.

249 (b) When an Oneida Police Officer or Oneida Conservation Warden finds a dog or cat

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250 running at large, the officer and/or warden shall, if possible, pick up and impound such
251 animal.

252 (c) Whenever any impounded animal bears an identification mark, such as a collar with
253 identification tags or license tag, the owner shall be notified as soon as reasonably possible.

254 304.76-5. *Nuisance*. An Oneida Police Officer or Oneida Conservation Warden may pick up and
255 impound a dog or cat that has been found to be a nuisance. A dog or cat shall be found to be a
256 nuisance if the actions of the dog or cat:

257 (a) resulted in two (2) or more verified disturbances due to excessive barking and/or other
258 noise by the animal, or the animal running at large; and/or

259 (b) resulted in one (1) or more verified disturbance due to threatening behavior by the
260 animal running at large.

261 304.76-6. *Investigations for Suspected Animal Bites*. The owner shall notify the Oneida Police
262 Department in the event the owner's cat or dog bites a human or another domestic animal.

263 (a) The responding Oneida Police Officer or Oneida Conservation Warden shall:

264 (1) Ascertain whether the domestic animal is properly licensed and has current
265 vaccinations.

266 (2) Ensure all information provided is correct.

267 (3) Contact the Environmental, Health, Safety, and Land Division to provide
268 notification of the domestic animal bite.

269 (4) If the cat or dog has current rabies vaccinations, order the owner to:

270 (A) Quarantine the animal for ten (10) days; and

271 (B) Present the animal for examination by a veterinarian within twenty-
272 four (24) hours of the bite, on the last day of quarantine and on one (1) day
273 in between the first twenty-four (24) hours and the tenth (10th) day.

274 (5) If the cat or dog does not have current rabies vaccination, order the owner to:

275 (A) Quarantine the animal for ten (10) days or deliver the animal to an
276 isolation facility at the owner's expense. If a home quarantine is ordered,
277 the owner shall present the domestic animal for examination by a
278 veterinarian within twenty-four (24) hours of the bite, on the last day of
279 quarantine and on one (1) day in between the first twenty-four (24) hours
280 and the tenth (10th) day; or

281 (B) Euthanize the animal and send the specimen for analysis at the owner's
282 expense, if the animal has exhibited any signs of rabies.

283 (b) Upon expiration of a quarantine period, a veterinarian may extend the quarantine
284 period. Upon expiration of all quarantine periods, if the veterinarian certifies that the
285 animal has not exhibited any signs of rabies, the animal may be released from quarantine.

286 (c) If the veterinarian certifies that the animal has exhibited any signs of rabies the
287 following shall occur:

288 (1) If the animal has current rabies vaccinations, the Oneida Police Officer or
289 Oneida Conservation Warden may order the animal to be euthanized and send the
290 specimen for analysis, to be paid for by the Nation.

291 (2) If the animal does not have current rabies vaccinations, the Oneida Police
292 Officer or Oneida Conservation Warden may order the animal to be euthanized and

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293 send the specimen for analysis at the owner's expense.

294 304.76-7. *District Quarantine*. A district quarantine may be initiated by staff designated by the
295 Environmental, Health, Safety, and Land Division, an Oneida Police Officer, an Oneida
296 Conservation Warden, and/or a Public Health Officer.

297 (a) If an area is subject to a district quarantine for rabies, all dogs and cats within the district
298 shall be kept securely confined, tied, leashed or muzzled. Any dog or cat not confined,
299 tied, leashed or muzzled is a public nuisance and may be impounded. All Oneida Police
300 Officers and Oneida Conservation Wardens shall cooperate in the enforcement of the
301 quarantine.

302 (b) An animal that is immunized against rabies as evidenced by a valid certificate of rabies
303 vaccination or other evidence is exempt from the district quarantine provisions of this
304 section.

305

306 **304.87. Livestock**

307 304.87-1. An owner shall obtain a conditional use permit from the Oneida Land Commission in
308 order to keep livestock on land zoned residential.

309 304.87-2. *Limitations on Livestock*. Livestock kept on land zoned residential are subject to the
310 following limitations:

311 (a) One (1) large animal per one (1) acre. Examples of large animals include, but are not
312 limited to, horses, cows, and pigs.

313 (b) One (1) small animal per one-half (½) acre. Examples of small animals include, but
314 are not limited to, goats, and sheep.

315 (c) One (1) goat or sheep per recorded lot under one-half (½) acre when setback
316 requirements can be met.

317 304.87-3. *Liability for Damage Caused by Livestock at Large*. Any person whose livestock
318 escapes from its normal confined area and becomes at large is responsible for any and all damage
319 to persons and property caused by such livestock while it is away from its normal confined area.

320

321 **304.98. Hens**

322 304.98-1. *Hen Permit*. An owner shall obtain a conditional use permit from the Oneida Land
323 Commission in order to keep hens on land zoned residential.

324 304.98-2. *Prohibition of Roosters*. An owner shall not keep a rooster on land zoned residential.

325 304.98-3. *Limit on the Number of Hens Allowed*. The number of hens an owner may keep is
326 dependent on the size of the residential lot.

327 (a) An owner may to keep up to six (6) hens on a residential lot that is smaller than two
328 (2) acres in size.

329 (b) An owner may keep up to twelve (12) hens on a residential lot two (2) acres in size or
330 larger.

331 304.98-4. *Standards for Keeping Hens*. An owner shall keep hens in the following manner:

332 (a) No person shall keep a hen over eight (8) weeks of age in a principal structure.

333 (b) Hens shall be kept within a structure such as a coop or fenced area used exclusively to
334 keep hens and shall provide at least four (4) square feet of space per hen.

335 (c) No accessory structure used to keep hens shall be located within twenty-five feet (25')

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336 of any principal structure which is not owned by the person permitted to keep the hens.
 337 (d) No accessory structure used to keep hens shall be located in a front or side yard.
 338 (e) All hens shall be kept and handled in a sanitary manner to prevent the spread of
 339 communicable diseases amongst birds or to humans.

340 304.98-5. *Prohibition of Nuisance Hens*. No owner may keep hens that cause any other nuisance
 341 associated with unhealthy conditions, create a public health threat, or otherwise interfere with the
 342 normal use of property or enjoyment of life by humans or animals.

343
 344 **304.109. Prohibited Animals**

345 304.109-1. No person shall bring into, keep, harbor, maintain, offer for sale or barter, act as a
 346 custodian, have custody or control of, or release to the wild on the Reservation a prohibited animal.

347 304.109-2. *Prohibited Animals*. The Oneida Business Committee shall provide through the
 348 adoption of a resolution which orders and families of animals, whether bred in the wild or in
 349 captivity, and any or all hybrids are prohibited from being on the Reservation.

350 304.109-3. *Prohibited Animals Exception*. The prohibition of certain animals shall not apply
 351 to:

352 (a) Individuals who are eligible for any grandfather provisions included in this law's
 353 adopting resolution.

354 (b) A zoological park and/or sanctuary, an educational or medical institution, and/or a
 355 specially trained entertainment organization who receives a permit from the
 356 Environmental, Health, Safety, and Land Division to own, harbor or possess the prohibited
 357 animal.

358 304.109-4. *Prohibited Animal Permit*. The Environmental, Health, Safety, and Land Division
 359 may issue a prohibited animal permit if:

360 (a) the animal and animal quarters are kept in a clean and sanitary condition and
 361 maintained to eliminate objectionable odors; and

362 (b) the animal is maintained in quarters so constructed as to prevent its escape.

363 304.109-5. *Release of Prohibited Animals*. The Environmental, Health, Safety, and Land
 364 Division, may approve a wildlife refuge and/or sanctuary to release prohibited animals within the
 365 Reservation without applying for and receiving a prohibited animal permit.

366 304.109-6. *Seizure of Prohibited Animals*. An unpermitted prohibited animal may be seized by
 367 the Oneida Police Department and/or the Oneida Conservation Department.

368 (a) A prohibited animal that is seized shall be held by the Oneida Police Department, the
 369 Oneida Conservation Department, or its designee until it can be determined if the animal
 370 is an endangered or threatened species.

371 (b) At any time after such identification, the Oneida Police Department and/or Oneida
 372 Conservation Department may seek an order from the Trial Court as to the care, custody
 373 and control of the animal.

374 (c) If the Trial Court finds the animal has been taken, employed, used or possessed in
 375 violation of this section, the owner shall be responsible for reimbursing the Oneida Police
 376 Department and/or the Oneida Conservation Department for the cost of holding the animal
 377 and any costs incurred in identifying the animal.

378 304.109-7. *Notice of Release or Escape*. The owner of a prohibited animal that has been

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379 released or escapes shall immediately notify the Oneida Police Department and/or the Oneida
380 Conservation Department and shall be liable for any cost of recapture of the animal.

381 304.10-8. *Forfeiture of the Prohibited Animal.* An owner found in violation of this section shall
382 forfeit or surrender the prohibited animal to the Oneida Police Department, Oneida Conservation
383 Department, or designee. Upon such forfeiture or surrender, the Trial Court may direct destruction
384 or transfer of the animal to a qualified zoological, educational, or scientific institution or qualified
385 private propagator for safekeeping, with costs assessed against the owner.

386

387 **304.10. Dangerous Animals**

388 304.10-1. *Dangerous Animals.* No person shall own, keep, possess, return to or harbor a
389 dangerous animal. An animal shall be presumed to be dangerous if the animal:

390 (a) approaches or chases a human being or domestic animal in a menacing fashion or
391 apparent attitude of attack;

392 (b) bites, inflicts injury, attacks, or otherwise endangers the safety of a human being or
393 domestic animal;

394 (c) is suspected to be owned, trained or harbored for the purpose of dog fighting; and/or

395 (d) has been declared to be a dangerous animal and/or ordered to be destroyed in any other
396 jurisdiction.

397 304.10-2. *Dangerous Animal Determination.* An Oneida Police Officer or Oneida
398 Conservation Warden may determine an animal to be dangerous whenever, upon investigation, the
399 officer finds that the animal meets the definition of dangerous animal provided in section

400 304.10-1.

401 (a) Upon making a determination that an animal is dangerous, the Oneida Police Officer
402 or Oneida Conservation Warden shall issue a written order with an accompanying citation
403 declaring the animal to be dangerous.

404 (b) The citation and order shall be personally delivered to the apparent owner or custodian
405 of the dangerous animal.

406 (c) Upon receipt of the written order and accompanying citation the owner shall remove
407 the dangerous animal from the Reservation within three (3) business days.

408 304.10-3. *Contesting a Dangerous Animal Determination.* If the owner wishes to contest the
409 dangerous animal determination, he or she shall file with the Trial Court a written objection to the
410 order within three (3) business days of receipt of the order.

411 (a) The written objection shall include specific reasons for objecting to or contesting the
412 order. An owner may argue an animal should not be deemed dangerous due to the animal
413 biting, attacking or menacing any person and/or domestic animal because the animal was
414 acting to:

415 (1) defend its owner or another person from an attack by a person or animal;

416 (2) protect its young or another animal;

417 (3) defend itself against any person or animal which has tormented, assaulted or
418 abused it; and/or

419 (4) defend its owner's property against trespassers.

420 (b) Pending the outcome of the hearing, the animal shall be securely confined in a humane
421 manner either on the premises of the owner or caretaker, or with a licensed veterinarian. If

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422 confined on the premises of the owner or caretaker, the following requirements shall apply:

423 (1) *Leash and Muzzle.* No owner shall permit a dangerous animal to go outside its
424 kennel or pen unless the animal is securely restrained with a leash no longer than
425 four feet (4') in length by a person who is at least sixteen (16) years of age who is
426 in physical control of the leash, competent to govern the animal and capable of
427 physically controlling and restraining the animal. The owner shall not leash an
428 animal to inanimate objects such as a tree, post, or building. When the animal is on
429 a leash outside the animal's kennel, the owner shall muzzle the animal in a humane
430 way by a commercially available muzzling device sufficient to prevent the animal
431 from biting a person or other animal.

432 (2) *Confinement.* Except when leashed and muzzled the owner shall ensure the
433 dangerous animal is securely confined indoors or in a securely enclosed and locked
434 pen or kennel that is located on the premises of the owner and constructed in a
435 manner that does not allow the animal to exit the pen or kennel on its own volition.
436 The owner shall not permit an animal to be kept on a porch, patio, or in any part of
437 a house or structure on the premises of the owner that would allow the animal to
438 exit the building on its own volition. The owner shall not permit the animal to be
439 kept in a house or structure when the windows are open or when screen windows
440 or screen doors are the only obstacle preventing the animal from exiting the
441 structure.

442 (3) *Signs.* The owner of a dangerous animal shall display, in prominent places on
443 his or her premises near all entrances to the premises, signs in letters of not less
444 than two inches (2") high warning that there is a dangerous animal on the property.
445 A similar sign shall be posted on the kennel or pen of the animal. In addition, the
446 owner shall conspicuously display a sign with a symbol warning children of the
447 presence of a dangerous animal.

448 (4) *Notification.* The owner of a dangerous animal shall notify the Oneida Police
449 Department and/or the Oneida Conservation Department immediately if the animal
450 is at large, is unconfined, has attacked another animal, or has attacked a person.

451 (c) If an owner or caretaker fails to follow the requirements for harboring a dangerous
452 animal pending a hearing, the animal may be impounded by the Oneida Police Officer or
453 Oneida Conservation Warden issuing the dangerous animal determination.

454 304.1+10-4. *Dangerous Animal Determination Hearing.* A hearing on the dangerous animal
455 determination shall be held within fourteen (14) days of submission of the written objection with
456 the Trial Court. At the hearing, the Trial Court shall determine whether the determination that the
457 animal is dangerous should be substantiated.

458 (a) If the Trial Court concludes that the determination that the animal is dangerous is
459 substantiated, then the Trial Court shall issue an order that mandates the animal be removed
460 from the Reservation within forty-eight (48) hours of the determination.

461 (1) The order shall contain the requirement that the owner notify the Oneida Police
462 Department within twenty-four (24) hours if the dangerous animal has been sold or
463 been given away. If the dangerous animal has been sold or given away, the owner
464 shall also provide the name, address and telephone number of the new owner of the

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465 dangerous animal. If the dangerous animal is sold or given away to a person
 466 residing outside the Reservation or to a person or entity that falls outside of the
 467 jurisdiction of this law, the owner shall present evidence to the Oneida Police
 468 Department showing that he or she has notified the police department or other law
 469 enforcement agency of the animal's new residence, including the name, address and
 470 telephone number of the new owner. The Oneida Police Department shall forward
 471 all such notifications to the Environmental, Health, Safety, and Land Division
 472 within a reasonable amount of time.

473 (b) The Trial Court may order a dangerous animal to be destroyed. If such an order is
 474 issued, the Trial Court shall require the owner submit proof of destruction within five (5)
 475 business days from a licensed veterinarian. If the owner does not satisfy these
 476 requirements, an Oneida Police Officer and/or an Oneida Conservation Warden shall seize
 477 the animal and enforce compliance at the cost of the owner.

478 (c) The Trial Court may mandate attendance at an additional Trial Court hearing if
 479 restitution is appropriate.

480 304.11-5. *Appeal of the Trial Court's Decision.* An appeal of the Trial Court's decision on the
 481 dangerous animal determination may be appealed to the Nation's Court of Appeals.

482 (a) An appeal shall be submitted to the Court of Appeals within five (5) business days
 483 from the date of the Trial Court's decision.

484 (b) Upon an appeal to the Court of Appeals, the order to remove the animal from the
 485 Reservation or any order to destroy an animal is stayed pending the outcome of the appeal.

486 604.11-6. *Dangerous Animal Exception.* The Trial Court may provide an exception to the
 487 dangerous animal provisions of this law for a law enforcement or military animal upon
 488 presentation by the animal's owner or handler of a satisfactory arrangement for safe keeping of the
 489 animal.

490

491 **304.12-11. Owner Liability**

492 304.12-11-1. An owner shall be liable for damages caused by his or her domestic animal.

493 (a) *First Offense.* The owner is liable for the full amount of damages caused by the
 494 domestic animal.

495 (b) *Subsequent Offenses.* The owner shall be liable for two (2) times the full amount of
 496 damages caused by the domestic animal if the owner knew or should have known that the
 497 domestic animal previously caused damages.

498

499 **304.13-12. Enforcement of Violations**

500 304.13-12-1. *Citations.* ~~Citations~~A citation for the violation of this law and/or orders issued
 501 pursuant to this law may include fines, penalties and conditional orders in accordance with the
 502 fine, penalty, and licensing fee schedule. A citation for a violation of this law shall be processed
 503 in accordance with the procedure contained in the Nation's laws and policies governing citations.

504 ~~304.13-2. Citation Pre-Hearing. All citations shall include a pre-hearing date with the~~
 505 ~~Trial Court which shall be set for the next scheduled monthly pre-hearing date that is at~~
 506 ~~least thirty (30) days after the citation was issued.~~(a) The act of contesting a dangerous
 507 animal determination shall follow the process contained in section 304.11-10.

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508 ~~(a) Persons wishing to contest a citation shall appear at the prehearing, at which time the~~
509 ~~Trial Court shall accept pleas which either contest or admit committing the act for which~~
510 ~~the citation was issued.~~

511 ~~(b) In addition to scheduling requested hearings, the Trial Court may also make conditional~~
512 ~~orders at the pre-hearing which are effective until the matter is resolved.~~

513 ~~304.13-3. Citation Hearing. The Trial Court shall schedule a hearing as expeditiously as possible,~~
514 ~~provided that it shall be scheduled within ninety (90) days of the date of the prehearing, for all~~
515 ~~persons entering a plea contesting the fact that they committed the act for which a citation was~~
516 ~~issued.~~

517 ~~304.13-4. Appeals of the Trial Court's Determinations. Any person wishing to contest the~~
518 ~~determination of the Trial Court may appeal to the Nation's Court of Appeals in accordance with~~
519 ~~the Rules of Appellate Procedure.~~

520 ~~304.13-5. Fines. All fines~~304.12-2. Fines. All fines as a result of a citation shall be paid to the
521 Judiciary. Money received from fines shall be contributed to the General Fund.

522 ~~(a) Fines shall be paid within ninety (90) days after the order is issued or upheld on final~~
523 ~~appeal, whichever is later. If the fine is not paid by this deadline, the Trial Court may seek~~
524 ~~to collect the money owed through the Nation's garnishment and/or per capita attachment~~
525 ~~process.~~

526 ~~(1) The ninety (90) day deadline for payment of fines may be extended if an~~
527 ~~alternative payment plan is approved by the Trial Court.~~

528 ~~(b)~~(a) Community service may be substituted for part or all of any fine at the minimum
529 wage rate of the Nation for each hour of community service.

530
531 *End.*

- 533 Adopted - BC-03-13-96-B
- 534 Amended – BC-06-22-11-G
- 535 Amended – BC-06-28-17-B
- 536 Amended – BC-05-08-19-C
- 537 Amended – BC- - - -
- 538

Title 3. Health and Public Safety - Chapter 304
K@tse>na Olihwa=ke
matters concerning the pet animals
DOMESTIC ANIMALS

304.1. Purpose and Policy	304.8. Hens
304.2. Adoption, Amendment, Conflicts	304.9. Prohibited Animals
304.3. Definitions	304.10. Dangerous Animals
304.4. Authority	304.11. Owner Liability
304.5. Treatment of Animals	304.12. Enforcement of Violations
304.6. Dogs and Cats	
304.7. Livestock	

1 **304.1. Purpose and Policy**

- 2 304.1-1. *Purpose.* The purpose of this law is to:
- 3 (a) protect the health, safety, and welfare of the community by requiring certain basic
- 4 measures to prevent the spread of disease carried by domestic animals;
- 5 (b) set minimum standards for the treatment of animals;
- 6 (c) prohibit certain species of animals from being brought onto the Reservation;
- 7 (d) regulate the keeping of livestock on lots zoned residential within the Reservation; and
- 8 (e) establish consequences for damages caused by domestic animals.
- 9 304.1-2. *Policy.* It is the policy of the Nation to protect the health, safety, and welfare of the
- 10 community by:
- 11 (a) requiring certain basic measures to prevent the spread of disease carried by domestic
- 12 animals;
- 13 (b) establishing requirements for licensing domestic animals, and
- 14 (c) regulating the types of animals which may be kept as domestic animals.
- 15

16 **304.2. Adoption, Amendment, Repeal**

- 17 304.2-1. This law was adopted by Oneida Business Committee by resolution BC-03-13-96-B and
- 18 amended by resolutions BC-06-22-11-G, BC-06-28-17-B, BC-05-08-19-C, and BC-__-__-__-__.
- 19 304.2-2. This law may be amended or repealed by the Oneida Business Committee and/or
- 20 General Tribal Council pursuant to the procedures set out in the Legislative Procedures Act.
- 21 304.2-3. Should a provision of this law or the application thereof to any person or circumstances
- 22 be held as invalid, such invalidity shall not affect other provisions of this law which are considered
- 23 to have legal force without the invalid portions.
- 24 304.2-4. In the event of a conflict between a provision of this law and a provision of another law,
- 25 the provisions of this law shall control.
- 26 304.2-5. This law is adopted under the authority of the Constitution of the Oneida Nation.
- 27

28 **304.3. Definitions**

- 29 304.3-1. This section shall govern the definitions of words and phrases used within this law. All
- 30 words not defined herein shall be used in their ordinary and everyday sense.
- 31 (a) "Abandon" means leaving behind a domestic animal at a location without providing
- 32 minimum care.
- 33 (b) "Court of Appeals" means the Nation's Judiciary's Court of Appeals, which is the
- 34 court of final appeal within the Nation.
- 35 (c) "District Quarantine" means a rabid or otherwise diseased domestic animal is suspected
- 36 or known to be within a discernible area and all such animals reasonably suspected of being
- 37 infected are subject to enforced isolation for a period of time to limit or prevent the spread
- 38 of disease or infection and during which time said animals are tested for diseases, including

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- 39 rabies.
- 40 (d) “Fine” means a monetary punishment issued to a person violating this law.
- 41 (e) “Hen” means a female chicken of the order and family gallus gallus domesticus.
- 42 (f) “Husbandry practices” means accepted manner of managing resources, cultivating, and
- 43 caring for animals including the breeding, feeding, and tending of the animals.
- 44 (g) “Judiciary” means the Oneida Nation Judiciary, which is the judicial system that was
- 45 established by Oneida General Tribal Council resolution GTC-01-07-13-B to administer
- 46 the judicial authorities and responsibilities of the Nation.
- 47 (h) “Livestock” means any equine (i.e. horse, donkey, etc.), bovine (i.e. cow, steer, heifer,
- 48 etc.), sheep, goat, pig.
- 49 (i) “Nation” means the Oneida Nation.
- 50 (j) “Owner” means any person who owns, harbors, keeps, controls or acts as a caretaker
- 51 for an animal. Absent evidence of alternative adult ownership, this law presumes that
- 52 domestic animals are owned by the adult homeowner or renter.
- 53 (k) “Penalty” means a punishment, other than a fine, imposed on a person violating this
- 54 law and may include, but is not limited to, the confiscation of wildlife with return of the
- 55 same at the discretion of the Trial Court and restitution.
- 56 (l) “Reservation” means all the property within the exterior boundaries of the Reservation
- 57 of the Oneida Nation, as created pursuant to the 1838 Treaty with the Oneida 7 Stat. 566,
- 58 and any lands added thereto pursuant to federal law.
- 59 (m) “Residential household” means a residential lot, except for those residential lots
- 60 designed as multi-family lots, in which each family unit within the lot constitutes a separate
- 61 household.
- 62 (n) “Tethering” means the act of fastening an animal to a stationary object while
- 63 unattended so that the animal can only range within a set radius. Tethering does not include
- 64 the use of a leash to walk an animal.
- 65 (o) “Trial Court” means the Trial Court of the Oneida Nation Judiciary.
- 66 (p) “Quarantine” means the act of keeping an animal in enforced isolation for a period of
- 67 time to limit or prevent the spread of disease or infection and during which time said animal
- 68 is tested for diseases, including rabies.

69

70 **304.4. Authority**

71 304.4-1. *General.* This law governs the keeping of all domestic animals which are commonly

72 owned as household pets. Domestic animals include, but are not limited to, dogs, cats, ferrets,

73 rabbits, guinea pigs, turtles, birds, pigeons, hamsters, non-venomous reptiles, amphibians, and

74 arachnids.

75 (a) Domestic animals do not include prohibited animals as identified by the prohibited

76 animals resolution provided for in section 304.9-2.

77 304.4-2. *Authority of the Oneida Police Department and Conservation Department.* Oneida

78 Police Officers and Conservation Wardens shall have the authority to:

- 79 (a) investigate complaints involving domestic animals;
- 80 (b) enforce the provisions of this law through appropriate means, including but not limited
- 81 to:

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- 82 (1) seizing any animal that is taken, employed, used, or possessed in violation of
83 this law and/or mistreated, rabid or otherwise in danger or dangerous;
84 (2) issuing citations consistent with the fine and penalty schedule developed in
85 accordance with this law; and
86 (3) using force, up to and including lethal force, to stop an immediate threat to
87 public safety caused by an animal.

- 88 (A) Where lethal force is used, such execution shall be conducted in as
89 humane manner as possible and, to the extent feasible, avoids damage to the
90 animal's head for the purpose of rabies testing.

91 304.4-3. *Fine, Penalty, and Licensing Fee Schedule.* The Environmental, Health, Safety, and
92 Land Division and the Environmental Resource Board are hereby delegated joint authority to
93 develop a fine, penalty, and licensing fee schedule. The fine, penalty, and licensing fee schedule
94 shall be adopted by the Oneida Business Committee through resolution.

95 304.4-4. *Disease Investigation and Quarantine.* The Environmental, Health, Safety, and Land
96 Division, the Emergency Management Coordinator, and the Comprehensive Health Division are
97 hereby delegated joint authority to establish standard operating procedures related to disease
98 investigations and quarantines.

99 304.4-5. *Issuance of Licenses.* The Environmental, Health, Safety, and Land Division shall make
100 all decisions related to the issuance of a license and/or permit in accordance with this law, unless
101 otherwise noted.

102

103 **304.5. Treatment of Animals**

104 304.5-1. *Food and Water.* An owner shall provide an animal with a daily supply of food and
105 water sufficient to maintain the animal in good health.

106 304.5-2. *Shelter.* An owner shall meet the minimum standards for indoor and outdoor shelter for
107 an animal. All shelter shall be structurally sound and maintained in good repair to protect the
108 animal from injury and to contain the animal.

109 (a) *Minimum indoor standards of shelter.* Minimum standards for indoor shelter include
110 the following:

111 (1) *Temperature.* The ambient temperature of the indoor shelter shall be
112 compatible with the health of the animal.

113 (2) *Ventilation.* Indoor shelter facilities shall be adequately ventilated by natural
114 or mechanical means to provide for the health of the animal at all times.

115 (b) *Minimum outdoor standards of shelter.* Minimum standards for outdoor shelter include
116 the following:

117 (1) *Shelter from Sunlight.* When sunlight is likely to cause heat exhaustion of an
118 animal tied or caged outside, sufficient shade by natural or artificial means shall be
119 provided to protect the animal from direct sunlight. Caged does not include farm
120 fencing used to confine livestock.

121 (2) *Climatic Conditions.* Natural or artificial shelter appropriate to the local
122 climatic conditions for the animal concerned shall be provided as necessary for the
123 health of the animal.

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124 (3) *Adverse Weather*. If an animal is tied or confined unattended outdoors under
125 weather conditions which adversely affect the health of the animal, a weather
126 appropriate shelter of suitable size to accommodate the animal shall be provided.

127 (c) *Space Standards*. Enclosures shall be constructed and maintained so as to provide
128 sufficient space to allow each animal adequate freedom of movement. Inadequate space
129 may be indicated by evidence of debility, stress, or abnormal behavior patterns.

130 (1) *Dog Kennels*. Dog kennels shall meet the following space requirements where,
131 if there are multiple dogs in the same kennel, the base kennel space requirement is
132 based on the size of the largest dog and the additional kennel space requirements
133 are based on the size of each additional dog kept in the kennel:

134 (A) *Dog Size Between One and Thirty-Five Pounds*. A dog that weighs
135 between one (1) and thirty-five (35) pounds shall have a required base
136 kennel space of sixty (60) square feet. Required additional kennel space per
137 additional dog of this size is twelve (12) square feet.

138 (B) *Dog Size Between Thirty-Six and Seventy-Five Pounds*. A dog that
139 weighs between thirty-six (36) and seventy-five (75) pounds shall have a
140 required base kennel space of eighty (80) square feet. Required additional
141 kennel space per additional dog of this size is eighteen (18) square feet.

142 (C) *Dog Size Seventy-Six Pounds or Greater*. A dog that weighs seventy-
143 six (76) pounds or more shall have a required base kennel space of one
144 hundred (100) square feet. Required additional kennel space per additional
145 dog of this size is twenty-four (24) square feet.

146 (d) *Sanitation Standards*. An owner shall meet the minimum standards of sanitation for
147 both indoor and outdoor shelter. Minimum sanitation standards require waste matter from
148 the animal to be removed within twenty-four (24) hours of its deposit.

149 (e) *Shelter Exception for Livestock*. In the case of livestock kept on farms on land zoned
150 agricultural, nothing in this section shall be construed as imposing shelter requirements or
151 standards more stringent than normally accepted husbandry practices.

152 304.5-3. *Tethering*. If a kennel or enclosed yard is not available, an owner may tether an
153 unsupervised animal as long as the owner meets the following conditions:

154 (a) the tether is connected to the animal with a buckle type collar or body harness made of
155 nylon or leather not less than one inch (1") in width and at least two inches (2") greater in
156 diameter than the animal's neck or torso;

157 (1) The use of a choke collar, prong collar head harness, or other similar type of
158 head harness or collar shall be prohibited for the use of tethering.

159 (b) the tether is at least twelve feet (12') long and allows the animal to move in all
160 directions unimpeded;

161 (c) the total weight of the tether does not exceed ten percent (10%) of the animal's body
162 weight;

163 (d) the animal is tethered so as to prevent injury, strangulation, or entanglement, and allows
164 the animal access to water and shelter;

165 (e) the tethered animal is not sick, injured, or nursing;

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166 (f) the animal is not tethered on any vacant property or land or with an unoccupied
167 dwelling; and

168 (g) the animal is not tethered in a manner that allows the animal to cross onto public space
169 or property of others.

170 304.5-4. *Mistreatment of Animals.* No person shall treat any animal in a manner which causes
171 harm, injury or death. This section does not apply to:

172 (a) normal and accepted veterinary and/or care practices; or

173 (b) teaching, research or experimentation conducted at a facility regulated under federal or
174 applicable state law.

175 304.5-5. *Abandonment.* No person shall abandon any animal.

176 304.5-6. *Mandatory Reporting.* An employee of the Nation shall report any animal mistreatment
177 witnessed during the regular course of his or her employment with the Nation to the Oneida Police
178 Department and any other appropriate entity.

179

180 **304.6. Dogs and Cats**

181 304.6-1. *License Required.* An owner shall be required to obtain a license for any dog or cat five
182 (5) months of age or older on an annual basis.

183 (a) *License Period.* The license year shall commence on January 1st and end on December
184 31st of every year.

185 (b) *License Eligibility.* To be eligible for a license, the owner shall provide:

186 (1) the licensing fee; and

187 (2) proof of current rabies vaccination.

188 (c) *Placement of License Tag.* Upon the receipt of a license the owner shall be provided a
189 license tag for the dog or cat. The owner shall securely attach the license tag to the animal's
190 collar and shall require the animal wear the collar at all times.

191 (1) *Exception.* A dog or cat shall not be required to wear the collar if the dog or cat
192 is:

193 (A) hunting or actively involved in herding or controlling livestock if the
194 animal is under control of its owner;

195 (B) within the owner's residence and/or securely confined in a fenced area;
196 and/or

197 (C) being shown during a competition.

198 304.6-2. *Rabies Vaccinations Required.* An owner shall be required to obtain a rabies
199 vaccination for any dog or cat five (5) months of age or older.

200 304.6-3. *Limit on the Number of Dogs and Cats.* An individual may keep no more than two (2)
201 dogs or three (3) cats; and a total of no more than four (4) dogs and cats combined; in a single
202 residential household.

203 (a) *Exception.* The limit on the number of dogs and cats a person may keep or possess does
204 not apply to a person who:

205 (1) is eligible for any grandfather provisions included in this law's adopting
206 resolution;

207 (2) keeps or possesses a litter of pups or kittens, or a portion of a litter, for a period
208 not exceeding five (5) months from birth;

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- 209 (3) resides on property zoned agricultural; and/or
210 (4) obtains a permit for the additional dog or cat.
- 211 (b) *Permit for Additional Dogs or Cats.* A person may keep more than two (2) dogs or
212 three cats (3) in a single residential household if the owner obtains a permit from the
213 Environmental, Health, Safety, and Land Division for the additional animal. The
214 application for the permit must be signed by the owner and contain the signature of the
215 homeowner of the residential household if the homeowner is not the applicant.
- 216 (1) By seeking a permit for an additional dog or cat the owner agrees that he or she
217 shall reduce the number of licensed dogs or cats on the premises if there are two (2)
218 or more nuisance complaints against the residential household within one (1)
219 calendar year caused by, or related to, the number of dogs or cats housed on the
220 premises.
- 221 (2) If two (2) or more nuisance complaints are received against the residential
222 household due to the number of dogs or cats housed on the premises, the owner
223 shall reduce the number of animals within thirty (30) days.
- 224 304.6-4. *Running at Large.* An owner shall not allow a dog or cat to run at large by being any
225 place except upon the premises of the owner, unless the dog or cat is crated, penned, or on a leash
226 under the control of a person physically able to control the animal.
- 227 (a) A stray dog or cat running at large may be referred to the Oneida Police Department or
228 Oneida Conservation Department.
- 229 (b) When an Oneida Police Officer or Oneida Conservation Warden finds a dog or cat
230 running at large, the officer and/or warden shall, if possible, pick up and impound such
231 animal.
- 232 (c) Whenever any impounded animal bears an identification mark, such as a collar with
233 identification tags or license tag, the owner shall be notified as soon as reasonably possible.
- 234 304.6-5. *Nuisance.* An Oneida Police Officer or Oneida Conservation Warden may pick up and
235 impound a dog or cat that has been found to be a nuisance. A dog or cat shall be found to be a
236 nuisance if the actions of the dog or cat:
- 237 (a) resulted in two (2) or more verified disturbances due to excessive barking and/or other
238 noise by the animal, or the animal running at large; and/or
239 (b) resulted in one (1) or more verified disturbance due to threatening behavior by the
240 animal running at large.
- 241 304.6-6. *Investigations for Suspected Animal Bites.* The owner shall notify the Oneida Police
242 Department in the event the owner's cat or dog bites a human or another domestic animal.
- 243 (a) The responding Oneida Police Officer or Oneida Conservation Warden shall:
- 244 (1) Ascertain whether the domestic animal is properly licensed and has current
245 vaccinations.
- 246 (2) Ensure all information provided is correct.
- 247 (3) Contact the Environmental, Health, Safety, and Land Division to provide
248 notification of the domestic animal bite.
- 249 (4) If the cat or dog has current rabies vaccinations, order the owner to:
- 250 (A) Quarantine the animal for ten (10) days; and
251 (B) Present the animal for examination by a veterinarian within twenty-

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252 four (24) hours of the bite, on the last day of quarantine and on one (1) day
253 in between the first twenty-four (24) hours and the tenth (10th) day.

254 (5) If the cat or dog does not have current rabies vaccination, order the owner to:

255 (A) Quarantine the animal for ten (10) days or deliver the animal to an
256 isolation facility at the owner's expense. If a home quarantine is ordered,
257 the owner shall present the domestic animal for examination by a
258 veterinarian within twenty-four (24) hours of the bite, on the last day of
259 quarantine and on one (1) day in between the first twenty-four (24) hours
260 and the tenth (10th) day; or

261 (B) Euthanize the animal and send the specimen for analysis at the owner's
262 expense, if the animal has exhibited any signs of rabies.

263 (b) Upon expiration of a quarantine period, a veterinarian may extend the quarantine
264 period. Upon expiration of all quarantine periods, if the veterinarian certifies that the
265 animal has not exhibited any signs of rabies, the animal may be released from quarantine.

266 (c) If the veterinarian certifies that the animal has exhibited any signs of rabies the
267 following shall occur:

268 (1) If the animal has current rabies vaccinations, the Oneida Police Officer or
269 Oneida Conservation Warden may order the animal to be euthanized and send the
270 specimen for analysis, to be paid for by the Nation.

271 (2) If the animal does not have current rabies vaccinations, the Oneida Police
272 Officer or Oneida Conservation Warden may order the animal to be euthanized and
273 send the specimen for analysis at the owner's expense.

274 304.6-7. *District Quarantine.* A district quarantine may be initiated by staff designated by the
275 Environmental, Health, Safety, and Land Division, an Oneida Police Officer, an Oneida
276 Conservation Warden, and/or a Public Health Officer.

277 (a) If an area is subject to a district quarantine for rabies, all dogs and cats within the district
278 shall be kept securely confined, tied, leashed or muzzled. Any dog or cat not confined,
279 tied, leashed or muzzled is a public nuisance and may be impounded. All Oneida Police
280 Officers and Oneida Conservation Wardens shall cooperate in the enforcement of the
281 quarantine.

282 (b) An animal that is immunized against rabies as evidenced by a valid certificate of rabies
283 vaccination or other evidence is exempt from the district quarantine provisions of this
284 section.

285

286 304.7. Livestock

287 304.7-1. An owner shall obtain a conditional use permit from the Oneida Land Commission in
288 order to keep livestock on land zoned residential.

289 304.7-2. *Limitations on Livestock.* Livestock kept on land zoned residential are subject to the
290 following limitations:

291 (a) One (1) large animal per one (1) acre. Examples of large animals include, but are not
292 limited to, horses, cows, and pigs.

293 (b) One (1) small animal per one-half (½) acre. Examples of small animals include, but
294 are not limited to, goats, and sheep.

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295 (c) One (1) goat or sheep per recorded lot under one-half (½) acre when setback
296 requirements can be met.

297 304.7-3. *Liability for Damage Caused by Livestock at Large.* Any person whose livestock
298 escapes from its normal confined area and becomes at large is responsible for any and all damage
299 to persons and property caused by such livestock while it is away from its normal confined area.

300

301 **304.8. Hens**

302 304.8-1. *Hen Permit.* An owner shall obtain a conditional use permit from the Oneida Land
303 Commission in order to keep hens on land zoned residential.

304 304.8-2. *Prohibition of Roosters.* An owner shall not keep a rooster on land zoned residential.

305 304.8-3. *Limit on the Number of Hens Allowed.* The number of hens an owner may keep is
306 dependent on the size of the residential lot.

307 (a) An owner may to keep up to six (6) hens on a residential lot that is smaller than two
308 (2) acres in size.

309 (b) An owner may keep up to twelve (12) hens on a residential lot two (2) acres in size or
310 larger.

311 304.8-4. *Standards for Keeping Hens.* An owner shall keep hens in the following manner:

312 (a) No person shall keep a hen over eight (8) weeks of age in a principal structure.

313 (b) Hens shall be kept within a structure such as a coop or fenced area used exclusively to
314 keep hens and shall provide at least four (4) square feet of space per hen.

315 (c) No accessory structure used to keep hens shall be located within twenty-five feet (25')
316 of any principal structure which is not owned by the person permitted to keep the hens.

317 (d) No accessory structure used to keep hens shall be located in a front or side yard.

318 (e) All hens shall be kept and handled in a sanitary manner to prevent the spread of
319 communicable diseases amongst birds or to humans.

320 304.8-5. *Prohibition of Nuisance Hens.* No owner may keep hens that cause any other nuisance
321 associated with unhealthy conditions, create a public health threat, or otherwise interfere with the
322 normal use of property or enjoyment of life by humans or animals.

323

324 **304.9. Prohibited Animals**

325 304.9-1. No person shall bring into, keep, harbor, maintain, offer for sale or barter, act as a
326 custodian, have custody or control of, or release to the wild on the Reservation a prohibited animal.

327 304.9-2. *Prohibited Animals.* The Oneida Business Committee shall provide through the adoption
328 of a resolution which orders and families of animals, whether bred in the wild or in captivity, and
329 any or all hybrids are prohibited from being on the Reservation.

330 304.9-3. *Prohibited Animals Exception.* The prohibition of certain animals shall not apply to:

331 (a) Individuals who are eligible for any grandfather provisions included in this law's
332 adopting resolution.

333 (b) A zoological park and/or sanctuary, an educational or medical institution, and/or a
334 specially trained entertainment organization who receives a permit from the
335 Environmental, Health, Safety, and Land Division to own, harbor or possess the prohibited
336 animal.

337 304.9-4. *Prohibited Animal Permit.* The Environmental, Health, Safety, and Land Division may

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338 issue a prohibited animal permit if:

339 (a) the animal and animal quarters are kept in a clean and sanitary condition and
340 maintained to eliminate objectionable odors; and

341 (b) the animal is maintained in quarters so constructed as to prevent its escape.

342 304.9-5. *Release of Prohibited Animals.* The Environmental, Health, Safety, and Land Division,
343 may approve a wildlife refuge and/or sanctuary to release prohibited animals within the
344 Reservation without applying for and receiving a prohibited animal permit.

345 304.9-6. *Seizure of Prohibited Animals.* An unpermitted prohibited animal may be seized by the
346 Oneida Police Department and/or the Oneida Conservation Department.

347 (a) A prohibited animal that is seized shall be held by the Oneida Police Department, the
348 Oneida Conservation Department, or its designee until it can be determined if the animal
349 is an endangered or threatened species.

350 (b) At any time after such identification, the Oneida Police Department and/or Oneida
351 Conservation Department may seek an order from the Trial Court as to the care, custody
352 and control of the animal.

353 (c) If the Trial Court finds the animal has been taken, employed, used or possessed in
354 violation of this section, the owner shall be responsible for reimbursing the Oneida Police
355 Department and/or the Oneida Conservation Department for the cost of holding the animal
356 and any costs incurred in identifying the animal.

357 304.9-7. *Notice of Release or Escape.* The owner of a prohibited animal that has been released
358 or escapes shall immediately notify the Oneida Police Department and/or the Oneida Conservation
359 Department and shall be liable for any cost of recapture of the animal.

360 304.10-8. *Forfeiture of the Prohibited Animal.* An owner found in violation of this section shall
361 forfeit or surrender the prohibited animal to the Oneida Police Department, Oneida Conservation
362 Department, or designee. Upon such forfeiture or surrender, the Trial Court may direct destruction
363 or transfer of the animal to a qualified zoological, educational, or scientific institution or qualified
364 private propagator for safekeeping, with costs assessed against the owner.

365

366 **304.10. Dangerous Animals**

367 304.10-1. *Dangerous Animals.* No person shall own, keep, possess, return to or harbor a dangerous
368 animal. An animal shall be presumed to be dangerous if the animal:

369 (a) approaches or chases a human being or domestic animal in a menacing fashion or
370 apparent attitude of attack;

371 (b) bites, inflicts injury, attacks, or otherwise endangers the safety of a human being or
372 domestic animal;

373 (c) is suspected to be owned, trained or harbored for the purpose of dog fighting; and/or

374 (d) has been declared to be a dangerous animal and/or ordered to be destroyed in any other
375 jurisdiction.

376 304.10-2. *Dangerous Animal Determination.* An Oneida Police Officer or Oneida Conservation
377 Warden may determine an animal to be dangerous whenever, upon investigation, the officer finds
378 that the animal meets the definition of dangerous animal provided in section 304.10-1.

379 (a) Upon making a determination that an animal is dangerous, the Oneida Police Officer
380 or Oneida Conservation Warden shall issue a written order with an accompanying citation

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381 declaring the animal to be dangerous.

382 (b) The citation and order shall be personally delivered to the apparent owner or custodian
383 of the dangerous animal.

384 (c) Upon receipt of the written order and accompanying citation the owner shall remove
385 the dangerous animal from the Reservation within three (3) business days.

386 304.10-3. *Contesting a Dangerous Animal Determination.* If the owner wishes to contest the
387 dangerous animal determination, he or she shall file with the Trial Court a written objection to the
388 order within three (3) business days of receipt of the order.

389 (a) The written objection shall include specific reasons for objecting to or contesting the
390 order. An owner may argue an animal should not be deemed dangerous due to the animal
391 biting, attacking or menacing any person and/or domestic animal because the animal was
392 acting to:

393 (1) defend its owner or another person from an attack by a person or animal;

394 (2) protect its young or another animal;

395 (3) defend itself against any person or animal which has tormented, assaulted or
396 abused it; and/or

397 (4) defend its owner's property against trespassers.

398 (b) Pending the outcome of the hearing, the animal shall be securely confined in a humane
399 manner either on the premises of the owner or caretaker, or with a licensed veterinarian. If
400 confined on the premises of the owner or caretaker, the following requirements shall apply:

401 (1) *Leash and Muzzle.* No owner shall permit a dangerous animal to go outside its
402 kennel or pen unless the animal is securely restrained with a leash no longer than
403 four feet (4') in length by a person who is at least sixteen (16) years of age who is
404 in physical control of the leash, competent to govern the animal and capable of
405 physically controlling and restraining the animal. The owner shall not leash an
406 animal to inanimate objects such as a tree, post, or building. When the animal is on
407 a leash outside the animal's kennel, the owner shall muzzle the animal in a humane
408 way by a commercially available muzzling device sufficient to prevent the animal
409 from biting a person or other animal.

410 (2) *Confinement.* Except when leashed and muzzled the owner shall ensure the
411 dangerous animal is securely confined indoors or in a securely enclosed and locked
412 pen or kennel that is located on the premises of the owner and constructed in a
413 manner that does not allow the animal to exit the pen or kennel on its own volition.
414 The owner shall not permit an animal to be kept on a porch, patio, or in any part of
415 a house or structure on the premises of the owner that would allow the animal to
416 exit the building on its own volition. The owner shall not permit the animal to be
417 kept in a house or structure when the windows are open or when screen windows
418 or screen doors are the only obstacle preventing the animal from exiting the
419 structure.

420 (3) *Signs.* The owner of a dangerous animal shall display, in prominent places on
421 his or her premises near all entrances to the premises, signs in letters of not less
422 than two inches (2") high warning that there is a dangerous animal on the property.
423 A similar sign shall be posted on the kennel or pen of the animal. In addition, the

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424 owner shall conspicuously display a sign with a symbol warning children of the
425 presence of a dangerous animal.

426 (4) *Notification.* The owner of a dangerous animal shall notify the Oneida Police
427 Department and/or the Oneida Conservation Department immediately if the animal
428 is at large, is unconfined, has attacked another animal, or has attacked a person.

429 (c) If an owner or caretaker fails to follow the requirements for harboring a dangerous
430 animal pending a hearing, the animal may be impounded by the Oneida Police Officer or
431 Oneida Conservation Warden issuing the dangerous animal determination.

432 304.10-4. *Dangerous Animal Determination Hearing.* A hearing on the dangerous animal
433 determination shall be held within fourteen (14) days of submission of the written objection with
434 the Trial Court. At the hearing, the Trial Court shall determine whether the determination that the
435 animal is dangerous should be substantiated.

436 (a) If the Trial Court concludes that the determination that the animal is dangerous is
437 substantiated, then the Trial Court shall issue an order that mandates the animal be removed
438 from the Reservation within forty-eight (48) hours of the determination.

439 (1) The order shall contain the requirement that the owner notify the Oneida Police
440 Department within twenty-four (24) hours if the dangerous animal has been sold or
441 been given away. If the dangerous animal has been sold or given away, the owner
442 shall also provide the name, address and telephone number of the new owner of the
443 dangerous animal. If the dangerous animal is sold or given away to a person
444 residing outside the Reservation or to a person or entity that falls outside of the
445 jurisdiction of this law, the owner shall present evidence to the Oneida Police
446 Department showing that he or she has notified the police department or other law
447 enforcement agency of the animal's new residence, including the name, address and
448 telephone number of the new owner. The Oneida Police Department shall forward
449 all such notifications to the Environmental, Health, Safety, and Land Division
450 within a reasonable amount of time.

451 (b) The Trial Court may order a dangerous animal to be destroyed. If such an order is
452 issued, the Trial Court shall require the owner submit proof of destruction within five (5)
453 business days from a licensed veterinarian. If the owner does not satisfy these
454 requirements, an Oneida Police Officer and/or an Oneida Conservation Warden shall seize
455 the animal and enforce compliance at the cost of the owner.

456 (c) The Trial Court may mandate attendance at an additional Trial Court hearing if
457 restitution is appropriate.

458 304.10-5. *Appeal of the Trial Court's Decision.* An appeal of the Trial Court's decision on the
459 dangerous animal determination may be appealed to the Nation's Court of Appeals.

460 (a) An appeal shall be submitted to the Court of Appeals within five (5) business days
461 from the date of the Trial Court's decision.

462 (b) Upon an appeal to the Court of Appeals, the order to remove the animal from the
463 Reservation or any order to destroy an animal is stayed pending the outcome of the appeal.

464 604.10-6. *Dangerous Animal Exception.* The Trial Court may provide an exception to the
465 dangerous animal provisions of this law for a law enforcement or military animal upon
466 presentation by the animal's owner or handler of a satisfactory arrangement for safe keeping of the

467 animal.

468

469 **304.11. Owner Liability**

470 304.11-1. An owner shall be liable for damages caused by his or her domestic animal.

471 (a) *First Offense.* The owner is liable for the full amount of damages caused by the
472 domestic animal.

473 (b) *Subsequent Offenses.* The owner shall be liable for two (2) times the full amount of
474 damages caused by the domestic animal if the owner knew or should have known that the
475 domestic animal previously caused damages.

476

477 **304.12. Enforcement of Violations**

478 304.12-1. *Citations.* A citation for the violation of this law and/or orders issued pursuant to this
479 law may include fines, penalties and conditional orders in accordance with the fine, penalty, and
480 licensing fee schedule. A citation for a violation of this law shall be processed in accordance with
481 the procedure contained in the Nation’s laws and policies governing citations.

482 (a) The act of contesting a dangerous animal determination shall follow the process
483 contained in section 304.10.

484 304.12-2. *Fines.* All fines as a result of a citation shall be paid to the Judiciary. Money received
485 from fines shall be contributed to the General Fund.

486 (a) Community service may be substituted for part or all of any fine at the minimum wage
487 rate of the Nation for each hour of community service.

488

489 *End.*

490

491 Adopted - BC-03-13-96-B

492 Amended – BC-06-22-11-G

493 Amended – BC-06-28-17-B

494 Amended – BC-05-08-19-C

495 Amended – BC-__-__-__-__

496

FINANCE ADMINISTRATION

Fiscal Impact Statement



MEMORANDUM

TO: Lawrence Barton, Chief Financial Officer

FROM: RaLinda Ninham-Lamberies, Assistant Chief Financial Officer

DATE: April 29, 2020

RE: **Fiscal Impact of the Domestic Animal Law Amendment**

I. Estimated Fiscal Impact Summary

Law: Curfew Law		Draft 2
Implementing Agency	Oneida Police Department	
	Oneida Environmental Health, Safety and Land Division	
	Oneida Conservation Department	
	Oneida Environmental Resource Board	
	Oneida Comprehensive Housing Division	
	Oneida Land Commission	
	Oneida Emergency Coordinator	
Oneida Judiciary		
Estimated time to comply	10 days, in compliance with the Legislative Procedures Act	
Estimated Impact	Current Fiscal Year	10 Year Estimate
Total Estimated Fiscal Impact	Indeterminate	Indeterminate

II. Background

A. Legislative History

This law was adopted by the Oneida Business Committee by resolution BC 03-13-96B, amended by BC 06-22-11-G, BC 06-28-17B, and BC 05-08-19C. The required Domestic Animal Law Penalty and Fine Schedule was adopted by the Oneida Business Committee by resolution BC-05-08-19-C. The required Prohibited Animals was adopted by the Oneida Business Committee by resolution BC-05-08-19E.

B. Summary of Content

The amendment removes an incorrect reference to the Nation's territorial jurisdiction, removes duplicative personal jurisdiction provision and citation process and adds an animal abandonment provision.

III. Methodology and Assumptions

A "Fiscal Impact Statement" means an estimate of the total identifiable fiscal year financial effects associated with legislation and includes startup costs, personnel, office, documentation costs, as well as an estimate of the amount of time necessary for an agency to comply with the Law after implementation.

Finance does NOT identify the source of funding for the estimated cost or allocate any funds to the legislation.

The analysis was completed based on the information provided as of the date of this memo.

IV. Executive Summary of Findings

- The Domestic Animal Law incorrectly states the territorial jurisdiction is limited to land owned by the Nation or individual trust and/or fee land of a member of the Nation. The Nation's jurisdiction is defined in the Constitution and By-Laws of the Nation and the Nation's Judiciary. The amendment deletes the incorrect reference.
- The amendment deletes reference to the Nation's personal jurisdiction in the Domestic Animal Law. The Judiciary law already defines the Nation's personal jurisdiction over members of the Oneida Nation, members of other federally recognized Indian tribes, and any "non-Indians" consenting to the jurisdiction of the Nation.
- The amendment updates the Enforcement of Violations section to properly reflect a citation will follow the procedure contained in the Nation's laws and policies governing citations.
- The amendment adds an Abandonment provision.

V. Agency

There are no startup, personnel, office or documentation costs associated with this legislation. The amendments will become effective 10 days from adoption.

VI. Financial Impact

The Domestic Animal Law includes a provision for a Fine, Penalty, and Licensing Fee Schedule. The required Fine, Penalty, and Licensing Fee Schedule was adopted by the Oneida Business Committee by resolution BC-05-08-19-C. The Domestic Animal Law grants the Oneida Police Department the authority to issue citations consistent with the fine and penalty schedule. All fines as a result of a citation shall be paid to the Judiciary. Money received shall be returned to the General Fund. The impact of the fines is indeterminate as the number of resulting fines is an unknown variable. According to the Oneida Police Department statistics the average amount of fines collected in the prior four-year period was six thousand sixty-eight dollars (\$6,068.00) annually.

VII. Recommendation

Finance Department does not make a recommendation in regard to course of action in this matter. Rather, it is the purpose of this report to disclose potential financial impact of this legislation, so that the Oneida Business Committee and General Tribal Council has the information with which to render a decision.

Oneida Business Committee Agenda Request

Adopt resolution entitled Amended Domestic Animals Law Fine, Penalty, and Licensing Fee Schedule

1. Meeting Date Requested: 5 / 13 / 20

2. General Information:

Session: Open Executive - See instructions for the applicable laws, then choose one:

Agenda Header:

Accept as Information only

Action - please describe:

Adopt the resolution "Amended Domestic Animals Law Fine, Penalty, and Licensing Fee Schedule"

3. Supporting Materials

Report Resolution Contract

Other:

1. 3.

2. 4.

Business Committee signature required

4. Budget Information

Budgeted - Tribal Contribution Budgeted - Grant Funded Unbudgeted

5. Submission

Authorized Sponsor / Liaison:

Primary Requestor/Submitter: Clorissa N. Santiago, LRO Senior Staff Attorney
Your Name, Title / Dept. or Tribal Member

Additional Requestor: _____
Name, Title / Dept.

Additional Requestor: _____
Name, Title / Dept.

Oneida Nation

Post Office Box 365

Phone: (920)869-2214

Oneida, WI 54155



BC Resolution # _____

Amended Domestic Animals Law Fine, Penalty, and Licensing Fee Schedule

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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 Domestic Animals law (“the Law”) was adopted by the Oneida Business Committee through resolution BC-03-13-96-B, and the amended by resolutions BC-06-22-11-G, BC-06-28-17-B, BC-05-08-19-C, and BC-__-__-__-__; and

WHEREAS, the Law delegates joint authority to the Environmental, Health, Safety, and Land Division and the Environmental Resource Board to develop a fine, penalty, and licensing fee schedule; and

WHEREAS, the fine, penalty, and licensing fee schedule is required to be adopted by the Oneida Business Committee through resolution; and

WHEREAS, the Environmental, Health, Safety, and Land Division and Environmental Resource Board jointly developed a fine, penalty, and licensing fee schedule that was adopted by the Oneida Business Committee through resolution BC-05-08-19-D; and

WHEREAS, the Domestic Animals Law Fine, Penalty, and Licensing Fee Schedule resolution is being amended to correspond with the adoption of the most recent amendments to the Law through resolution BC-__-__-__-__; and

WHEREAS, on March 12, 2020, Chairman Tehassi Hill signed a “*Declaration of Public Health State of Emergency*” which declared a Public Health State of Emergency for the Nation in regard to the COVID-19 virus until April 12, 2020, and this Public Health State of Emergency was extended to May 12, 2020, through the adoption of resolution BC-03-28-20-A, “*Extension of March 12th Declaration of Public Health State of Emergency*”; and

WHEREAS, on April 8, 2020, the Oneida Business Committee adopted resolution BC-04-08-20-C titled, “*Tier V Budget Contingency Declared for Remainder of Fiscal Year 2020*,” which requires greater reduction in expenses as a result of zero gaming revenues supporting governmental functions, and included initial and on-going layoffs; and

WHEREAS, the Oneida Business Committee also adoption resolution BC-04-08-20-B titled. “*Placing Listed Boards, Committees, and Commissions in Temporary Closure Status*” which identified that continuing to operate certain boards, committees, and commissions of the

BC Resolution # _____
 Amended Domestic Animals Law Fine, Penalty, and Licensing Fee Schedule
 Page 2 of 4

44 Nation would generate expenses that would affect the overall financial status of the Nation,
 45 and therefore certain boards, committees, and commissions should be placed on
 46 temporary closure for the remainder of Fiscal Year 2020 and during any continuing
 47 resolution for Fiscal Year 2021 to preserve funding for necessary governmental services
 48 and activities; and

49
 50 **WHEREAS,** the Environmental Resource Board was one of the boards, committees, and commissions
 51 of the Nation identified in resolution BC-04-08-20-B and placed in temporary closure status,
 52 and therefore not available to approve amendments to this resolution; and

53
 54 **WHEREAS,** the Environmental, Health, Safety, and Land Division approved this resolution to come
 55 before the Oneida Business Committee for adoption; and

56
 57 **NOW THEREFORE BE IT RESOLVED,** that the Nation hereby sets forth the following licensing and permit
 58 fee schedule in accordance with the Domestic Animals law:
 59

LICENSING AND PERMIT FEE SCHEDULE				
License/Permit Type	Reference	Fee (per animal)	License/Permit Period	Location to Obtain License/Permit
Cat License	304.6-1	\$5 if spayed or neutered; or \$25	January 1 – December 31	LBDC or Oneida Conservation
Dog License	304.6-1	\$5 if spayed or neutered; or \$25	January 1 – December 31	LBDC or Oneida Conservation
Additional Dog/Cat Permit	304.6-3(b)	\$5 if spayed or neutered; or \$25	January 1 – December 31	LBDC or Oneida Conservation
Prohibited Animal Permit	304.9-4	\$50 - \$500	January 1 – December 31	LBDC or Oneida Conservation
Conditional Use Permit – Livestock and Hens on Residential Areas	304.7-1 and 304.8-1	\$0	Permit expires when permittee resides at an address that is different than the address on the permit	Oneida Zoning Department

60
 61
 62 **BE IT FURTHER RESOLVED,** that the Nation hereby sets forth the following fine and penalty schedule in
 63 accordance with the Domestic Animals law:
 64

FINE AND PENALTY SCHEDULE					
Violation	Reference	1 st Offense	2 nd Offense	3 rd Offense and Up	Mandatory Appearance
TREATMENT OF ANIMALS					
Failure to provide food and water	304.5-1	\$75	\$150	\$500	No
Failure to comply with shelter standards	304.5-2(a) 304.5-2(b)	\$75	\$150	\$500	No
Failure to comply with space standards	304.5-2(c)	\$75	\$150	\$500	No
Failure to comply with sanitation standards	304.5-2(d)	\$75	\$150	\$500	No

BC Resolution # _____
 Amended Domestic Animals Law Fine, Penalty, and Licensing Fee Schedule
 Page 3 of 4

Failure to comply with tethering standards	304.5-3	\$75	\$150	\$500	No
Mistreatment of animals	304.5-4	\$500	\$1,000	\$2,000	Yes
Abandonment of an animal	304.5-5	\$500	\$1,000	\$2,000	Yes
DOGS AND CATS					
Failure to obtain license	304.6-1	\$25	\$50	\$100	No
Improperly placed/ no attached license	304.6-1(c)	\$25	\$50	\$100	No
No current rabies vaccination	304.6-2	\$75	\$150	\$500	No
Exceeding limit of allowed animals (per animal)	304.6-3	\$25	\$50	\$100	No
Animal running at large	304.6-4	\$75	\$150	\$500	No
Nuisance animal	304.6-5	\$75	\$150	\$500	No
Failure to notify an animal bite	304.6-6	\$150	\$500	\$750	No
Failure to comply with ordered quarantine	304.6-6	\$150	\$500	\$750	No
Failure to obey district quarantine	304.6-7	\$150	\$500	\$750	No
LIVESTOCK					
Failure to obtain conditional use permit	304.7-1	\$75	\$150	\$500	No
Violates limitations on livestock based on lot size	304.7-2	\$75	\$150	\$500	No
Livestock at large	304.7-3	\$150	\$500	\$750	No
HENS					
Failure to obtain conditional use permit	304.8-1	\$75	\$150	\$500	No
Prohibited keeping of rooster	304.8-2	\$75	\$150	\$500	No
Exceeding limit of allowed hens	304.8-3	\$75	\$150	\$500	No
Violation of standards for keeping hens	304.8-4	\$75	\$150	\$500	No
Nuisance hens	304.8-5	\$75	\$150	\$500	No
PROHIBITED ANIMAL					
Possessing a prohibited animal	304.9-1	\$250	\$500	\$1,000	No
Failure to obtain prohibited animal permit	304.9-4	\$250	\$500	\$1,000	No
Failure to provide notice of release/escape	304.9-7	\$250	\$500	\$1,000	No
DANGEROUS ANIMAL					
Possessing a dangerous animal	304.10-1	\$500	\$1,000	\$2,000	No
Failure to remove animal from the Reservation	304.10-2(c)	\$500	\$1,000	\$2,000	No
	304.10-4(a)				
Failure to follow leash/muzzle requirements for dangerous animal	304.10-3(b)(1)	\$500	\$1,000	\$2,000	No

BC Resolution # _____
 Amended Domestic Animals Law Fine, Penalty, and Licensing Fee Schedule
 Page 4 of 4

Failure to follow confinement requirements for dangerous animal	304.10-3(b)(2)	\$500	\$1,000	\$2,000	No
Failure to post required signs for dangerous animal	304.10-3(b)(3)	\$500	\$1,000	\$2,000	No
Failure to comply with notification requirements for dangerous animal	304.10-3(b)(4) 304.10-4(a)(1)	\$500	\$1,000	\$2,000	No
Failure to submit proof of destruction of animal	304.10-4(b)	\$150	\$300	\$500	No

65
 66 **BE IT FURTHER RESOLVED**, that in addition to the fines listed above additional penalties may include
 67 seizure or impoundment of animal, restitution, costs, damages, dangerous animal determination, and
 68 destruction of animal as provided for by the Domestic Animals law.

69
 70 **BE IT FURTHER RESOLVED**, criminal charges and referrals may be appropriate in certain cases and are
 71 not prohibited.

72
 73 **BE IT FURTHER RESOLVED**, the issuance of a citation for a third offense or more on the fine and penalty
 74 schedule shall require the mandatory appearance of the offender at the Trial Court's citation pre-hearing.

75
 76 **BE IT FURTHER RESOLVED**, the Oneida Police Department Officer or Conservation Warden issuing the
 77 citation shall have the discretion to require a mandatory appearance of the offender at the Trial Court's
 78 citation pre-hearing for any violation of this law if deemed appropriate.

79
 80 **BE IT FINALLY RESOLVED**, the Oneida Business Committee hereby adopts this resolution which shall
 81 become effective on May 29, 2020.
 82



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



Statement of Effect

Amended Domestic Animals Law Fine, Penalty, and Licensing Fee Schedule

Summary

This resolution adopts an amended fine, penalty, and licensing fee schedule in accordance with the Domestic Animals law.

Submitted by: Clorissa N. Santiago, Staff Attorney, Legislative Reference Office

Date: April 30, 2020

Analysis by the Legislative Reference Office

The Domestic Animals law (“the Law”) was adopted for the purpose of protecting the health, safety, and welfare of the community by requiring certain basic measures to prevent the spread of disease carried by domestic animals; setting minimum standards for the treatment of animals; prohibiting certain species of animals from being brought onto the Reservation; regulating the keeping of livestock on lots zoned residential within the Reservation; and establishing consequences for damages caused by domestic animals. [3 O.C. 304.1-1].

The Law delegates joint authority to the Environmental, Health, Safety, and Land Division and the Environmental Resource Board to develop a fine, penalty, and licensing fee schedule. [3 O.C. 304.5-3]. This fine, penalty, and licensing fee schedule is required to be adopted by the Oneida Business Committee through resolution. [3 O.C. 304.5-3].

The Environmental, Health, Safety, and Land Division and the Environmental Resource Board jointly developed a fine, penalty, and licensing fee schedule that was adopted by the Oneida Business Committee through resolution BC-05-08-19-D.

The Oneida Business Committee will consider the adoption of amendments to the Domestic Animals law on May 13, 2020. This resolution is amending the Domestic Animals Law Fine, Penalty, and Licensing Fee Schedule resolution to correspond with that adoption of the most recent amendments to the Law.

Additionally, this resolution identifies that the Environmental Resource Board was placed in temporary closure status in accordance with resolution BC-04-08-20-B and therefore is unavailable to approve amendments to this resolution prior to consideration by the Oneida Business Committee. The proposed amendments were approved by the Environmental, Health, Safety, and Land Division.

The resolution sets forward to licensing fee schedule and fine and penalty schedule, and also addresses additional penalties that may be used in the enforcement of this Law, the allowance for criminal charges and referrals in addition to penalties under this Law, and mandatory appearances at the Nation’s Trial Court’s pre-hearing for violations of this law.

Conclusion

Adoption of this resolution would not conflict with any of the Nation's laws.

Oneida Business Committee Agenda Request

Adopt resolution entitled Amendments to the Oneida Food Services Law

1. Meeting Date Requested: 05 / 13 / 20

2. General Information:

Session: Open Executive - See instructions for the applicable laws, then choose one:

Agenda Header:

Accept as Information only

Action - please describe:

Adopt Amendments to the Oneida Food Service Code

3. Supporting Materials

Report Resolution Contract

Other:

1. 3.

2. 4.

Business Committee signature required

4. Budget Information

Budgeted - Tribal Contribution Budgeted - Grant Funded Unbudgeted

5. Submission

Authorized Sponsor / Liaison:

Primary Requestor/Submitter: Jennifer Falck, LRO Director
Your Name, Title / Dept. or Tribal Member

Additional Requestor: Kristen M. Hooker/LRO Staff Attorney
Name, Title / Dept.

Additional Requestor: _____
Name, Title / Dept.



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
 DATE: May 13, 2020
 RE: Oneida Food Service Code Amendments

Please find the following attached backup documentation for your consideration of the proposed amendments to the Oneida Food Service Code:

1. Resolution: Amendments to the Oneida Food Service Code
2. Statement of Effect: Amendments to the Oneida Food Service Code
3. Oneida Food Service Code Amendments Legislative Analysis
4. Oneida Food Service Code Amendments (Redline)
5. Oneida Food Service Code Amendments (Clean)
6. Oneida Food Service Code Amendments Fiscal Impact Statement

Overview

On September 19, 2018, the LOC added the Oneida Food Service Code (“Law”) amendments to its Active Files List upon recommendation by the Environmental, Health, Safety and Land Division. The purpose of the Law is to ensure the safety of food that is provided to consumers at retail or through an Oneida Food Service Program by establishing a system of overlapping safeguards designed to minimize foodborne illness; ensure employee health, industry manager knowledge, safe food handling, nontoxic/cleanable equipment and acceptable levels of sanitation on the premises of food service businesses; and promote fair dealings with members of the community through adoption of licensing requirements, exemptions, regulations, control, supervision and enforcement procedures that govern food service businesses within the jurisdiction of the Nation. [3 O.C. 305.1-1].

This resolution adopts amendments to the Oneida Food Service Code which will:

- Change the name of the Law from the Oneida Food Service Code to the Oneida Food Service law to be consistent with the Oneida Code of Laws;
- Remove the Licensing Department, Risk Management and Oneida Police Department from the Law, leaving administrative and enforcement duties exclusively to the Environmental, Health and Safety Area within the Nation’s Environmental, Health, Safety and Land Division (“Department”) [3 O.C. 305.6-1];
- Allow applicants to satisfy the food safety training that is required to obtain a license to operate certain food service businesses either of the following ways: (1) by taking the course offered through the Department (as is currently the only option); or (2) by presenting evidence of having received training or certification from an alternative source that the Department deems satisfactory [3 O.C. 305.7-2];

- Require the Department to decide whether to issue or renew a license within thirty (30) days of receiving an application, and, if the application is denied, further require the Department to notify the applicant in writing, supplying him or her with the basis for said denial, as well as information on how to appeal its decision [3 O.C. 305.7-1(a)];
- Add exemptions for cottage food sales and prepackaged restaurants that eliminate the need for these operations to undergo the licensing process required of food service businesses so long as applicants fulfill the requirements to qualify for the exemption specific to their operation [3 O.C. 305.8];
- Require the Department to waive the licensing fee when proof is submitted by a food service business or prepackaged restaurant of payment to an overlapping jurisdiction that covers the same term [3 O.C. 305.7-1(c)];
- Send appeals of Department decisions not issued pursuant to a citation to the Department's Area Manager, whose decision will be final unless challenged to the Trial Court of the Judiciary on grounds that it constitutes an abuse of power, is contrary to law and/or lacks any reasonable factual basis; while appeals of Department decisions issued pursuant to a citation will be processed according to the Nation's Citations law [3 O.C. 305.11]; and
- Make additional changes to revise and reorganize the Law to increase clarity, as well as comply with the Nation's Legislative Procedures Act.

The Legislative Operating Committee developed the proposed amendments to the Oneida Food Service Code through collaboration with representatives from the Environmental, Health, Safety and Land Division, the Licensing Department and the Cannery.

In accordance with the Legislative Procedures Act, a public meeting on the amendments to the Oneida Food Service Code was held on February 6, 2020. Although members of the public attended the public meeting, none of the attendees provided oral comments. The public comment period was then held open until February 13, 2020. The Legislative Operating Committee received one (1) submission of a written comment during the public comment period. The public comment received was accepted, reviewed, and considered by the Legislative Operating Committee on March 4, 2020. Any changes made based on the comment has been incorporated into this draft.

Requested Action

Approve the Resolution: Amendments to the Oneida Food Service Code.

Oneida Nation

Post Office Box 365

Phone: (920)869-2214



Oneida, WI 54155

BC Resolution # _____ Amendments to the Oneida Food Service Law

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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 Food Service law ("Law") was adopted by the Oneida Business Committee through resolution BC-06-13-01-B, and the amended by resolution BC-02-25-15-C; and

WHEREAS, the purpose of the Law is to ensure the safety of food that is provided to consumers at retail or through an Oneida Nation Food Service Program by establishing a system of overlapping safeguards designed to minimize foodborne illness; ensure employee health, industry manager knowledge, safe food handling, nontoxic/cleanable equipment and acceptable levels of sanitation on the premises of food service businesses; and promote fair dealings with members of the community through adoption of licensing requirements, exemptions, regulation, control, supervision and enforcement procedures that govern food service businesses within the jurisdiction of the Nation; and

WHEREAS, the Legislative Operating Committee worked collaboratively with representatives from the Oneida Environmental, Health, Safety and Land Division, Licensing Department and Cannery to develop the amendments to this Law; and

WHEREAS, the amendments to the Law remove the Licensing Department, Risk Management and the Oneida Police Department from the Law, leaving administration and enforcement duties exclusively to the Environmental, Health and Safety Area within the Nation's Environmental, Health, Safety and Land Division ("Department"); and

WHEREAS, the amendments to the Law provide two ways for applicants to satisfy the food safety training that is required to obtain a license to operate certain food service businesses: (1) by taking the course offered through the Department (as was previously the only option); or (2) by presenting evidence of having received training or certification from an alternative source that the Department finds satisfactory; and

WHEREAS, the amendments to the Law add an exemption for cottage food sales and prepackaged restaurants that eliminates the need for these operations to undergo the licensing process required of other food service businesses so long as applicants fulfill the requirements to qualify for the exemption specific to their operation; and

43 **WHEREAS,** the amendments to the Law add a requirement that the Department waive the licensing
44 fee to operate a food service business or prepackaged restaurant when proof is submitted
45 by a food service business or prepackaged restaurant of payment to an overlapping
46 jurisdiction that covers the same term; and
47

48 **WHEREAS,** the amendments to the Law add a requirement that the Department decide whether to
49 issue or renew a license within thirty (30) days of receiving an application and, if denied,
50 the amendments further require that the Department notify the applicant in writing,
51 supplying him or her with the basis for said denial, as well as information on how to appeal
52 its decision; and
53

54 **WHEREAS,** the amendments to the law send appeals of all Department decisions not issued pursuant
55 to a citation to the Area Manager, whose decision will be final unless challenged to the Trial
56 Court of the Judiciary on the grounds that it constitutes an abuse of power, that it is contrary
57 to law, or that it lacks any reasonable factual basis, while decisions of the Department
58 issued pursuant to a citation would be appealed consistent with the Nation's Citations law;
59 and
60

61 **WHEREAS,** the amendments to the Law provide for the licensing fee, fine and penalty schedules to be
62 created by the Department, subject to approval by the Oneida Business Committee through
63 resolution; and
64

65 **WHEREAS,** the amendments to the Law make other minor drafting revisions for clarification and
66 consistency with the Legislative Procedures Act; and
67

68 **WHEREAS,** in accordance with the Legislative Procedures Act, a legislative analysis and fiscal impact
69 statement were completed for the amendments to the Law; and
70

71 **WHEREAS,** a public meeting on the proposed amendments to this Law was held on February 6, 2020,
72 in accordance with the Legislative Procedures Act, and the public comment period was
73 held open until February 13, 2020; and
74

75 **WHEREAS,** the Legislative Operating Committee accepted, reviewed, and considered the public
76 comments received on March 18, 2020.
77

78 **NOW THEREFORE BE IT RESOLVED,** that the amendments to the Oneida Food Service law are hereby
79 adopted and shall become effective six (6) months following the adoption of this resolution.
80
81



Statement of Effect

Amendments to the Oneida Food Service Code

Summary

This resolution adopts amendments to the Oneida Food Service Code.

Submitted by: Kristen M. Hooker, Staff Attorney, Legislative Reference Office

Date: April 20, 2020

Analysis by the Legislative Reference Office

The Legislative Procedures Act (“the LPA”) was adopted by the General Tribal Council through resolution GTC-01-07-13-A for the purpose of providing a process for the adoption of laws of the Nation. [1 *O.C. 109.1-1*]. This resolution adopts amendments to the Oneida Food Service Code which comply with all processes and procedures required by the LPA, including the development of a legislative analysis, a fiscal analysis, and the opportunity for public review during a public meeting and public comment period. [1 *O.C. 109.6, 109.7, 109.8*].

The Oneida Food Service Code (“Law”) was adopted by the Oneida Business Committee to ensure the safety of food that is provided to consumers at retail or through an Oneida Food Service Program by establishing a system of overlapping safeguards designed to minimize foodborne illness; ensure employee health, industry manager knowledge, safe food handling, nontoxic/cleanable equipment, and acceptable levels of sanitation on the premises of food service businesses; and promote fair dealings with members of the community through adoption of licensing requirements, exemptions, regulation, control, supervision and enforcement procedures that govern food service businesses within the jurisdiction of the Nation. [3 *O.C. 305.1-1*].

The amendments to the Law will:

- Change the name of the Law from the Oneida Food Service Code to the Oneida Food Service law to be consistent with the Oneida Code of Laws;
- Remove the Licensing Department, Risk Management and Oneida Police Department from the Law, leaving administrative and enforcement duties exclusively to the Environmental, Health and Safety Area within the Nation’s Environmental, Health, Safety and Land Division (“Department”) [3 *O.C. 305.6-1*];
- Allow applicants to satisfy the food safety training that is required to obtain a license to operate certain food service businesses either of the following ways: (1) by taking the course offered through the Department (as is currently the only option); or (2) by presenting evidence of having received training or certification from an alternative source that the Department deems satisfactory [3 *O.C. 305.7-2*];
- Require the Department to decide whether to issue or renew a license within thirty (30) days of receiving an application, and, if the application is denied, further require the Department to notify the applicant in writing, supplying him or her with the basis for said denial, as well as information on how to appeal its decision [3 *O.C. 305.7-1(a)*];
- Add exemptions for cottage food sales and prepackaged restaurants that eliminates the need

for these operations to undergo the licensing process required of food service businesses so long as applicants fulfill the requirements to qualify for the exemption specific to their operation [3 O.C. 305.8];

- Require the Department to waive the licensing fee when proof is submitted by a food service business or prepackaged restaurant of payment to an overlapping jurisdiction that covers the same term [3 O.C. 305.7-1(c)];
- Send appeals of Department decisions not issued pursuant to a citation to the Department's Area Manager, whose decision will be final unless challenged to the Trial Court of the Judiciary on the grounds that it constitutes an abuse of power, is contrary to law and/or lacks any reasonable factual basis, while appeals of Department decisions issued pursuant to a citation will be processed according to the Nation's Citations law [3 O.C. 305.11]; and
- Make additional changes to revise and reorganize the Law to increase clarity, as well as comply with the Nation's Legislative Procedures Act.

In accordance with the Legislative Procedures Act, a public meeting on the amendments to the Oneida Food Service Code was held on February 6, 2020. Although members of the public attended the public meeting, none of the attendees provided oral comments. The public comment period was then held open until February 13, 2020. The Legislative Operating Committee received one (1) submission of a written comment during the public comment period. The public comment that was received was accepted, reviewed and considered by the Legislative Operating Committee on March 4, 2020. Any changes made based on the comment have been incorporated into the proposed draft.

This resolution provides that the amendments to the Oneida Food Service Code would become effective six (6) months from the date of its adoption.

Conclusion

Adoption of this resolution would not conflict with any of the Nation's laws.



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ONEIDA FOOD SERVICE CODE AMENDMENTS LEGISLATIVE ANALYSIS

SECTION 1. EXECUTIVE SUMMARY

REQUESTER: Environmental, Health, Safety and Land Division	SPONSOR: Ernest Stevens III	DRAFTER: Kristen M. Hooker	ANALYST: Maureen Perkins and Kristen Hooker
Intent of the Amendments	<p>The proposed amendments to the Oneida Food Service Code (Law) intend to:</p> <ul style="list-style-type: none"> ▪ remove the Licensing Department, Risk Management and Oneida Police Department from the Law, leaving administrative and enforcement duties exclusively to the Environmental, Health and Safety Area within the Nation’s Environmental, Health, Safety and Land Division (“Department”); ▪ include exemptions for cottage food sales and prepackaged restaurants; ▪ include mobile food trucks in the definition of permanent food service operators; ▪ require the Department to waive the license fee for those food service businesses and prepackaged restaurants that submit proof of payment to an overlapping jurisdiction that covers the same term; ▪ include a thirty (30) day response time for the Department to decide whether to issue or renew a license; ▪ require the Department to provide applicants with a written notice of denial of their license or license renewal request that must include the basis for said denial, as well as information on how to appeal the decision; ▪ offer an additional option for applicants to satisfy the training required to qualify for certain licenses by allowing them to present proof of certification or training from an alternative source deemed satisfactory by the Department; and ▪ allow for appeals of Department decisions not issued pursuant to a citation to be appealed to the Area Manager, whose decision will be final unless challenged to the Trial Court of the Judiciary on one (1) of the three (3) specific grounds set forth within the Law. 		
Purpose	<p>To ensure the safety of food that is provided to consumers at retail or through Oneida Nation Food Service Programs by establishing a system of overlapping safeguards designed to minimize foodborne illness; ensure employee health, industry manager knowledge, safe food handling, nontoxic/cleanable equipment and acceptable levels of sanitation on the premises of food service businesses; and promote fair dealings with consumers through adoption of licensing requirements, exemptions, regulation, control, supervision and enforcement procedures that govern food service businesses within the jurisdiction of the Nation <i>[3 O.C. 305.1-1]</i>.</p>		
Affected Entities and Individuals	<p>Environmental, Health, Safety and Land Division, Oneida Nation Judiciary, Oneida Business Committee (OBC), Licensing Department, Oneida Police Department, Risk Management Department, Oneida Nation Members, Oneida Nation Food Service Programs and other non-profit programs of the Nation, Cottage Food Operators, Independent Food Service Operators, Permanent Food Service Establishments, Temporary Food Service Establishments and Prepackaged Restaurants.</p>		
Related Legislation	<p>Judiciary law, Oneida Judiciary Rules of Civil Procedure, Rules of Appellate Procedure, Legislative Procedures Act, Citations law.</p>		
Public Meeting	<p>A public meeting was held on February 6, 2020.</p>		
Fiscal Impact	<p>A fiscal impact statement was submitted by the Finance Department on April 1, 2020.</p>		

SECTION 2. LEGISLATIVE DEVELOPMENT

- 1 A. The Oneida Food Service Code was first adopted by Oneida Business Committee on October 3, 2001,
2 through resolution BC-10-03-01-D, to replace the Oneida Food Dispensary and Vendor's Licensing
3 Regulations and Procedures law. The Law regulates food that is provided to consumers at retail or
4 through the Nation's Food Service Programs and does not apply to food that is served at charitable
5 events, community potlucks and fundraisers.
6
- 7 B. The Law was amended on February 25, 2015, by resolution BC-02-25-15-C, to remove reference to
8 the Oneida Appeals Commission and add reference to the Oneida Judiciary as the hearing body
9 authorized to hear appeals from decisions of the Environmental, Health, Safety and Land Division, Risk
10 Management and/or Licensing Department.
- 11 C. On September 18, 2018, the LOC added the Law to the Active Files List per the request of the
12 Environmental, Health, Safety and Land Division that the Law be amended to have it updated, as well
13 as have an exemption for cottage food sales. Since that time, a work group of representatives from the
14 Department, the Licensing Department, the Oneida Police Department, Community Health Nursing
15 and the Cannery have met to review the Law and suggest additional amendments thereto. Many of the
16 proposed amendments reflect the feedback and suggestions of this work group.
17

SECTION 3. CONSULTATION AND OUTREACH

- 18 A. **Departments.** Representatives from the following departments participated in the development of this
19 Law:
20
 - 21 ■ Environmental, Health, Safety and Land Division
 - 22 ■ Licensing Department
 - 23 ■ Risk Management Department
 - 24 ■ Community Health Nursing
 - 25 ■ Oneida Cannery Department
- 26 B. **Laws of the Nation.** The drafting of this legislative analysis included a review of the following laws
27 of the Nation: Judiciary [8 O.C. 801], Oneida Judiciary Rules of Civil Procedure [8 O.C. 803], Rules
28 of Appellate Procedure [8 O.C. 805], Legislative Procedures Act [1 O.C. 109], Oneida Vendor
29 Licensing [5 O.C. 506] and Citations [8 O.C. 807].
- 30 C. **Area and Tribal Laws.** The following state and tribal laws were also reviewed in the development of
31 this legislative analysis:
32
 - 33 ■ 2009 Wisconsin Act 101
 - 34 ■ University of Arkansas Model Tribal Cottage Food Law
 - 35 ■ Minnesota Cottage Foods Law
 - 36 ■ Stockbridge-Munsee Food Service Code
 - 37 ■ Jamestown S'Klallam Tribe Tribal Food Code
 - 38 ■ Montana Code 50-50-101-403

SECTION 4. PROCESS

- 39 A. The amendments to the Law have followed the required process contained in the Legislative Procedures
40 Act ("LPA").
- 41 B. The Law was added to the Active Files List on September 18, 2018.
- 42 C. The following work meetings were held by Legislative Reference Office staff in the development of
43 the amendments to the Law:
44
 - 45 ■ October 4, 2018, a work meeting was held with members of the Department, Cannery and
46 Community Health Nursing Program staff.
 - 47 ■ November 29, 2018, a work meeting was held with members of the Department and Licensing
48 Department.
 - 49 ■ January 25, 2019, a work meeting was held with members of the Department.
 - 50 ■ February 28, 2019, a work meeting was held with members of the Department and Licensing
51 Department.
 - 52 ■ June 6, 2019, a work meeting was held with members of the Department.

- 53 ▪ November 6, 2019, a work meeting was held with the LOC.
- 54 ▪ November 15, 2019, a work meeting was held with the LOC.
- 55 ▪ December 18, 2019, a work meeting was held with the LOC.
- 56 ▪ February 13, 2020, a work meeting was held with the LOC.
- 57 ▪ March 4, 2020, a work meeting was held with the LOC.
- 58 ▪ April 8, 2020, a work meeting was held with members of the Department.
- 59 ▪ April 15, 2020, a work meeting was held with the LOC.
- 60 ▪ April 23, 2020, a work meeting was held with the LOC.
- 61 D. A public meeting on the proposed amendments to the Law was held on February 6, 2020.
- 62 ▪ The public comment period closed on February 13, 2020.
- 63 ▪ The Legislative Operating Committee reviewed and considered the public comment received
- 64 on March 4, 2020.

66 SECTION 5. CONTENTS OF THE LEGISLATION

67 A. *Purpose and Policy* [3 O.C. 305.1].

- 68 ▪ The Law was amended to meet the requirements in the Legislative Procedures Act related to
- 69 consistency in format and required sections [1 O.C. 109.11-1].
- 70 ▪ The purpose and policy sections were updated to include Oneida Nation Food Service Programs
- 71 and to clearly state that the policy of the Law is to exercise the Nation’s inherent sovereign
- 72 authority over the Nation’s resources and membership, as well as to strengthen self-governance.

73 B. *Definitions* [3 O.C. 305.3]. The definition section was updated to provide clarity and consistency

74 throughout the Law. For example:

- 75 ▪ The term “independent food service vendor” was changed to “independent food service
- 76 operator.”
- 77 • *Effect.* By referring to these individuals as independent food service operators instead of
- 78 independent food service vendors it avoids any misconception that this class of food service
- 79 businesses is automatically subject to the Oneida Vendor Licensing law, which defines
- 80 “vendor” in a manner that, absent separate circumstances, would not include an independent
- 81 food service vendor operating under the current Oneida Food Service Code [3 O.C. 305.3-
- 82 1(o)].
- 83 ▪ Oneida Nation Food Service Programs and mobile food trucks were added to the definition of
- 84 what constitutes a permanent food service establishment under the Law [3 O.C. 305.3-1(t)]; and
- 85 ▪ The definition of food service business now clarifies that it does not include private rummage
- 86 sales; community sponsored non-profit fundraising and/or charity events; or cottage food
- 87 operators, as well as prepackaged restaurants, that satisfy the requirements to qualify for such
- 88 distinction under the Law [3 O.C. 305.3-1].

89 C. *Application* [3 O.C. 305.4].

- 90 ▪ This section was added to detail that the Law applies to food service businesses, cottage food
- 91 operators and prepackaged restaurants located or operating within the Reservation. [3 O.C.
- 92 305.4-1].
- 93 ▪ The section also provides that the Law shall apply to the fullest extent of the sovereign
- 94 jurisdiction of the Nation and shall be liberally construed to give full effect to the objectives and
- 95 purposes for which the Law was enacted. [3 O.C. 305.4-2].

96 D. *Compliance* [3 O.C. 305.5]. This section was updated for purposes of clarity. It reiterates that the Law

97 continues to adopt the current Federal Food Code, but provides that any additions or deviations from the
98 Federal Food Code are designed to be specific to the Nation and that the Law will have priority with
99 respect to any conflicts between the Law and the Federal Food Code. [3 O.C. 305.5-2].

100 E. *Authority* [3 O.C. 305.6].

- 101 ▪ This section was previously titled, “Responsibilities and Duties”, with administration and
- 102 enforcement duties being divided between the Environmental, Health and Safety Department,
- 103 the Licensing Department and Risk Management. [3 O.C. 305.4-5 of Current Law]. As
- 104 amended, the Department will now be exclusively responsible for the administration and
- 105 enforcement of the Law. [3 O.C. 305.6-1(a)].

106 ▪ The licensing fee, fine and penalty schedule referenced within the current Law has been removed
 107 from the Law and will be set by the Department in a resolution [3 O.C. 305.6-1(b)] to be adopted
 108 by the Oneida Business Committee prior to implementation. [3 O.C. 305.6-1(b) and 305.7-1(c)].

109 **F. Licensing** [3 O.C. 305.7].

110 ▪ The licensing and fee sections have been combined and placed under section 305.7 of the Law.
 111 [3 O.C. 305.6 and 305.5-9 of Current Law].

112 ▪ A provision was added that requires the Department to waive the licensing fee when a food
 113 service business or prepackaged restaurant provides the Department with proof of payment to
 114 another governmental unit located within the boundaries of the Reservation for a similar license
 115 that covers the same term. [3 O.C. 305.7-1(c)(3)(B)].

116 • The provision makes clear that an exemption from a licensing fee shall not be considered a
 117 waiver of any other compliancy requirement within the Law that is applicable to food
 118 service businesses and/or prepackaged restaurants, nor shall it be considered a waiver of the
 119 Nation's authority to regulate food service businesses or prepackaged restaurants operating
 120 within its jurisdiction. [3 O.C. 305.7-1(c)(3)(C)].

121 • *Effect.* The licensing fee waiver protects the business owner from unnecessary duplication
 122 of payments to operate but does not eliminate the need for such business owner to obtain a
 123 license before operating or remove the Department's regulatory authority over the
 124 operation.

125 ▪ A provision was added that requires the Department to make a determination to issue or deny
 126 an application for a license or license renewal within thirty (30) days following the submission
 127 of a complete application. [3 O.C. 305.7-1(a)].

128 • In the event of a denial, the provision further provides that the Department must notify the
 129 applicant in writing, supplying him or her with a basis for said denial and information on
 130 how to appeal the Department's decision. [3 O.C. 305.7-1(a)(2)(B)].

131 • *Effect.* By adding the thirty (30) day window for the Department to respond to an application
 132 for licensure, applicants are protected from any unreasonable delays that could cause harm
 133 to their business or business plans.

134 ▪ A provision was added that grants the Department discretion to use an applicant's equivalent
 135 certification or training to qualify for licensure as a temporary food service establishment [3
 136 O.C. 305.7-2(b)(2)(B)] or an independent food service operator. [3 O.C. 305.7-2(c)(2)(B)].

137 • *Effect.* By affording the Department discretion to use alternate training or certification to
 138 satisfy the licensure requirements for temporary food service establishments and
 139 independent food service operators, it provides flexibility to both the Department and the
 140 applicant and eliminates the inefficiency of duplication.

141 ○ Permanent food service establishments are not included in this added provision
 142 as they are required to undergo a more involved training that is dictated by the
 143 Federal Food Code, which was adopted by the Nation through incorporation into
 144 the Law. [3 O.C. 305.7-2(a)(3)].

145 ▪ The requirement that licensing fees be used for the operational budget of the Department (80%)
 146 and the administrative budget of the License Department (20%) was removed. [3 O.C. 305.9-9
 147 of Current Law]. The Law is now silent regarding where licensing fees are allocated which
 148 means these funds will be directed to the General Fund.

149 **G. Exemptions** [3 O.C. 305.8]. This section was updated to provide exemptions for cottage food operators
 150 and prepackaged restaurants that satisfy certain requirements in the Law to qualify for the exemption.

151 ▪ Private rummage sales, community sponsored non-profit fund raising and/or charity events were
 152 moved from the exemption section and included under the definition of food service business to
 153 clarify that these activities **do not** qualify as a food service business, and thus, are not governed
 154 by the Law. [3 O.C. 305.11 of Current Law]. Since the Law does not apply to these activities in
 155 the first place, there is no need for them to have a specific exemption like cottage food operators
 156 and prepackaged restaurants, who, but for the exemption, would have to obtain a license to operate
 157 as a food service business.

- 158 ▪ Cottage food operators and prepackaged restaurants are defined separate from food service
159 businesses under the Law. These entities are exempt from many of the requirements that attach to
160 licensure of a food service business so long as they meet the requirements contained in the Law
161 to qualify for the exemption specific to their operation. The Department maintains regulatory
162 authority over cottage food operators and prepackaged restaurants but is afforded much more
163 discretion in exercising such authority, provided it does not exercise it in a manner that is more
164 burdensome than that which attaches to a food service business.
- 165 • Cottage Food Sales Exemption. The Law defines a cottage food operator as an individual
166 who, exclusively within the home kitchen of his or her domestic residence, produces cottage
167 food products for direct sale only. [3 O.C. 305.3-1(d)]. Cottage foods products are foods
168 that are non-potentially hazardous, including non-perishable baked goods such as cakes, most
169 fruit pies, breads, brownies, cookies and muffins; dry mixes; dried fruit; jams, jellies and
170 preserves; home-canned foods such as apples, peaches and lemons or salsa, pickled
171 vegetables and hot sauces; as well as other non-potentially hazardous foods that the
172 Department characterizes as cottage food products for purposes of the Law. [3 O.C. 305.3-1
173 (e)].
 - 174 ○ Cottage food operators are exempt from the licensure requirements that apply to
175 food service businesses under the Law. However, the following oversight still
176 exists to protect the Nation from potential foodborne illness that may arise from
177 their operation:
 - 178 ✓ Cottage food operators must register with the Department, providing
179 their name, address of domestic residence, any other information
180 required by the Department per a standard operating procedure and an
181 acknowledgement that they will adhere to the requirements to qualify
182 for exemption from licensure [3 O.C. 305.8-1(a)];
 - 183 ✓ Cottage food operators must label their products with their name and
184 address; the name of their cottage food product and the date on which it
185 was prepared; and a sign that states: “this product is homemade and not
186 subject to inspection by the Nation” [3 O.C. 305.8-1(b)];
 - 187 ✓ Cottage food operators who intend to sell home-canned foods under the
188 exemption must first complete the food safety training relating to
189 canning that is approved by the Department [3 O.C. 305.8-1(c)]; and
 - 190 ✓ Cottage food operators are subject to some of the same enforcement
191 provisions as food service businesses for findings of non-compliance
192 with the requirements to qualify for the exemption [3 O.C. 305.8-3].
 - 193 • Prepackaged Restaurants Exemption. The Law defines prepackaged restaurants as
194 establishments that serve and/or sell only prepackaged foods with preparation on-site that
195 is limited to heating and serving. [3 O.C. 305.3-1(w)].
 - 196 ○ The exemption was added to the Law and includes: a reduced fee, fewer
197 inspections and no training/certification to qualify for the exemption.
 - 198 ○ Prepackaged restaurants are exempt from the requirements of the Law so long as
199 they satisfy specific requirements, which include application to the Department,
200 limited inspections and an agreement to sell only prepackaged foods approved
201 by the Department. [3 O.C. 305.8-2].
 - 202 ○ The Department may draft a standard operating procedure to govern the
203 application process and the tracking of prepackaged restaurants under its
204 jurisdiction. [3 O.C. 305.8-2(a)].
 - 205 ○ Although food safety training or certification is not required to qualify for the
206 exemption, the Department can order it as part of a corrective order for non-
207 compliance. [3 O.C. 305.8-2(b)]. Training or certification is not initially required
208 for prepackaged restaurants because these establishments are only authorized to
209 heat precooked foods according to the directions on the package, and thus, pose
210 a low risk to public health.

- 211 ○ The Department is required to provide written notice to the public of what
 212 qualifies as a prepackaged food under the exemption. [3 O.C. 305.8-2(a)(3)(A)].
 213 ○ The Department may inspect prepackaged restaurants as often as deemed
 214 necessary for cause, but no more than one (1) time per year without cause. [3
 215 O.C. 305.8-2(c)].
 216 ○ Violations of the requirements to qualify as a prepackaged restaurant will be
 217 handled in accordance with the section of the Law titled “Violations,
 218 Enforcement”. [3 O.C. 305.10].

219 H. **Inspections** [3 O.C. 305.9]. This section of the Law was updated to make clear that, in addition to the
 220 inspections necessary to qualify for licensure, the Department may conduct two (2) more inspections at
 221 any time during reasonable hours per license term for any reason. [3 O.C. 305.9-1]. The Department
 222 may further conduct unscheduled inspections in response to a complaint, an outbreak of a foodborne
 223 illness, reasonable suspicion of a violation of this Law or an emergency. [3 O.C. 305.9-2]. Any
 224 reinspection as a result of a violation of this Law requires additional fees. [3 O.C. 305.9-3].

225 I. **Violations, Enforcement** [3 O.C. 305.10]. The amendments to this section name the Department as the
 226 sole entity to issue and enforce violations of this Law.

- 227 ▪ Violations of the Law may result in the Department issuing the following: a license suspension
 228 or revocation, a corrective order which may include an order to close-down, and/or a citation.
 229 [3 O.C. 305.10-1].
- 230 ▪ Any food service business or prepackaged restaurant ordered to close-down must comply with
 231 the corrective order issued, pass a reinspection and pay any applicable fees assessed by the
 232 Department before being eligible for operation.
- 233 ▪ Citations were added to the Law as an enforcement mechanism to be used by the Department
 234 in accordance with a fine and penalty schedule to be set by the Department and approved by
 235 the Oneida Business Committee through resolution. [3 O.C. 305.10-1(c)].
- 236 ▪ Food services businesses ordered to close-down for violation of the Law are not entitled to a
 237 reimbursement of any portion of the licensing fee or fees. [3 O.C. 305.10-2(b)].

238 J. **Appeal Rights** [3 O.C. 305.11].

- 239 ▪ This section of the Law was amended to provide that decisions of the Department that are not
 240 issued pursuant to a citation shall be appealed to the Department’s Area Manager as follows:
 241 • The appeal must be made within ten (10) business days of receiving the Department’s
 242 decision, at which point the Area Manager will have five (5) business days to make a
 243 determination unless he or she deems it necessary to extend the time-frame for purposes
 244 of investigation. [3 O.C. 305.11-1(b)(1)].
 245 • The Area Manager’s decision on appeal shall be final unless appealed to the Trial Court
 246 of the Judiciary for being contrary to law, without any reasonable basis and/or an abuse
 247 of power. [3 O.C. 305.11-1(c)].
- 248 ▪ This section further provides that decisions of the Department issued pursuant to a citation shall
 249 be conducted in accordance with the Nation’s Citations law. [3 O.C. 305.11-2].
 250 • Persons wishing to contest a citation must appear in person before the Trial Court of the
 251 Judiciary. [3 O.C. 305.11-2].

252 K. **Insurance** [3 O.C. 305.7 of Current Law]. This section was deleted from the Law as, after consulting
 253 with Risk Management, it is no longer applicable.

254 SECTION 6. RELATED LEGISLATION

255 A. **Reference to Other Laws.** The following laws of the Nation are referenced in this Law and legislative
 256 analysis and are required to be followed:

- 257 • **Judiciary** [8 O.C. 801]. The Trial Court of the Judiciary has subject matter jurisdiction where
 258 laws of the Nation specifically authorize the Trial Court to exercise jurisdiction. [8 O.C. 801.5-
 259 2]. The Oneida Food Service law authorizes the Trial Court to hear appeals of Department
 260 decisions issued pursuant to a citation, as well as appeals of the Area Manager’s decision on
 261 appeal of Department decisions not issued pursuant to a citation when challenged on the
 262

- 263 grounds that is was contrary to law, without any reasonable basis or an abuse of power. [3
 264 O.C. 305.11]. The Judiciary law authorizes the Court of Appeals to review final orders and
 265 judgments of the Trial Court. [8 O.C. 801.8-2(a)(1)].
- 266 • Oneida Judiciary Rules of Civil Procedure [8 O.C. 803]. This law governs the procedure used
 267 when filing an action with the Oneida Judiciary.
 - 268 • Rules of Appellate Procedure [8 O.C. 805]. This law governs the procedure used when filing
 269 an action with the Court of Appeals and is used in conjunction with the Oneida Judiciary Rules
 270 of Civil Procedure.
 - 271 • Legislative Procedures Act [1 O.C. 109]. This law governs the format that will be followed
 272 for all Laws of the Nation. The format of the amended Law was updated to meet requirements
 273 in this law.
 - 274 • Citations law [8 O.C. 807]. This law governs the issuance of citations and the manner in which
 275 citations are contested.
- 276 B. There are no conflicts between the proposed amendments and the Oneida Code of Laws.
 277

278 SECTION 7. IMPLEMENTATION

- 279 A. **Inspections.** Inspection authority has not changed. The Department will conduct inspections in
 280 accordance with the Law. [3 O.C. 305.9-2].
- 281 B. **Resources and Implementation.** The Department will utilize existing staff to implement and enforce
 282 this Law. [3 O.C. 305.6]. The Licensing Department staff and Risk Management Department staff were
 283 removed from the Law.
- 284 C. **Due Process.** Parties who disagree with decisions of the Department regarding any decisions not issued
 285 by citation can appeal to the Department's Area Manager. The Area Manager decisions believed to be
 286 contrary to law, without any reasonable basis or an abuse of power may be further appealed to the Trial
 287 Court of the Judiciary. [3 O.C. 305.11]. Decisions of the Trial Court are appealable to the Court of
 288 Appeals. [8 O.C. 801.8-2(a)(1)]. Citations issued by the Department may be contested in person in
 289 accordance with the Nation's Citations law. [3 O.C. 305.11-2].
 290

291 SECTION 8. OTHER CONSIDERATIONS

- 292 A. **Fiscal Impact.** A fiscal impact statement of the proposed amendments to the Law has been developed
 293 by the Finance Department.
- 294 ▪ Under the Legislative Procedures Act, a fiscal impact statement is required for all legislation
 295 except emergency legislation. [1 O.C. 109.6-1].
 - 296 ▪ Oneida Business Committee resolution BC-09-25-19-A requires that when developing a fiscal
 297 impact statement for the adoption of proposed legislation by the Oneida Business Committee
 298 the Finance Department shall, within ten (10) business days of final approval of draft legislation
 299 by the Legislative Operating Committee, provide a fiscal impact statement to the Legislative
 300 Operating Committee.
 301
 302

Title 3. Health and Public Safety – Chapter 305

~~ONEIDA FOOD SERVICE CODE~~

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about the food

ONEIDA FOOD SERVICE

305.1-1 Purpose and Policy	305.7. Licensing	8-1 Inspections
305.2-1 Adoption, Amendment, Repeal	305.8. Exemptions	9-1 Fees
305.3-1 Definitions	305.9. Inspections	10-1 Independent Food Service Vendors Badge
305.4-1 Responsibilities and Duties	305.10. Exemptions	
305.5-1 Compliance	305.11-1 Exceptions and Jurisdiction	305.12-1 Violations, Enforcement
305.6-1 Requirements for registering	5. Compliance	305.13-1 11. Appeal Rights
305.7-1 Insurance		

~~305.1.~~ 6. Authority

~~305. Amendment, Repeal~~

~~305.1-1. The Oneida Nation is a federally recognized Indian tribe with the sovereign authority to enact laws as authorized in Article IV, section 1 (f) of the Oneida Constitution.~~

~~305.1-2. The policy of this Code is to ensure the safe food handling and sales by food vendors who sell their products for profit on tribal property within the exterior boundaries of the Oneida Nation in Wisconsin through licensing, regulation, control and supervision of those vendors.~~

~~305.1-3. The purpose of this Code is to protect and preserve the safety of Oneida Nation citizens and others within its jurisdiction in conjunction with the most current United States Public Health Service Food Code, hereinafter, the Federal Food Code.~~

~~305.1-4. The Federal Food Code is adopted along with this Code to provide guidelines regulating the retail sale, commercial and institutional service and vending of food; defining permit holder, person in charge, employee, food, potentially hazardous food, food establishment, safe material, sanitation, and other terms; and providing standards for employee food safety knowledge, health and practices, food sources, preparation, holding temperatures, and protection; equipment design, construction, installation, cleaning and sanitation, water and liquid and solid wastes, facilities construction and maintenance, and storage and use of poisonous and toxic materials; requiring a license to operate a food establishment; providing for the restriction or exclusion of employees, the examination and condemnation of food, and the enforcement of this code including the setting of penalties. (Chapter 8 and the Chapter 8 annex, annex 1 of the Federal Food Code.)~~

1. Purpose and Policy

305.1-1. Purpose. The purpose of this law is to ensure the safety of food that is provided to consumers at retail or through an Oneida Nation Food Service Program by establishing a system of overlapping safeguards designed to minimize foodborne illness; ensure employee health, industry manager knowledge, safe food handling, nontoxic/cleanable equipment and acceptable levels of sanitation on the premises of food service businesses; and promote fair dealings with members of the community through adoption of licensing requirements, exemptions, regulation, control, supervision and enforcement procedures that govern food service businesses within the jurisdiction of the Nation.

51 305.1-2. Policy. It is the policy of the Nation to protect the health, welfare and safety of the
 52 community and to strengthen the Nation's self-governance by ensuring, through the exercise of its
 53 inherent sovereignty over the Nation's resources and membership, that food provided at retail or
 54 through an Oneida Nation Food Service Program is unadulterated, prepared in a clean environment
 55 and honestly presented.

57 **305.2. — Adoption, Amendment, Repeal**

58 305.2-1.— This Code is law was adopted by the Oneida Business Committee by Resolution#
 59 6resolution BC-06-13-01-B and amended by resolution/resolutions BC-02-25-15-C and is effective
 60 ten (10) business days after adoption. BC- - - - .

61 305.2-2.— This Code law may be amended or repealed by the Oneida Business Committee and/or
 62 Oneida General Tribal Council pursuant to the procedures set out in the Oneida
 63 Administrative/Legislative Procedures Act by the Oneida Business Committee or by the Oneida
 64 General Tribal Council.

65 305.2-3.— Should a provision of this Code law or the application thereof to any person or
 66 circumstances be held as invalid, such invalidity shall not affect other provisions of this law which
 67 will continue are considered to have legal force without the invalid portions.

68 305.2-4.— All previously enacted or adopted Oneida laws, ordinances, policies or other
 69 regulations that are inconsistent or conflict with this Code are hereby repealed unless re-enacted
 70 after adoption of this Code.

72 305.2-4. In the event of a conflict between a provision of this law and a provision of another law,
 73 the provisions of this law shall control.

74 305.2-5. This law is adopted under authority of the Constitution of the Oneida Nation.

76 **305.3. Definitions**

77 305.3-1. 305.3.— Definitions

78 305.3-1.— This section shall govern the definitions of words and phrases used within the this law.
 79 All words not defined herein shall be used in their ordinary and everyday sense.—

80 (a) A Oneida Nation ≅ “Citation” means the Oneida Tribe of Indians of Wisconsin.

81 (b) A Tribal Property ≅ means property a legal document that is owned by the Oneida
 82 Nation serves as a notice or summons to appear in fee or held a court of the Nation in trust for
 83 the Oneida Nation by the United States response to a charge against a person of a violation of
 84 America law.

85 (c) A Reservation ≅ means that area in Wisconsin within the exterior boundaries as set out
 86 in the 1838 Treaty with the United States of America.

87 (d) A (b) “Close-down” means an order issued by the Department to discontinue
 88 operation of a food service business or exempt operation under section 305.8 of this law
 89 in order to protect the health, safety and/or welfare of the community.

90 (e) “Consumer” means an individual who is a member of the public; takes possession of
 91 food; is not functioning in the capacity of a food service business, a cottage food operator,
 92 a prepackaged restaurant, or a food processing plant; and does not offer the food for resale.

93 (f) “Cottage food operator” means an individual who, exclusively within the home kitchen
 94 of his or her domestic residence, produces cottage food products for direct sale only.

95 (g) “Cottage food products” mean foods, produced within the home kitchen of a domestic
 96 residence, that are non-potentially hazardous, including non-perishable baked goods such

97 as cakes, most fruit pies, breads, brownies, cookies and muffins; dry mixes; dried fruit;
 98 jams, jellies and preserves; home-canned foods such as apples, peaches and lemons or
 99 salsa, pickled vegetables and hot sauces; and other non-potentially hazardous foods that
 100 the Department characterizes as cottage food products for purposes of this law.

101 (f) “Department” means the Environmental, Health and Safety Department within the
 102 Nation’s Environmental, Health, Safety and Land Division.

103 (g) “Direct sale” means a consumer’s face-to-face purchase of a cottage food product from
 104 a cottage food operator that does not include purchases through consignment, mail order,
 105 or the internet, though nothing herein shall be interpreted to prohibit a cottage food operator
 106 from using the internet for the sole purpose of advertising his or her cottage food products.

107 (h) “Domestic residence” means the single-family house or unit in a multiunit residential
 108 structure located at the address that the applicant lists as being his or her primary residence
 109 when applying to the Department for a cottage food exemption under this law.

110 (i) “Emergency” means the occurrence or discovery of an unforeseen event that requires
 111 immediate attention, the absence of which could endanger the health or safety of others.

112 (j) “Federal Food Code” means the most current edition of the United States Public
 113 Health Service Model, Food and Drug Administration Food Code.

114 ~~(e) A Food Service Establishment~~ (k) “Fine” means a permanent unit monetary
 115 punishment issued to a person for violation of this law.

116 (l) “Food” means a raw, cooked or location on tribal property which food is processed on
 117 site and edible substance; ice; beverage; or ingredient used or intended for individual use or
 118 for sale in whole or in part for human consumption usually for retail sale. The term includes any
 119 such place or chewing gum.

120 (m) “Food service business” means, whether consumption is on or off premises,
 121 including, but not limited to the following:

122 (1) A restaurant or eating/drinking individually or collectively, a permanent food
 123 service establishment

124 (2) A market or grocery

125 (3) A catering business

126 (4) A bakery or confectionary

127 (5) A convenience store or gas station store

128 ~~(f) A Independent Food Service Vendors~~ are those individuals who sell food on tribal
 129 property for profit that prepare food off site independent of a permanent establishment
 130 such as a restaurant, at a source that has been approved by the Environment Health and
 131 Safety Department.

132 ~~(g) A Temporary Food Service~~ means a food service establishment that operates at a fixed
 133 location on tribal property for a period of not more than 14 consecutive days in conjunction
 134 with a single event or celebration.

135 ~~(h) A Environmental Department~~ means the Oneida Environment Health and Safety
 136 Department, hereinafter, EHS.

137 ~~(i) A;~~ Compliance ~~means to operate a food service business, i.e. a food service~~
 138 establishment, an independent food service or a temporary food service in conformity with
 139 the requirements of this Code, the Federal Food Code establishment; and the EHS standard
 140 operating procedures.

141 ~~(j) The A~~ Licensing ~~Department~~ means that department within the organizational
 142 structure of the Compliance Division of the Oneida Nation responsible for administering

and issuing licenses within the tribal jurisdiction in accordance with Oneida Laws, Ordinances and Codes.

(k) ~~The Business Committee~~ means the Oneida Business Committee

(l) ~~Risk Management~~ means the Oneida Risk Management Department.

(m) ~~Emergency~~ means that situation ~~/or an unforeseen occurrence that requires immediate attention, the absence of which would endanger the health or safety of others due to the imminent nature of the circumstance.~~

(n) ~~Close down~~ means that the independent food service vendor, by order of the Compliance Division in conjunction with the Business Committee and the Oneida Police Department, based upon the recommendation of the EHS, will be prohibited to be open for business to the public for the protection of the health, safety or welfare of the community.

(o) ~~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 Tribe.

(p) ~~Adopt all other definitions as written in the Federal Food Code.~~

operator. The following

~~305.4. — Responsibilities and Duties-~~

~~305.4 1. — The EHS Department shall administer and regulate the requirements of this Code and the Federal Food Code pursuant to their updated Standard Operating Procedures, hereinafter, ASOP=s, for Food Service Vendors.~~

~~305.4 2. — The EHS Department shall conduct food handling classes that are required for licensing of independent and temporary food vendors. Food not qualify as a food service establishment vendors are exempt from this requirement but are to uphold other requirements per the Federal Food Code.~~

~~305.4 3. — The EHS Department shall have a copy of the most current Federal Food Code available for inspection at the EHS offices by any and all food service vendors during regular business hours.~~

~~305.4 4. — The EHS Department shall have a copy of their SOP=s for Food Service Vendors available for inspection at the EHS offices by any and all food service vendors during regular business hours.~~

~~305.4 5. — Risk Management shall make the determination to ensure that the vendor has adequate insurance coverage.~~

~~305.4 6. — The Licensing Department shall issue a Food Service License, Temporary Food Service License, and a badge for Independent Food Vendors upon successful compliance of the requirements of this Code and the Federal Food Code.~~

~~305.4 7. — The Licensing Department, in conjunction with the EHS Department, shall determine the fees for the Food Service Licenses annually and post these prominently in the EHS a Licensing Department.~~

~~305.4 8. — The Licensing Department shall determine the monetary fines for noncompliance with this Code as approved by the Business Committee.~~

~~305.5. — Compliance-~~

~~305.5 1. — Strict compliance with the specific laws found in this Code and the Federal Food Code are required.~~

~~305.5 2. — Additions or modifications to the Federal Food Code found in this Code are designed to be Oneida specific.~~

189 ~~305.5 3.— Non-compliance with this Code or the Federal Food Code will be addressed by the~~
190 ~~License Department of the Compliance Division upon written complaint and or recommendation~~
191 ~~from the EHS or Risk Management Departments.~~

192
193 **~~305.6.— Requirements for Licensing~~**

194 ~~305.6 1.— No person or person, corporation or firm shall operate a food service establishment~~
195 ~~either permanent or temporary, or sell food as an independent food service vendor on tribal~~
196 ~~property, who does not have a valid, unsuspended, unrevoked Oneida Food Vendors License~~
197 ~~issued by the License Department.—~~

198 ~~305.6 2.— Only a person or persons, corporation or firm that complies with the requirements of~~
199 ~~this Code and the Federal Food Code shall be entitled to receive and retain an Oneida Food~~
200 ~~Vendors License.—~~

201 ~~305.6 3.— A valid license shall be posted in every food service establishment or temporary food~~
202 ~~service premises; and every independent food vendor shall prominently display the valid badge~~
203 ~~issued by the EHS Department.~~

204 ~~305.6 4.— A Food Service License will be issued as follows:~~

205 ~~(a) All Food Service Establishments, Independent Food Service vendors and Temporary~~
206 ~~Food Service vendors must meet the general requirements of the Federal Food Code.~~

207 ~~(b) Independent Food Vendors and Temporary Food Vendors are required to satisfy the~~
208 ~~requirements of the EHS safe food handling instruction and certificate of completion of~~
209 ~~training must be presented to the Licensing Department prior to the issuance of a Food~~
210 ~~Service License.~~

211 ~~Food Service Establishments must satisfy the requirements of the EHS=s pre-inspection~~
212 ~~report which will be provided to the Licensing Department prior to the issuance of a Food~~
213 ~~Service License.~~

214 ~~(c) The Licensing Department shall issue a Food Service License pursuant to the~~
215 ~~recommendations by EHS regarding assurances that the applicant has met the conditions~~
216 ~~that are required for a satisfactory score pursuant to this Code, the EHS SOP=s and the~~
217 ~~Federal Food Code guidelines with the Hazard Analysis and Critical Control Point,~~
218 ~~Techniques of Quality Control.~~

219 ~~(d) Food Service Licenses for permanent Food Service Establishments and Independent~~
220 ~~Food Service vendors shall be issued by the License Department for a 12-month period~~
221 ~~beginning at the fiscal year, October 1 and ending September 30 of the following fiscal~~
222 ~~year.~~

223 ~~(e) Those food vendors that initiate their business at a time other than October 1 of any~~
224 ~~given year shall have their fees prorated for that year.~~

225 ~~(f) Renewal of a license will be for an additional 12 months per fiscal year by the License~~
226 ~~Department upon approval of the EHS Department.~~

227 ~~(g) Temporary Food Service Licenses shall be issued for no more than 14 days at a time.~~

228 ~~(h) Temporary Food Service Vendors must have at least one food handler that has~~
229 ~~successfully completed the EHS food handling instruction and have their certificate of~~
230 ~~completion displayed at all times during hours of operation.~~

231 ~~(i) Food Service Licenses for Food Service Establishments and Temporary Food Service~~
232 ~~vendors shall be displayed in a conspicuous location within the permanent or temporary~~
233 ~~food service establishments.~~

234 ~~(j) Independent Food Service Vendors must display their badges. (See 305.10, below.)~~

235 (k) No food prepared by a Food Service Vendor shall be prepared in any room used as, or
236 adjacent to, living or sleeping quarters.

237 ~~305.6 5.—Oneida Tribal Enterprise Units and Oneida Tribal Business Units shall be required to~~
238 ~~adhere to the requirements of this code when selling food for profit on tribal property.~~

239 ~~305.6 6.—Food Service Licenses are non-transferable.~~

241 ~~305.7. Insurance~~

242 ~~305.7 1.—Food Service Establishments and Independent Vendors are required to have adequate~~
243 ~~insurance as determined by the Risk Management Department=s Standard Operating Procedures.~~

244 ~~305.7 2.—Upon satisfying the requirements of the EHS Department, Food Service Establishments~~
245 ~~and Independent Food Service Vendors must provide the necessary documents of insurance to~~
246 ~~Risk Management Department.~~

247 ~~305.7 3.—At any time during the term of the food service license, if the vendor loses his or her~~
248 ~~insurance coverage, this must be reported immediately by the vendor to Risk Management and/or~~
249 ~~the License Department.~~

250 ~~305.7 4.—Temporary Food Service vendors are exempt from the requirement for additional~~
251 ~~insurance under this section.~~

254 ~~305.8. Inspections~~

255 ~~305.8 1.—Food Establishment Vendors and Temporary Food Service Vendors who apply for a~~
256 ~~license must undergo a pre-inspection of the permanent or temporary establishment by the EHS~~
257 ~~Department inspector that results in a satisfactory score under the Federal Food Guidelines.~~

258 ~~305.8 2.—Independent Food Service Vendors who apply for a license must undergo a pre-~~
259 ~~inspection of the kitchen or original food preparation premises by the EHS Department inspector~~
260 ~~that results in a satisfactory score under the Federal Guidelines.this law:~~

261 ~~305.8 3.—Inspections of the food service premises by the EHS Department will be scheduled~~
262 ~~twice a year.~~

263 ~~305.8 4.—At any time during the term of the license, either upon receipt of a complaint or upon~~
264 ~~their own volition, the EHS Department may conduct an unscheduled inspection of a vendors food~~
265 ~~preparation site.~~

266 ~~305.8 5.—A reinspection conducted as a result of a prior violation of this code or the Federal Food~~
267 ~~Code, will be an additional fee to the vendor and must achieve a satisfactory score under the~~
268 ~~Federal guidelines to cure the violation.~~

270 ~~305.9. Fees~~

271 ~~305.9 1.—The Food Service license fees shall cover a twelve (12) month period and shall be paid~~
272 ~~in advance with the application for licensure.~~

273 ~~305.9 2.—The fee shall be paid annually at the beginning of each fiscal year which is October 1~~
274 ~~through September 30 of the following year.~~

275 ~~305.9 3.—The license fees will be prorated for those applicants who start up their business prior~~
276 ~~to the beginning of the fiscal year.~~

277 ~~305.9 4.—The fee shall be returned in full if the application is denied.~~

278 ~~305.9 5.—The licensing agent shall keep fee records.~~

279 ~~305.9 6.—Food Service vendors that have had their license suspended or their businesses closed~~
280 ~~will not be entitled to a refund of their fees.~~

~~305.9-7. The fee for a food service license shall be pursuant to an equitable fee schedule as established by the EHS and License Department as reviewed and approved by the Business Committee and shall be available in the Licensing and EHS Departments for review.~~

~~305.9-8. The fee schedules may be adjusted annually.~~

~~305.9-9. Food Service vendor fees shall be used for the operational budget of the EHS (80%) and administrative budget of the License Department (20%).~~

~~305.9-10. Oneida Tribal Enterprise Units are required to pay the license fees under this code.~~

~~305.9-11. Oneida Tribal Business Units are exempt from the fee requirements.~~

~~305.10. Independent Food Service Vendors Badge~~

~~305.10-1. Upon compliance with the requirements of this Code and the Federal Food Code, the Independent Food Service Vendors and their employees, if any, will be issued a badge by EHS with the vendors/employee=s photograph and license number clearly visible.~~

~~305.10-2. The badge must be worn by the licensed Independent Food Service Vendor and employees in a manner that is clearly visible to the public at all times while engaging in the sale of their food product.~~

~~305.10-3. Independent Food Service vendor badges are non-transferable and must be worn only by the individual to whom it was issued.~~

~~305.11. Exceptions and Exemptions~~

~~305.11-1. The following food service vendors will be exempt from the requirements of this Code:~~

~~(a) (1) Private rummage sales;~~

~~(b) (2) Community sponsored non-profit fund raising/fundraising and/or charity events;~~

~~(c) Official Tribal meetings such as GTC Meetings.~~

~~(d) (3) Cottage food operators who satisfy the requirements of this law; and/or~~

~~(4) Prepackaged restaurants that satisfy the requirements of this law.~~

~~(n) "Home-canned foods" means home-canned fruits and vegetables that are naturally acidic or have been acidified by pickling or fermenting and have an equilibrium pH of 4.6 or lower.~~

~~(o) "Independent food service operator" means a person, other than one who qualifies as a cottage food operator, who sells, for profit, food that is prepared off-site, independent of a permanent establishment, at or within a location approved by the Department.~~

~~(p) "Judiciary" means the Oneida Nation Judiciary, which is 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.~~

~~(q) "License" means the tangible proof of authorization from the Department to operate a permanent food service establishment, operate a temporary food service establishment and/or function as an independent food service operator.~~

~~(r) "Nation" means the Oneida Nation.~~

~~(s) "Penalty" means a punishment, other than a fine, imposed on a person for violation of this law.~~

~~(t) "Permanent food service establishment" means a permanent unit and/or location where food is processed on the premises, usually for retail sale, and intended for individual consumption, whether on or off the premises, including, but not limited to, the following:~~

- 327 (1) A restaurant or other eating/drinking establishment that does not qualify as a
 328 prepackaged restaurant;
 329 (2) A market or grocery store;
 330 (3) A catering business;
 331 (4) A bakery or confectionary;
 332 (5) A convenience store or gas station store;
 333 (6) An Oneida Nation Food sold on Service Program; and/or
 334 (7) A mobile food truck that requires a Department approved service base to
 335 operate.

336 (u) "Person" means a natural person(s), sole proprietorship, partnership, corporation,
 337 limited liability company or any other form of a legal entity.

338 (v) "Potentially hazardous food" means food that requires time and temperature control
 339 for safety to limit toxin formation or the growth of pathogenic microorganisms.

340 (w) "Prepackaged restaurant" means an establishment that serves or sells only packaged
 341 foods that are prepared and packaged off-premise by a licensed processor with preparation
 342 on the premise limited to heating and serving.

343 (x) "Reservation" means all land other than tribally owned land within the exterior
 344 boundaries of the Reservation of the Oneida Nation, as created pursuant to the 1838 Treaty with
 345 the Oneida 7 Stat. 566, and any lands added thereto pursuant to federal law.

346 (y) "Temporary food service establishment" means a non-permanent food service
 347 establishment that operates at a fixed location for a limited number of consecutive days in
 348 conjunction with a single event.

349

350 **305.12. Violations, Enforcement****4. Application**

351 305.12-1. Selling This law shall apply to all food or service businesses, prepackaged
 352 restaurants and cottage food operators located or operating within the Reservation.

353 305.4-2. Liberal Construction. The provisions of this law shall apply to the fullest extent of the
 354 sovereign jurisdiction of the Nation and shall be liberally construed to give full effect to the
 355 objectives and purposes for which it was enacted.

356

357 **305.5. Compliance**products on tribal property.

358 305.5-1. No person shall operate a food service business without a valid, unexpired license is
 359 strictly prohibited and will result in a fine and/or the suspension of the vendor=s right to continue
 360 to sell food, i.e., the business will be closed down from the Department.

361 305.12-2. A (a) Licenses to operate a food service vendor=s license will be suspended
 362 and the food service closed down if the licensed vendor is in business are non-transferable.

363 (b) Unless otherwise provided herein, strict compliance with this law is required before a
 364 license may be issued or renewed.

365 305.5-2. the requirements of this Code, Federal Food Code. The Nation finds that the Federal
 366 Food Code establishes a high level of stringent food and beverage handling safety standards that
 367 should govern all food service businesses to which this law applies.

368 (a) Unless otherwise provided herein, the Nation hereby adopts the entire Federal Food
 369 Code through incorporation by reference into this law.

370 (1) Any additions to or deviations from the Federal Food Code that are included
 371 within this law are designed to be specific to the Nation.

372 (2) Should a provision of this law conflict with a provision of the Federal Food
 373 Code, the provision of this law shall have priority over the Federal Food Code and
 374 govern.

375 (b) The Department shall maintain either an electronic or print copy of the most current
 376 edition of the Federal Food Code at its office location and shall make it available or
 377 accessible for inspection during regular business hours.

378
 379 ~~305.~~ or for any other reasons related to the protection of the Oneida Nation=s **6. Authority**

380 305.6-1. Authority of the Department. Subject to all applicable provisions and/or restrictions
 381 contained in this or any other governing law of the Nation, the Department shall be responsible for
 382 the administration and enforcement of this law, including, but not limited to, that the Department
 383 shall have the power to:

384 (a) Grant, deny, renew, suspend, reinstate and/or revoke licenses to operate food service
 385 businesses and make all other determinations regarding suitability for licensure and
 386 exemption from licensure;

387 (b) Establish licensing fee, fine and penalty schedules;

388 (c) Establish standard operating procedures to govern how it administers and enforces the
 389 provisions of this law;

390 (d) Perform all requisite inspections and conduct investigations when necessary; and/or

391 (e) Issue citations and corrective orders for violations of this law and/or when necessary
 392 to protect the welfare of the community-public health, safety or welfare.;

393
 394 **305.7. Licensing** ~~305.12 3. A food service vendor=s loss of insurance coverage or inadequate~~
 395 ~~coverage for their entity will be cause for a suspension of license and the business will be closed~~
 396 ~~down until the vendor procures adequate coverage and provides the documents thereof to the Risk~~
 397 ~~Management Department.~~

398 ~~305.12 4. Failure to pass an inspection conducted by the EHS will be cause for a penalty,~~
 399 ~~revocation or suspension of the license pursuant to EHS and Federal Code guidelines.~~

400 ~~305.12 5. The vendor=s~~

401 305.7-1. Licenses. The following shall govern the process for obtaining and renewing a license to
 402 operate a food service business:

403 (a) License Application. Persons shall be required to apply to the Department to receive or
 404 renew a license to operate a food service business pursuant to the application process
 405 established by the Department through adoption of a standard operating procedure that
 406 conforms to this law and includes, at a minimum, the following:

407 (1) That, the applicable licensing fee must accompany the application for licensure
 408 or license renewal; and

409 (2) That, the Department shall be required to issue or deny a license within thirty
 410 (30) days after receiving a complete application for licensure or license renewal, all

411 applicable fees, and any other information required under the governing standard
 412 operating procedure.

413 (A) The issuance or renewal of a license may be conditioned on the
 414 applicant correcting a violation of this law within a set period of time, which
 415 if not corrected within the set time or after an extension of time approved
 416 by the Department, would render the license null and void.

417 (B) If the Department denies an application for licensure or license renewal,
418 it shall provide the applicant, in writing, with its reason or reasons for the
419 denial and information on how to appeal its decision.

420 (b) *License Period.*

421 (1) Licenses for permanent food service establishments and independent food
422 service operators shall be issued and renewed by the Department for terms of one
423 (1) year, commencing October 1st and ending September 30th of every year.

424 (2) Licenses for temporary food service establishments shall be issued by the
425 Department to cover one (1) single event for a period of not more than fourteen
426 (14) consecutive days.

427 (c) *License Fee.* The Department shall be required to set a licensing fee schedule, subject
428 to approval by the Oneida Business Committee through adoption of a resolution, that is
429 applicable to all food service businesses.

430 (1) The fee amount shall cover the initial license term for permanent food service
431 establishments and independent food service operators and shall cover a single
432 event of not more than fourteen (14) consecutive days for temporary food service
433 establishments.

434 (A) A separate licensing fee shall be required when applying to renew a
435 license for a permanent food service establishment or independent food
436 service operator.

437 (B) The licensing fee for a permanent food service establishment license or
438 independent food service operator license that was issued after October 1st
439 shall be prorated for that term pursuant to a standard operating procedure
440 established by the Department.

441 (C) Unless otherwise provided herein, if an application for licensure or
442 license renewal is denied by the Department, the licensing fee submitted
443 with the application shall be returned to the applicant in full.

444 (2) The Department shall post the licensing fee schedule in a prominent area within
445 its offices and elsewhere as it deems appropriate.

446 (A) The licensing fee schedule shall include the fee established by the
447 Department to operate a prepackaged restaurant pursuant to section 305.8
448 of this law.

449 (B) The Department may be closed down by the License amend the
450 licensing fee schedule as it deems necessary,
451 subject to approval by the Oneida Business Committee through
452 adoption of a resolution.

453 (3) *Exemptions.*

454 (A) The Oneida Nation Food Service Programs and other non-profit service
455 programs of the Nation shall not be required to pay a licensing fee to obtain
456 a license under this law.

457 (B) The Department shall waive the licensing fee required hereunder upon
458 proof from a food service business or prepackaged restaurant of payment to
459 another governmental unit located within the boundaries of the Reservation
460 for a similar license or permit to operate that covers the same term.

461 (C) Exemption from a licensing fee under (A) or (B) of this section shall
462 not be considered a waiver of any other compliancy requirement within this

463 law that is applicable to food service businesses and/or prepackaged
 464 restaurants, nor shall it be considered a waiver of the Nation's authority to
 465 regulate food service businesses or prepackaged restaurants operating
 466 within its jurisdiction.

467 305.7-2. License Eligibility.

468 (a) Permanent Food Service Establishments. To be eligible to receive a license to operate
 469 a permanent food service establishment, applicants must:

- 470 (1) Submit the appropriate licensing fee with their application;
 471 (2) Pass an inspection by the Department of the proposed premises for the
 472 permanent food service establishment; and
 473 (3) Satisfy any other provision within or arising out of this law that is a prerequisite
 474 for licensure to operate a permanent food service establishment.

475 (b) Temporary Food Service Establishments. To be eligible to receive a license to operate
 476 a temporary food service establishment, applicants must:

- 477 (1) Submit the appropriate licensing fee with their application;
 478 (2) Submit proof of having undergone either:
 479 (A) Certification under the applicable food safety training offered through
 480 the Department; or
 481 (B) Certification or training that the Department, in its discretion, deems
 482 equivalent to the corresponding food safety training offered through the
 483 Department.

- 484 (3) Pass an inspection by the Department of the proposed premises for the
 485 temporary food service establishment; and
 486 (4) Satisfy any other provision within or arising out of this law that is a prerequisite
 487 for licensure to operate a temporary food service establishment.

488 (c) Independent Food Service Operators. To be eligible to receive a license to function as
 489 an independent food service operator, applicants must:

- 490 (1) Submit the appropriate licensing fee with their application;
 491 (2) Submit proof of having undergone either:
 492 (A) Certification under the applicable food safety training offered through
 493 the Department; or
 494 (B) Certification or training that the Department, in its discretion, deems
 495 equivalent to the corresponding food safety training offered through the
 496 Department.

- 497 (3) Pass an inspection by the Department ~~in conjunction with the Oneida Police of~~
 498 ~~the proposed premises designated in~~ writing by the
 499 applicant as the food preparation site; and

- 500 (4) Satisfy any other provision within or arising out of this law that is a prerequisite
 501 for licensure to function as an independent food service operator.

502 (d) Training. The Department shall provide reasonable opportunities for an uncorrected,
 503 critical violation persons to undergo the food safety training that is referenced in section 305.7-
 504 2(b)(2)(A) and (c)(2)(A) of this Code or the Federal law.

505 305.7-3. License Placement.

506 (a) Permanent and Temporary Food Code Service Establishments. A valid license shall, at
 507 all times, be posted in a conspicuous area within the premises of every permanent food service
 508 establishment and every temporary food service establishment.

509 (b) *Independent Food Service Operators.* A valid license shall, at all times, be prominently
510 displayed on the body of the license holder whenever functioning as an independent food
511 service operator.

512
513 **305.8. Exemptions**

514 305.8-1. *Cottage Food Sales.* Cottage food operators are exempt from the requirements of this
515 law, except as follows:

516 (a) *Registration.* Before selling any cottage food products, individuals must register with
517 the Department as a cottage food operator by EHS providing, at a minimum, their:

518 (1) Full name;

519 (2) Address of domestic residence; and

520 (3) Any additional information required by a standard operating procedure that the
521 Department may establish, consistent with this law, to govern cottage food sales.

522 (A) By registering as a cottage food operator, the individual is confirming
523 that the information he or she provided is correct and agreeing to operate
524 within the confines of the exemption.

525 (b) *Labeling.* Cottage food products must be labeled with the following information:

526 (1) The name and address of the cottage food operator;

527 (2) The name of the cottage food product and the date on which it was prepared,
528 processed or canned; and

529 (3) A clearly legible sign or placard that states: "this product is homemade and not
530 subject to inspection by the Nation."

531 (c) *Home-canned Foods.* Individuals who intend to sell home-canned foods under the
532 cottage food sales exemption must first complete the food safety training relating to
533 canning that is approved by the ~~Business Committee~~ Department.

534 305.12-6. — 8-2. *Prepackaged Restaurants.* Prepackaged restaurants are exempt from the
535 requirements of this law, except as follows:

536 (a) *Authorization.* Before selling or serving any prepackaged foods, persons must apply to
537 the Department for permission to operate as a prepackaged restaurant pursuant to the
538 application process established by the Department through adoption of a standard operating
539 procedure that conforms to this law and includes, at a minimum, the following:

540 (1) That, the fee established by the Department to operate a prepackaged restaurant,
541 as set forth in the licensing fee schedule referenced in section 305.7-1 of this law,
542 must accompany the application;

543 (2) That, the applicant passes an inspection by the Department of the proposed
544 premises for the prepackaged restaurant; and

545 (3) That, by applying to operate as a prepackaged restaurant, the applicant is
546 agreeing to serve and/or sell only the prepackaged foods that are approved by the
547 Department and to not engage in any food processing or preparation on the premises
548 of the prepackaged restaurant other than the heating and serving of the food.

549 (A) The ~~EHS~~ Department shall provide written notice, accessible to the
550 public, of the prepackaged foods approved hereunder.

551 (b) Permission to operate as a prepackaged restaurant shall not be conditioned on any prior
552 training or certification in food safety.

553 (1) Paragraph (b) shall not prohibit the Department from issuing a corrective order
554 under section 305.10 of this law that requires food safety training or certification.

555 (c) The Department may reinspect the prepackaged restaurant premises during reasonable
556 hours as often as it deems necessary so long as it does not exceed more than one (1) time
557 per year, absent cause.

558 305.8-3. Enforcement. Violations of this section shall be enforced pursuant to section 305.10 of
559 this law.

560 (a) Upon receipt of a complaint or its own reasonable suspicion of noncompliance with
561 this section, the Department, in its discretion, may conduct an inspection of a prepackaged
562 restaurant or a cottage food operator's domestic residence; provided, the inspection of the
563 cottage food operator's domestic residence is limited to the subject matter of the complaint
564 or event giving rise to the Department's reasonable suspicion.

565 (b) This section does not preempt the application of any other law of the Nation or other
566 local governing ordinance to which individuals must comply.

567 (c) This section does not limit the liability of the owner of a prepackaged restaurant or a
568 cottage food operator for damages that arise out of their sale or service of food hereunder.

570 305.9. Inspections

571 ~~305.9-1. close-down~~ In addition to the inspections required under section 305.7 of this law, no
572 more than two (2) times per license term, the Department may, for any reason, enter a food service
573 business to conduct an inspection, so long as at a reasonable hour.

574 305.9-2. The Department may, at any time during the term of a license, enter a food service
575 business to conduct an unscheduled inspection based on the following:

576 (a) Receipt of a complaint;

577 (b) Outbreak of a food borne illness; and/or

578 (c) Reasonable suspicion of a violation of this law or an emergency.

579 305.9-3. Any reinspection that must be conducted by the Department as a result of a violation of
580 this law, will result in an additional fee as set forth in the license fee schedule.

582 305.10. Violations, Enforcement

583 305.10-1. Non-compliance. Violations of this law may result in any one or more of the following
584 as determined by the Department:

585 (a) The suspension or revocation of a license or license exemption status;

586 (b) The issuance of a corrective order, including, but not limited to, an order to close-
587 down; and/or

588 (c) The issuance of a citation that may include one or more of the fines, penalties and/or
589 corrective orders set forth in the fine and penalty schedule established by the Department,
590 subject to approval by the Oneida Business Committee through adoption of a resolution.

591 (1) Failure to pass an inspection conducted pursuant to this law may be cause for
592 the issuance of one or more of the enforcement mechanisms set forth herein.

593 (2) Citations shall be issued and processed in accordance with the procedures
594 contained in the Nation's laws and policies governing citations.

595 305.10-2. In addition to satisfying any other mandate issued by the Department hereunder, a food
596 service business, cottage food operator or prepackaged restaurant that has been closed-down due
597 to a violation of this law must further pass a reinspection by the Department before being eligible
598 for operation.

599 (a) A food service business that has been closed-down may only receive a probationary
600 license for six (6) months upon evidence of satisfactory compliance with this law.

601 (1) After six (6) months of satisfactory compliance with this law, as determined by
 602 the Department upon a follow-up inspection, the license holder may apply for an
 603 annual license.

604 (b) A food service business or prepackaged restaurant that has had its license or license
 605 exemption status suspended or has become subject to a close-down order shall not be
 606 entitled to a reimbursement of all or any portion of the fee or fees submitted in accordance
 607 with the licensing fee schedule.

608 305.10-3. *Emergency.* The Department may order a close-down of a food service business, cottage
 609 food operation and/or prepackaged restaurant immediately on an emergency basis upon evidence
 610 of a serious health and/or safety threat to the community ~~due to the imminent nature of the food~~
 611 service violation.

612 ~~305.12-7. Any food service vendor that has been closed-~~ (a) Persons issued a close-down order
 613 by ~~EHS~~the Department as an emergency measure ~~due to the evidence of a serious health or safety~~
 614 threat ~~hereunder~~ must provide evidence of ~~satisfactorily corrected~~ compliance to the
 615 ~~EHS~~Department and pass an inspection ~~by the Department~~ prior to being allowed to ~~reopen~~
 616 the business.

617 ~~(a) Any food vendor that has been closed due to a violation of the Food Code must be~~
 618 ~~reinspected by EHS at the vendors cost with a resulting satisfactory score pursuant to this~~
 619 ~~Code and the Federal Food Code guidelines.~~

620 ~~(b) Any food service vendor that has been closed down may only receive a probationary license~~
 621 ~~for six months upon evidence of satisfactory compliance with this Code ~~re-open~~ and the Federal~~
 622 ~~Food Code;/or continue operations.~~

623 ~~(c) After six months of satisfactory compliance with this Code and the Federal Food Code,~~
 624 ~~as determined by EHS pursuant to follow up inspections, the vendor may apply for an~~
 625 ~~annual license as before.~~

626 ~~(d) Any food service vendor who violates any provision of this Code, upon conviction,~~
 627 ~~shall forfeit not less than \$5.00 nor more than \$500.00, together with the costs of~~
 628 ~~prosecution. In default of payment of such forfeitures and costs, the Food Service business~~
 629 ~~shall be closed down or remain closed down until such forfeitures and costs are paid and~~
 630 ~~all other areas of non-compliance with this Code or the Federal Food Code have been cured.~~

631
 632 **305.13.—11. Appeal Rights**
 633 305.1311-1.—Parties who disagree with the decisions *Decisions Not Issued Pursuant to a*
 634 *Citation. Decisions* of the EHS, Licensing or Risk Management Departments, regarding issues of
 635 licensing, inspections, or insurance Department that are not issued pursuant to a citation may be
 636 appealed, in writing, to the Department's Area Manager.

637 (a) The written appeal shall be submitted to the Area Manager within ten (10) business
 638 days of receiving the decision upon which the appeal is based.

639 (b) The Area Manager shall render a decision within five (5) business days of receiving
 640 the appeal. The decision shall be sent by registered mail (return receipt requested) or
 641 delivered in person to the appellant.

642 (1) The Area Manager may suspend the time limits for rendering a decision if he
 643 or she determines that more investigation on the matter is necessary.

644 (c) The Area Manager's decision shall be final unless a good faith argument exists to
 645 appeal to the Trial Court of the Judiciary- on one or more of the following grounds:

646 305.13- (1) That, the decision is contrary to law;

647 ~~_____ (2. — Hearings by the) That, the decision is without any reasonable factual basis;~~
648 ~~and/or~~

649 ~~_____ (3) That, the decision constitutes an abuse of power.~~

650 ~~_____ (A) Appeals initiated hereunder shall be conducted in accordance with the~~
651 ~~_____ Judiciary will be pursuant to the law and any applicable rules established~~
652 ~~for the Judiciary of procedure.~~

653 305.11-2. Decisions Issued Pursuant to a Citation. Decisions of the Department that are issued
654 pursuant to a citation may be contested in accordance with the procedures contained in the Nation’s
655 laws and policies governing citations.

656 (a) A mandatory appearance at the citation pre-hearing is required of all persons wishing
657 to contest a citation issued by the Department hereunder.

658
659 *End.*

660 _____
661 _____

662 Adopted BC-10-0306-13-01-DB

663 Amended BC-02-25-15-C

664

~~Attachment A.~~

~~Food Service License Fees for 2001-2002~~

~~(To be adjusted annually)~~

~~1. Food Service Establishment License~~

~~a. Restaurants and Eating/Drinking Establishments~~

~~1. With 0-49 seats \$100.00~~

~~2. With 50-100 seats \$150.00~~

~~3. With 101+ seats \$350.00~~

~~b. Retail Food Market, Grocery Store \$175.00~~

~~c. Retail Food Market, Grocery Store
With restaurant \$225.00~~

~~d. Bakery/Confectionary \$100.00~~

~~e. Convenience Store/Gas Station \$100.00~~

~~f. Catering Business \$100.00~~

~~2. Independent Food Service License~~

~~a. \$75.00 annually~~

~~3. Temporary Food Service License~~

~~a. \$25.00 for each event, not to exceed fourteen consecutive days~~

~~4. Tribal Schools No Fee~~

~~THIS LICENSE IS NOT TRANSFERABLE~~

~~All licenses expire on September 30th annually. A penalty of \$50.00 will be applied to renewal applications postmarked after October 15th. Operation in any fiscal year requires a licence.~~

Schedule of Fines**For Non-Compliance with this code or the Federal Food Code**

Any food service vendor who violates any provision of this chapter, upon conviction, shall forfeit not less than \$5.00 nor more than \$500.00, together with costs of prosecution. In default of payment of such forfeiture and costs, the Food Service business will be closed and/or remain closed until such forfeitures and costs are paid and all areas of non-compliance with this Code or the Federal Food Code have been cured. *Oneida Food Code 305.12-7(d).*

1 st Offense, non-critical:	<u>\$25.00</u>
2 nd Offense in Five Years, non-critical:	<u>\$100.00</u>
3 rd Offense in Five Years, non-critical:	<u>\$200.00</u>
All Subsequent Non-Critical Offenses in Five Years:	<u>\$250.00</u>
1 st Offense, Critical:	<u>\$100.00</u>
2 nd Offense in Five Years, Critical:	<u>\$300.00</u>
3 rd Offense in Five Years: Critical:	<u>\$500.00</u>
All Subsequent Critical Offenses in Five Year:	<u>\$750.00</u>

***Note:** Five or more critical offenses in five years will result in the suspension of the license for one year, the business will be closed down and a fine will be imposed to be paid prior to reinstatement.

Fees for reinspection as a result of an original finding of non-compliance by EHS is \$100.00.

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~~ONEIDA NATION IN WISCONSIN~~
~~APPLICATION~~
~~FOR LICENSE FOR THE SALE OF FOOD ON TRIBAL PROPERTY~~
~~ENVIRONMENTAL HEALTH AND SAFETY DEPARTMENT-~~
~~COMPLIANCE DIVISION LICENSE DEPARTMENT-~~

~~In accordance with the Oneida Food Code, I the undersigned, do hereby respectfully make application to the Environmental Health and Safety Department of the Oneida Nation in Wisconsin, for a license to sell food on tribal property for the year ending September 30, 2002.~~

~~I hereby certify that I am familiar with the Federal laws and Oneida Food Code pertaining to the conditions of said establishment on Oneida Nation tribal property, and I hereby agree, if granted said license, to obey all provisions of said Federal laws and Oneida Food Code.~~

~~ESTABLISHMENT NAME _____~~

~~ESTABLISHMENT ADDRESS _____~~

~~ESTABLISHMENT TELEPHONE _____~~

~~AGENT/MANAGER HOME PHONE _____~~

~~LEGAL LICENSE _____~~

~~(List the name of the Individual, Partnership or Corporation)~~

~~LICENSEE ADDRESS _____~~

~~PROPERTY OWNER _____~~

~~DATE WHEN ONEIDA FOOD HANDLING COURSE COMPLETED _____~~

~~NAME OF INSURER _____~~

~~(Attach copy of Insurance deck sheet)~~

~~SIGNATURE OF APPLICANT _____~~

~~* MUST BE SIGNED TO OBTAIN A CURRENT LICENSE.~~

~~*****
*****~~

~~APPROVED: _____ TOTAL FEE PAID: _____~~

~~Environment Health and Safety Dept.~~

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~~ONEIDA NATION~~

~~ONEIDA FOOD VENDOR-S LICENSE~~

~~October 1, 2002 through September 30, 2003~~

~~Business: _____ Licensee:~~

~~(Name and address of business) _____ (Name of Person, partnership or corporation)~~

~~The person, firm or corporation whose name appears on this license has complied with the provisions of the Oneida Food Code and, as adopted, the Federal Food Code and is hereby authorized to engage in the activity as indicated below at the location named from October 1, 2001 to September 31, 2001. This license is non-transferrable.~~

~~_____
(Name of type(s) of food service; restaurant, independent, _____ (License fee)
temporary, market, bakery, caterer, etc.)~~

~~Dated at the office of the Oneida License Department, this _____ (Date issued) _____.~~

~~_____
Oneida License Department Officer _____ Oneida Health and Safety Department Officer~~

~~POST IN A CONSPICUOUS PLACE Amended - BC- - - -~~

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Title 3. Health and Public Safety – Chapter 305
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about the food
ONEIDA FOOD SERVICE

305.1. Purpose and Policy	305.7. Licensing
305.2. Adoption, Amendment, Repeal	305.8. Exemptions
305.3. Definitions	305.9. Inspections
305.4. Jurisdiction	305.10. Violations, Enforcement
305.5. Compliance	305.11. Appeal Rights
305.6. Authority	

15 **305.1. Purpose and Policy**

16 305.1-1. *Purpose.* The purpose of this law is to ensure the safety of food that is provided to
17 consumers at retail or through an Oneida Nation Food Service Program by establishing a system
18 of overlapping safeguards designed to minimize foodborne illness; ensure employee health,
19 industry manager knowledge, safe food handling, nontoxic/cleanable equipment and acceptable
20 levels of sanitation on the premises of food service businesses; and promote fair dealings with
21 members of the community through adoption of licensing requirements, exemptions, regulation,
22 control, supervision and enforcement procedures that govern food service businesses within the
23 jurisdiction of the Nation.

24 305.1-2. *Policy.* It is the policy of the Nation to protect the health, welfare and safety of the
25 community and to strengthen the Nation’s self-governance by ensuring, through the exercise of its
26 inherent sovereignty over the Nation’s resources and membership, that food provided at retail or
27 through an Oneida Nation Food Service Program is unadulterated, prepared in a clean environment
28 and honestly presented.

30 **305.2. Adoption, Amendment, Repeal**

31 305.2-1. This law was adopted by the Oneida Business Committee by resolution BC-06-13-01-B
32 and amended by resolutions BC-02-25-15-C and BC-__-__-__-__.

33 305.2-2. This law may be amended or repealed by the Oneida Business Committee and/or Oneida
34 General Tribal Council pursuant to the procedures set out in the Legislative Procedures Act.

35 305.2-3. Should a provision of this law or the application thereof to any person or circumstances
36 be held as invalid, such invalidity shall not affect other provisions of this law which are considered
37 to have legal force without the invalid portions.

38 305.2-4. In the event of a conflict between a provision of this law and a provision of another law,
39 the provisions of this law shall control.

40 305.2-5. This law is adopted under authority of the Constitution of the Oneida Nation.

42 **305.3. Definitions**

43 305.3-1. This section shall govern the definitions of words and phrases used within this law. All
44 words not defined herein shall be used in their ordinary and everyday sense.

45 (a) “Citation” means a legal document that serves as a notice or summons to appear in a
46 court of the Nation in response to a charge against a person of a violation of law.

47 (b) “Close-down” means an order issued by the Department to discontinue operation of a
48 food service business or exempt operation under section 305.8 of this law in order to protect
49 the health, safety and/or welfare of the community.

- 50 (c) “Consumer” means an individual who is a member of the public; takes possession of
51 food; is not functioning in the capacity of a food service business, a cottage food operator,
52 a prepackaged restaurant, or a food processing plant; and does not offer the food for resale.
- 53 (d) “Cottage food operator” means an individual who, exclusively within the home kitchen
54 of his or her domestic residence, produces cottage food products for direct sale only.
- 55 (e) “Cottage food products” mean foods, produced within the home kitchen of a domestic
56 residence, that are non-potentially hazardous, including non-perishable baked goods such
57 as cakes, most fruit pies, breads, brownies, cookies and muffins; dry mixes; dried fruit;
58 jams, jellies and preserves; home-canned foods such as apples, peaches and lemons or
59 salsa, pickled vegetables and hot sauces; and other non-potentially hazardous foods that
60 the Department characterizes as cottage food products for purposes of this law.
- 61 (f) “Department” means the Environmental, Health and Safety Department within the
62 Nation’s Environmental, Health, Safety and Land Division.
- 63 (g) “Direct sale” means a consumer’s face-to-face purchase of a cottage food product from
64 a cottage food operator that does not include purchases through consignment, mail order,
65 or the internet, though nothing herein shall be interpreted to prohibit a cottage food operator
66 from using the internet for the sole purpose of advertising his or her cottage food products.
- 67 (h) “Domestic residence” means the single-family house or unit in a multiunit residential
68 structure located at the address that the applicant lists as being his or her primary residence
69 when applying to the Department for a cottage food exemption under this law.
- 70 (i) “Emergency” means the occurrence or discovery of an unforeseen event that requires
71 immediate attention, the absence of which could endanger the health or safety of others.
- 72 (j) “Federal Food Code” means the most current edition of the United States Public Health
73 Service, Food and Drug Administration Food Code.
- 74 (k) “Fine” means a monetary punishment issued to a person for violation of this law.
- 75 (l) “Food” means a raw, cooked or processed edible substance; ice; beverage; or ingredient
76 used or intended for use or for sale in whole or in part for human consumption or chewing
77 gum.
- 78 (m) “Food service business” means, whether individually or collectively, a permanent food
79 service establishment; a temporary food service establishment; and/or an independent food
80 service operator. The following shall not qualify as a food service business under this law:
- 81 (1) Private rummage sales;
- 82 (2) Community sponsored non-profit fundraising and/or charity events;
- 83 (3) Cottage food operators who satisfy the requirements of this law; and/or
- 84 (4) Prepackaged restaurants that satisfy the requirements of this law.
- 85 (n) “Home-canned foods” means home-canned fruits and vegetables that are naturally
86 acidic or have been acidified by pickling or fermenting and have an equilibrium pH of 4.6
87 or lower.
- 88 (o) “Independent food service operator” means a person, other than one who qualifies as
89 a cottage food operator, who sells, for profit, food that is prepared off-site, independent of
90 a permanent establishment, at or within a location approved by the Department.
- 91 (p) “Judiciary” means the Oneida Nation Judiciary, which is the judicial system that was
92 established by Oneida General Tribal Council resolution GTC-01-07-13-B to administer
93 the judicial authorities and responsibilities of the Nation.

- 94 (q) “License” means the tangible proof of authorization from the Department to operate a
95 permanent food service establishment, operate a temporary food service establishment and/
96 or function as an independent food service operator.
- 97 (r) “Nation” means the Oneida Nation.
- 98 (s) “Penalty” means a punishment, other than a fine, imposed on a person for violation of
99 this law.
- 100 (t) “Permanent food service establishment” means a permanent unit and/or location where
101 food is processed on the premises, usually for retail sale, and intended for individual
102 consumption, whether on or off the premises, including, but not limited to, the following:
- 103 (1) A restaurant or other eating/drinking establishment that does not qualify as a
104 prepackaged restaurant;
- 105 (2) A market or grocery store;
- 106 (3) A catering business;
- 107 (4) A bakery or confectionary;
- 108 (5) A convenience store or gas station store;
- 109 (6) An Oneida Nation Food Service Program; and/or
- 110 (7) A mobile food truck that requires a Department approved service base to
111 operate.
- 112 (u) “Person” means a natural person(s), sole proprietorship, partnership, corporation,
113 limited liability company or any other form of a legal entity.
- 114 (v) “Potentially hazardous food” means food that requires time and temperature control
115 for safety to limit toxin formation or the growth of pathogenic microorganisms.
- 116 (w) “Prepackaged restaurant” means an establishment that serves or sells only packaged
117 foods that are prepared and packaged off-premise by a licensed processor with preparation
118 on the premise limited to heating and serving.
- 119 (x) “Reservation” means all land within the exterior boundaries of the Reservation of the
120 Oneida Nation, as created pursuant to the 1838 Treaty with the Oneida 7 Stat. 566, and any
121 lands added thereto pursuant to federal law.
- 122 (y) “Temporary food service establishment” means a non-permanent food service
123 establishment that operates at a fixed location for a limited number of consecutive days in
124 conjunction with a single event.

125

126 305.4. Application

127 305.4-1. This law shall apply to all food service businesses, prepackaged restaurants and cottage
128 food operators located or operating within the Reservation.

129 305.4-2. *Liberal Construction.* The provisions of this law shall apply to the fullest extent of the
130 sovereign jurisdiction of the Nation and shall be liberally construed to give full effect to the
131 objectives and purposes for which it was enacted.

132

133 305.5. Compliance

134 305.5-1. No person shall operate a food service business without a valid, unexpired license from
135 the Department.

136 (a) Licenses to operate a food service business are non-transferable.

137 (b) Unless otherwise provided herein, strict compliance with this law is required before a
138 license may be issued or renewed.

139 305.5-2. *Federal Food Code*. The Nation finds that the Federal Food Code establishes a high level
140 of stringent food and beverage handling safety standards that should govern all food service
141 businesses to which this law applies.

142 (a) Unless otherwise provided herein, the Nation hereby adopts the entire Federal Food
143 Code through incorporation by reference into this law.

144 (1) Any additions to or deviations from the Federal Food Code that are included
145 within this law are designed to be specific to the Nation.

146 (2) Should a provision of this law conflict with a provision of the Federal Food
147 Code, the provision of this law shall have priority over the Federal Food Code and
148 govern.

149 (b) The Department shall maintain either an electronic or print copy of the most current
150 edition of the Federal Food Code at its office location and shall make it available or
151 accessible for inspection during regular business hours.

152

153 **305.6. Authority**

154 305.6-1. *Authority of the Department*. Subject to all applicable provisions and/or restrictions
155 contained in this or any other governing law of the Nation, the Department shall be responsible for
156 the administration and enforcement of this law, including, but not limited to, that the Department
157 shall have the power to:

158 (a) Grant, deny, renew, suspend, reinstate and/or revoke licenses to operate food service
159 businesses and make all other determinations regarding suitability for licensure and
160 exemption from licensure;

161 (b) Establish licensing fee, fine and penalty schedules;

162 (c) Establish standard operating procedures to govern how it administers and enforces the
163 provisions of this law;

164 (d) Perform all requisite inspections and conduct investigations when necessary; and/or

165 (e) Issue citations and corrective orders for violations of this law and/or when necessary
166 to protect the welfare of the community.

167

168 **305.7. Licensing**

169 305.7-1. *Licenses*. The following shall govern the process for obtaining and renewing a license to
170 operate a food service business:

171 (a) *License Application*. Persons shall be required to apply to the Department to receive or
172 renew a license to operate a food service business pursuant to the application process
173 established by the Department through adoption of a standard operating procedure that
174 conforms to this law and includes, at a minimum, the following:

175 (1) That, the applicable licensing fee must accompany the application for licensure
176 or license renewal; and

177 (2) That, the Department shall be required to issue or deny a license within thirty
178 (30) days after receiving a complete application for licensure or license renewal, all
179 applicable fees, and any other information required under the governing standard
180 operating procedure.

181 (A) The issuance or renewal of a license may be conditioned on the
182 applicant correcting a violation of this law within a set period of time, which
183 if not corrected within the set time or after an extension of time approved
184 by the Department, would render the license null and void.

185 (B) If the Department denies an application for licensure or license renewal,
186 it shall provide the applicant, in writing, with its reason or reasons for the
187 denial and information on how to appeal its decision.

188 (b) *License Period.*

189 (1) Licenses for permanent food service establishments and independent food
190 service operators shall be issued and renewed by the Department for terms of one
191 (1) year, commencing October 1st and ending September 30th of every year.

192 (2) Licenses for temporary food service establishments shall be issued by the
193 Department to cover one (1) single event for a period of not more than fourteen
194 (14) consecutive days.

195 (c) *License Fee.* The Department shall be required to set a licensing fee schedule, subject
196 to approval by the Oneida Business Committee through adoption of a resolution, that is
197 applicable to all food service businesses.

198 (1) The fee amount shall cover the initial license term for permanent food service
199 establishments and independent food service operators and shall cover a single
200 event of not more than fourteen (14) consecutive days for temporary food service
201 establishments.

202 (A) A separate licensing fee shall be required when applying to renew a
203 license for a permanent food service establishment or independent food
204 service operator.

205 (B) The licensing fee for a permanent food service establishment license or
206 independent food service operator license that was issued after October 1st
207 shall be prorated for that term pursuant to a standard operating procedure
208 established by the Department.

209 (C) Unless otherwise provided herein, if an application for licensure or
210 license renewal is denied by the Department, the licensing fee submitted
211 with the application shall be returned to the applicant in full.

212 (2) The Department shall post the licensing fee schedule in a prominent area within
213 its offices and elsewhere as it deems appropriate.

214 (A) The licensing fee schedule shall include the fee established by the
215 Department to operate a prepackaged restaurant pursuant to section 305.8
216 of this law.

217 (B) The Department may amend the licensing fee schedule as it deems
218 necessary, subject to approval by the Oneida Business Committee through
219 adoption of a resolution.

220 (3) *Exemptions.*

221 (A) The Oneida Nation Food Service Programs and other non-profit service
222 programs of the Nation shall not be required to pay a licensing fee to obtain
223 a license under this law.

224 (B) The Department shall waive the licensing fee required hereunder upon
225 proof from a food service business or prepackaged restaurant of payment to
226 another governmental unit located within the boundaries of the Reservation
227 for a similar license or permit to operate that covers the same term.

228 (C) Exemption from a licensing fee under (A) or (B) of this section shall
229 not be considered a waiver of any other compliancy requirement within this
230 law that is applicable to food service businesses and/or prepackaged

231 restaurants, nor shall it be considered a waiver of the Nation's authority to
232 regulate food service businesses or prepackaged restaurants operating
233 within its jurisdiction.

234 305.7-2. *License Eligibility.*

235 (a) *Permanent Food Service Establishments.* To be eligible to receive a license to operate
236 a permanent food service establishment, applicants must:

- 237 (1) Submit the appropriate licensing fee with their application;
238 (2) Pass an inspection by the Department of the proposed premises for the
239 permanent food service establishment; and
240 (3) Satisfy any other provision within or arising out of this law that is a prerequisite
241 for licensure to operate a permanent food service establishment.

242 (b) *Temporary Food Service Establishments.* To be eligible to receive a license to operate
243 a temporary food service establishment, applicants must:

- 244 (1) Submit the appropriate licensing fee with their application;
245 (2) Submit proof of having undergone either:
246 (A) Certification under the applicable food safety training offered through
247 the Department; or
248 (B) Certification or training that the Department, in its discretion, deems
249 equivalent to the corresponding food safety training offered through the
250 Department.

251 (3) Pass an inspection by the Department of the proposed premises for the
252 temporary food service establishment; and

253 (4) Satisfy any other provision within or arising out of this law that is a prerequisite
254 for licensure to operate a temporary food service establishment.

255 (c) *Independent Food Service Operators.* To be eligible to receive a license to function as
256 an independent food service operator, applicants must:

- 257 (1) Submit the appropriate licensing fee with their application;
258 (2) Submit proof of having undergone either:
259 (A) Certification under the applicable food safety training offered through
260 the Department; or
261 (B) Certification or training that the Department, in its discretion, deems
262 equivalent to the corresponding food safety training offered through the
263 Department.

264 (3) Pass an inspection by the Department of the proposed premises designated in
265 writing by the applicant as the food preparation site; and

266 (4) Satisfy any other provision within or arising out of this law that is a prerequisite
267 for licensure to function as an independent food service operator.

268 (d) *Training.* The Department shall provide reasonable opportunities for persons to
269 undergo the food safety training that is referenced in section 305.7-2(b)(2)(A) and (c)(2)(A)
270 of this law.

271 305.7-3. *License Placement.*

272 (a) *Permanent and Temporary Food Service Establishments.* A valid license shall, at all
273 times, be posted in a conspicuous area within the premises of every permanent food service
274 establishment and every temporary food service establishment.

275 (b) *Independent Food Service Operators*. A valid license shall, at all times, be prominently
276 displayed on the body of the license holder whenever functioning as an independent food
277 service operator.
278

279 **305.8. Exemptions**

280 305.8-1. *Cottage Food Sales*. Cottage food operators are exempt from the requirements of this
281 law, except as follows:

282 (a) *Registration*. Before selling any cottage food products, individuals must register with
283 the Department as a cottage food operator by providing, at a minimum, their:

284 (1) Full name;

285 (2) Address of domestic residence; and

286 (3) Any additional information required by a standard operating procedure that the
287 Department may establish, consistent with this law, to govern cottage food sales.

288 (A) By registering as a cottage food operator, the individual is confirming
289 that the information he or she provided is correct and agreeing to operate
290 within the confines of the exemption.

291 (b) *Labeling*. Cottage food products must be labeled with the following information:

292 (1) The name and address of the cottage food operator;

293 (2) The name of the cottage food product and the date on which it was prepared,
294 processed or canned; and

295 (3) A clearly legible sign or placard that states: “this product is homemade and not
296 subject to inspection by the Nation.”

297 (c) *Home-canned Foods*. Individuals who intend to sell home-canned foods under the
298 cottage food sales exemption must first complete the food safety training relating to
299 canning that is approved by the Department.

300 305.8-2. *Prepackaged Restaurants*. Prepackaged restaurants are exempt from the requirements of
301 this law, except as follows:

302 (a) *Authorization*. Before selling or serving any prepackaged foods, persons must apply to
303 the Department for permission to operate as a prepackaged restaurant pursuant to the
304 application process established by the Department through adoption of a standard operating
305 procedure that conforms to this law and includes, at a minimum, the following:

306 (1) That, the fee established by the Department to operate a prepackaged restaurant,
307 as set forth in the licensing fee schedule referenced in section 305.7-1 of this law,
308 must accompany the application;

309 (2) That, the applicant passes an inspection by the Department of the proposed
310 premises for the prepackaged restaurant; and

311 (3) That, by applying to operate as a prepackaged restaurant, the applicant is
312 agreeing to serve and/or sell only the prepackaged foods that are approved by the
313 Department and to not engage in any food processing or preparation on the premises
314 of the prepackaged restaurant other than the heating and serving of the food.

315 (A) The Department shall provide written notice, accessible to the public,
316 of the prepackaged foods approved hereunder.

317 (b) Permission to operate as a prepackaged restaurant shall not be conditioned on any prior
318 training or certification in food safety.

319 (1) Paragraph (b) shall not prohibit the Department from issuing a corrective order
320 under section 305.10 of this law that requires food safety training or certification.

321 (c) The Department may reinspect the prepackaged restaurant premises during reasonable
322 hours as often as it deems necessary so long as it does not exceed more than one (1) time
323 per year, absent cause.

324 305.8-3. *Enforcement.* Violations of this section shall be enforced pursuant to section 305.10 of
325 this law.

326 (a) Upon receipt of a complaint or its own reasonable suspicion of noncompliance with
327 this section, the Department, in its discretion, may conduct an inspection of a prepackaged
328 restaurant or a cottage food operator's domestic residence; provided, the inspection of the
329 cottage food operator's domestic residence is limited to the subject matter of the complaint
330 or event giving rise to the Department's reasonable suspicion.

331 (b) This section does not preempt the application of any other law of the Nation or other
332 local governing ordinance to which individuals must comply.

333 (c) This section does not limit the liability of the owner of a prepackaged restaurant or a
334 cottage food operator for damages that arise out of their sale or service of food hereunder.

335

336 **305.9. Inspections**

337 305.9-1. In addition to the inspections required under section 305.7 of this law, no more than two
338 (2) times per license term, the Department may, for any reason, enter a food service business to
339 conduct an inspection, so long as at a reasonable hour.

340 305.9-2. The Department may, at any time during the term of a license, enter a food service
341 business to conduct an unscheduled inspection based on the following:

342 (a) Receipt of a complaint;

343 (b) Outbreak of a food borne illness; and/or

344 (c) Reasonable suspicion of a violation of this law or an emergency.

345 305.9-3. Any reinspection that must be conducted by the Department as a result of a violation of
346 this law, will result in an additional fee as set forth in the license fee schedule.

347

348 **305.10. Violations, Enforcement**

349 305.10-1. *Non-compliance.* Violations of this law may result in any one or more of the following
350 as determined by the Department:

351 (a) The suspension or revocation of a license or license exemption status;

352 (b) The issuance of a corrective order, including, but not limited to, an order to close-
353 down; and/or

354 (c) The issuance of a citation that may include one or more of the fines, penalties and/or
355 corrective orders set forth in the fine and penalty schedule established by the Department,
356 subject to approval by the Oneida Business Committee through adoption of a resolution.

357 (1) Failure to pass an inspection conducted pursuant to this law may be cause for
358 the issuance of one or more of the enforcement mechanisms set forth herein.

359 (2) Citations shall be issued and processed in accordance with the procedures
360 contained in the Nation's laws and policies governing citations.

361 305.10-2. In addition to satisfying any other mandate issued by the Department hereunder, a food
362 service business, cottage food operator or prepackaged restaurant that has been closed-down due
363 to a violation of this law must further pass a reinspection by the Department before being eligible
364 for operation.

365 (a) A food service business that has been closed-down may only receive a probationary
366 license for six (6) months upon evidence of satisfactory compliance with this law.

367 (1) After six (6) months of satisfactory compliance with this law, as determined by
368 the Department upon a follow-up inspection, the license holder may apply for an
369 annual license.

370 (b) A food service business or prepackaged restaurant that has had its license or license
371 exemption status suspended or has become subject to a close-down order shall not be
372 entitled to a reimbursement of all or any portion of the fee or fees submitted in accordance
373 with the licensing fee schedule.

374 305.10-3. *Emergency.* The Department may order a close-down of a food service business, cottage
375 food operation and/or prepackaged restaurant immediately on an emergency basis upon evidence
376 of a serious health and/or safety threat to the community.

377 (a) Persons issued a close-down order by the Department as an emergency measure
378 hereunder must provide evidence of compliance to the Department and pass an inspection
379 by the Department prior to being allowed to re-open and/or continue operations.

380

381 **305.11. Appeal Rights**

382 305.11-1. *Decisions Not Issued Pursuant to a Citation.* Decisions of the Department that are not
383 issued pursuant to a citation may be appealed, in writing, to the Department's Area Manager.

384 (a) The written appeal shall be submitted to the Area Manager within ten (10) business
385 days of receiving the decision upon which the appeal is based.

386 (b) The Area Manager shall render a decision within five (5) business days of receiving
387 the appeal. The decision shall be sent by registered mail (return receipt requested) or
388 delivered in person to the appellant.

389 (1) The Area Manager may suspend the time limits for rendering a decision if he
390 or she determines that more investigation on the matter is necessary.

391 (c) The Area Manager's decision shall be final unless a good faith argument exists to
392 appeal to the Trial Court of the Judiciary on one or more of the following grounds:

393 (1) That, the decision is contrary to law;

394 (2) That, the decision is without any reasonable factual basis; and/or

395 (3) That, the decision constitutes an abuse of power.

396 (A) Appeals initiated hereunder shall be conducted in accordance with the
397 Judiciary law and any applicable rules of procedure.

398 305.11-2. *Decisions Issued Pursuant to a Citation.* Decisions of the Department that are issued
399 pursuant to a citation may be contested in accordance with the procedures contained in the Nation's
400 laws and policies governing citations.

401 (a) A mandatory appearance at the citation pre-hearing is required of all persons wishing
402 to contest a citation issued by the Department hereunder.

403

404 *End.*

405

406 Adopted – BC-06-13-01-B

407 Amended – BC-02-25-15-C

408 Amended – BC-__-__-__-__

409

FINANCE ADMINISTRATION

Fiscal Impact Statement



MEMORANDUM

TO: Larry Barton, Chief Financial Officer
RaLinda Ninham-Lamberies, Assistant Chief Financial Officer

FROM: Terry Cornelius, Chief Financial Analyst

DATE: April 1, 2020

RE: **Fiscal Impact of the Amendments to the Food Service Code**

I. Estimated Fiscal Impact Summary

Law: Amendments to the Food Service Code		Draft 4
Implementing Agency	Legislative Operating Committee	
Estimated time to comply	Unable to determine	
Estimated Impact	Current Fiscal Year	10 Year Estimate
Total Estimated Fiscal Impact	Indeterminate	Indeterminate

II. Background

This Code (Law) was adopted by the Oneida Business Committee by resolution BC-06-13-01-B and was amended by Resolution BC-02-25-15-C. as the Oneida Food Service Code. A public meeting was held on February 6, 2020. The amendments to the Code are the following:

- Update the Environmental Health Safety and Land Department (EHSL) to have exclusive authority to develop license fees and penalty schedules.
- Include exemptions for cottage food sales and prepackaged restaurants.
- Include mobile food trucks in the definition of permanent food service operators.
- Include a waiver of license fees when an applicant provides proof of payment to an alternate governmental unit within the reservation boundaries for the same term.
- Includes a 30 day response time for Environmental Health Safety and Land Department to make decisions regarding eligibility
- Requires the EHSL Department to provide written explanation of denials and to provide denied applicants with an explanation of the appeals process.
- Allows the EHSL Department the discretion to accept alternate training options.

III. Methodology and Assumptions

A “Fiscal Impact Statement” means an estimate of the total identifiable fiscal year financial effects associated with legislation and includes startup costs, personnel, office, documentation costs, as well as an estimate of the amount of time necessary for an agency to comply with the Law after implementation.

Finance does NOT identify the source of funding for the estimated cost or allocate any funds to the legislation.

The analysis was completed based on the information provided as of the date of this memo.

IV. Executive Summary of Findings

The current Code has the affected tasks shared between the Environmental Health Safety and Land Department and the Oneida Licensing Department. This Amendment to the Code has the impact of streamlining the processes under the Environmental Health Safety and Land Department. It also reserves to Environmental Health Safety and Land Department the exclusive authority to develop license fees and penalty schedules.

At present there are thirty-four food service businesses within the reservation boundary licensed by the Oneida Nation. The Amendment to the Food Service Code does include new definitions of food service delivery impacted to include mobile trucks and also provides for exemptions for cottage food sales and prepackaged restaurants.

V. Financial Impact

The Fiscal Impact of implementing this Oneida Food Service Code Amendment is indeterminate at this time. While including mobile trucks may bring additional revenue, there is no reason to count on additional revenue coming in, as the number of food service mobile trucks is unknown. Further, increasing exemptions could offset any new revenues. While the Amendment does allow the EHSL Department the discretion to set fees and penalties, there is no inclusion of a prescribed change in the current fees.

VI. Recommendation

Finance Department does not make a recommendation in regards to course of action in this matter. Rather, it is the purpose of this report to disclose potential financial impact of this legislation, so that the Oneida Business Committee and General Tribal Council has the information with which to render a decision.

Oneida Business Committee Agenda Request

Adopt resolution entitled Oneida Food Service Law Fine, Penalty, and Licensing Fee Schedule

1. Meeting Date Requested: 05 / 13 / 20

2. General Information:

Session: Open Executive - See instructions for the applicable laws, then choose one:

Agenda Header: Resolutions

Accept as Information only

Action - please describe:

Adopt: Oneida Food Service Law Fine, Penalty and Licensing Fee Schedule Resolution

3. Supporting Materials

Report Resolution Contract

Other:

1. Resolution and SOE 3.

2. 4.

Business Committee signature required

4. Budget Information

Budgeted - Tribal Contribution Budgeted - Grant Funded Unbudgeted

5. Submission

Authorized Sponsor / Liaison: David P. Jordan, Councilmember

Primary Requestor/Submitter: Jennifer Falck, LRO Director
Your Name, Title / Dept. or Tribal Member

Additional Requestor: Kristen Hooker, LRO Staff Attorney
Name, Title / Dept.

Additional Requestor:
Name, Title / Dept.

Oneida Nation

Post Office Box 365

Phone: (920)869-2214

Oneida, WI 54155



BC Resolution # _____

Oneida Food Service Law Fine, Penalty, and Licensing Fee Schedule

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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 Nation Constitution by the Oneida General Tribal Council; and

WHEREAS, the Oneida Food Service law (“Law”) was adopted by the Oneida Business Committee through resolution BC-06-13-01-B, and amended by resolutions BC-02-25-15-C and BC-____-____-____; and

WHEREAS, the Law delegates authority to the Environmental, Health and Safety Department (“Department”) within the Nation’s Environmental, Health, Safety and Land Division to develop a fine, penalty and licensing fee schedule; and

WHEREAS, the Department developed and approved the proposed fine, penalty and licensing fee schedule; and

WHEREAS, the Law requires that the fine, penalty and licensing fee schedule be approved by the Oneida Business Committee through resolution.

NOW THEREFORE BE IT RESOLVED, that the Department hereby sets forth the following licensing fee schedule in accordance with the Oneida Food Service law:

LICENSING FEE SCHEDULE			
Food Service Business	Reference	Fee	License Period
Permanent Food Service Establishment – Restaurant with 0-49 Seats	305.7-2(a)(1)	\$120.00	October 1 – September 30
Permanent Food Service Establishment – Restaurant with 50-100 Seats	305.7-2(a)(1)	\$180.00	October 1 – September 30
Permanent Food Service Establishment – Restaurant with 101 or More Seats	305.7-2(a)(1)	\$420.00	October 1 – September 30
Permanent Food Service Establishment – Retail Food Market/Grocery Store	305.7-2(a)(1)	\$210.00	October 1 – September 30
Permanent Food Service Establishment – Retail Food Market/Grocery Store with Restaurant	305.7-2(a)(1)	\$270.00	October 1 – September 30
Permanent Food Service Establishment – Bakery/Confectionary	305.7-2(a)(1)	\$120.00	October 1 – September 30

Permanent Food Service Establishment – Convenience Store/Gas Station	305.7-2(a)(1)	\$120.00	October 1 – September 30
Permanent Food Service Establishment – Catering Business	305.7-2(a)(1)	\$120.00	October 1 – September 30
Permanent Food Service Establishment – Mobile Food Trucks	305.7-2(a)(1)	\$120.00	October 1 – September 30
Permanent Food Service Establishment – Oneida Food Service Program/Other Nonprofit Service Program of the Nation	305.7-1(c)(3)(A)	\$0.00	October 1 – September 30
Temporary Food Service Establishment	305.7-2(b)(1)	\$30.00	Not to Exceed Fourteen (14) Consecutive Days
Independent Food Service Operator	305.7-2(c)(1)	\$90.00	October 1 – September 30

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BE IT FURTHER RESOLVED, that the Department sets a fee of \$120.00 to operate a Prepackaged Restaurant pursuant to section 305.8-2 of the Oneida Food Service law.

BE IT FURTHER RESOLVED, that for purposes of the fine and penalty schedule set forth below, the Department adopts the distinction between non-priority and priority violations as used in the most current edition of the United States Public Health Service, Food and Drug Administration’s Food Code (“Federal Food Code”) such that a priority violation consists of a failure to adhere to:

- (1) A “priority item”, which means a provision of the Oneida Food Service law whose application contributes directly to the elimination, prevention or reduction to an acceptable level, hazards associated with foodborne illness or injury and there is no other provision that more directly controls the hazard, including, but not limited to, items with a quantifiable measure to show control of hazards such as cooking, reheating, cooling and handwashing; and/or
- (2) A “priority foundation item”, which means a provision of the Oneida Food Service law whose application supports, facilitates or enables one or more priority items, including, but not limited to, items that require the purposeful incorporation of specific actions, equipment or procedures by industry management to attain control of risk factors that contribute to foodborne illness or injury such as personnel training, infrastructure or necessary equipment, HACCP plans, documentation or record keeping, and labeling.

BE IT FURTHER RESOLVED, that the Department hereby sets forth the following fine and penalty schedule in accordance with the Oneida Food Service law:

FINE AND PENALTY SCHEDULE					
<i>Fines</i>					
Violation	Reference	1 st Offense (in a 5-Year Period)	2 nd Offense (in a 5-Year Period)	3 rd Offense (in a 5-Year Period)	Additional Offenses in a 5-Year Period
Non-Priority	305.8-3 & 305.10	\$50.00	\$125.00	\$225.00	\$275.00
Priority	305.8-3 & 305.10	\$125.00	\$325.00	\$525.00	\$775.00
<i>Penalties</i>					
Violation	Reference	Penalty			
Five or More Priority Violations in a Five-Year Period	305.8-3, 305.9-3 & 305.10	Suspension of license or exemption status for a period of one (1) year and order to close-down food service business or operation,			

		with reinstatement only upon full payment of corresponding fine and related costs.
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51
52 **BE IT FURTHER RESOLVED**, that a fee of one hundred dollars (\$100.00) shall be assessed for a
53 reinspection that is caused by a finding of non-compliance by the Department.
54

55 **BE IT FURTHER RESOLVED**, that, along with the fines and penalties listed above, additional penalties
56 may include other orders, including corrective orders and orders to close-down; suspensions or revocations
57 of licensure or license exemption status; and/or additional costs/fees as provided for by the Oneida Food
58 Service law.
59

60 **BE IT FURTHER RESOLVED**, that criminal charges and referrals may be appropriate in certain cases and
61 are not prohibited.
62

63 **BE IT FURTHER RESOLVED**, that, in the event food service businesses/prepackaged restaurants within
64 the Reservation are forced to close-down or restrict operations because of a proclamation or ratification by
65 the Oneida Business Committee of a public health state of emergency under the Nation's Emergency
66 Management and Homeland Security law, a moratorium on the payment of all licensing fees required by
67 the Oneida Food Service law shall go into effect for a period of six (6) months, beginning on the day of the
68 proclamation or ratification, and any food service businesses/prepackaged restaurants found in violation of
69 an order that is duly issued in response to a public health state of emergency declaration or proclamation
70 shall be subject to enforcement pursuant to the Nation's Emergency Management and Homeland Security
71 law.
72

73 **BE IT FINALLY RESOLVED**, that the Oneida Business Committee hereby adopts this resolution which
74 shall become effective six (6) months following the date of adoption.



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



Statement of Effect

Oneida Food Service Law Fine, Penalty and Licensing Fee Schedule

Summary

This resolution adopts the fine, penalty and licensing fee schedule developed by the Environmental, Health and Safety Area within the Environmental, Health, Safety and Land Division (“Department”) in accordance with the Oneida Food Service law.

Submitted by: Kristen M. Hooker, Staff Attorney, Legislative Reference Office

Date: April 30, 2020

Analysis by the Legislative Reference Office

The Oneida Food Service law (“the Law”) was adopted to ensure the safety of food that is provided to consumers at retail or through an Oneida Nation Food Service Program by establishing a system of overlapping safeguards designed to minimize foodborne illness; ensure employee health, industry manager knowledge, safe food handling, nontoxic/cleanable equipment and acceptable levels of sanitation on the premises of food service businesses; and promote fair dealings with members of the community through adoption of licensing requirements, exemptions, regulation, control, supervision and enforcement procedures that govern food service businesses within the jurisdiction of the Nation. [3 O.C. 305.1-1].

The Law delegates authority to the Department to develop a fine, penalty and licensing fee schedule. [3 O.C. 305.7-1(c)]. This fine, penalty and licensing fee schedule is required to be adopted by the Oneida Business Committee. [3 O.C. 305.7-1(c)].

Through this resolution, the Department sets forth a licensing fee schedule, as well as a fine and penalty schedule, to be adopted by the Oneida Business Committee. The resolution defines what constitutes a priority violation for purposes of applying the fine and penalty schedule set forth therein and provides the opportunity for additional penalties to be used by the Department when enforcing the Law.

This resolution also provides that for food service businesses or prepackaged restaurants operating within the Reservation forced to close-down or restrict operations because of a proclamation or ratification by the Oneida Business Committee of a public health state of emergency under the Nation’s Emergency Management and Homeland Security law, a moratorium on the payment of all licensing fees required by the Oneida Food Service law shall go into effect for a period of six (6) months, beginning on the day of the proclamation or ratification. It further provides that any food service businesses or prepackaged restaurants found in violation of an order that is duly issued in response to a public health state of emergency declaration or proclamation shall be subject to enforcement pursuant to the Nation’s Emergency Management and Homeland Security law.

Conclusion

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

Adopt resolution entitled Pardon and Forgiveness Law Application Fee

Business Committee Agenda Request

1. Meeting Date Requested: 05/13/20

2. General Information:

Session: Open Executive – must qualify under §107.4-1.
Justification: *Choose reason for Executive.*

3. Supporting Documents:

- Contract Document(s) Legal Review Resolution
- Correspondence Minutes Statement of Effect
- Fiscal Impact Statement Report Travel Documents
- Other: *Describe*

4. Budget Information:

- Budgeted Budgeted – Grant Funded Unbudgeted
- Not Applicable Other: *Describe*

5. Submission:

Authorized Sponsor: Lisa Summers, Secretary

Primary Requestor: _____

Additional Requestor: (Name, Title/Entity)

Additional Requestor: (Name, Title/Entity)

Submitted By: LLIGGINS

A good mind. A good heart. A strong fire.



Business Committee Agenda Request – Cover Memo

From: Lisa Liggins, Information Management Specialist

Date: 5/11/2020

RE: Pardon and Forgiveness Law Application Fee

PURPOSE

The Pardon and Forgiveness law states the OBC sets the application fee by resolution.

BACKGROUND

A review of the resolutions related to the Pardon and Forgiveness law revealed a resolution to set the fee is not on file. With the assistance of the attorneys in the Legislative Reference Office, the attached resolution has been created to rectify this oversight.

REQUESTED ACTION

Adopt the resolution entitled Pardon and Forgiveness Law Application Fee

Oneida Nation

Post Office Box 365

Phone: (920)869-2214

Oneida, WI 54155



BC Resolution # _____
Pardon and Forgiveness Law Application Fee

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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 Pardon and Forgiveness law (“the Law”) was adopted by the Oneida Business Committee through resolution BC-02-19-93-I and amended by resolutions BC-11-13-93-B, BC-11-24-93-B, BC-07-31-02-A, BC-05-25-11-A, and BC-01-22-14-B; and

WHEREAS, the purpose of this Law is to provide a fair, efficient and formal process by which a member of the Nation may receive a pardon for the conviction of a crime(s); a member of the Nation may receive forgiveness for acts that render him or her ineligible for housing with the Nation or other benefits; and a member of the Nation or non-member may receive forgiveness for acts that render him or her ineligible for employment with the Nation; an occupational license, certification or permit issued by the Nation, housing through the Nation or other benefit; and

WHEREAS, the Law requires that when submitting an application for a pardon or forgiveness the applicant includes the payment of a nonrefundable fee; and

WHEREAS, the Law requires that the Oneida Business Committee set the nonrefundable fee amount through the adoption of a resolution; and

NOW THEREFORE BE IT RESOLVED, that the Oneida Business Committee hereby sets forth the application fee for a pardon or forgiveness to be fifty dollars (\$50).



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



Statement of Effect

Pardon and Forgiveness Law Application Fee

Summary

This resolution sets the nonrefundable application fee amount for requesting a pardon or forgiveness from the Nation in accordance with the Pardon and Forgiveness law.

Submitted by: Clorissa N. Santiago, Senior Staff Attorney, Legislative Reference Office

Date: April 27, 2020

Analysis by the Legislative Reference Office

The Pardon and Forgiveness law (“the Law”) was adopted by the Oneida Business Committee for the purpose of providing a fair, efficient and formal process by which a member of the Nation may receive a pardon for the conviction of a crime(s); a member of the Nation may receive forgiveness for acts that render him or her ineligible for housing with the Nation or other benefits; and a member of the Nation or non-member may receive forgiveness for acts that render him or her ineligible for employment with the Nation, an occupational license, certification or permit issued by the Nation, housing through the Nation or other benefit. [1 O.C. 126.1-1].

The Law requires that an application for a pardon or forgiveness include payment of a nonrefundable fee. [1 O.C. 126.6-4(a)(6), 126.6-4(b)(9)]. The Oneida Business Committee is delegated the responsibility to set the fee amount through resolution. [1 O.C. 126.7-1].

This resolution sets the application fee for requesting a pardon or forgiveness by the Nation.

Conclusion

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

Adopt resolution entitled Suspension of the Pardon and Forgiveness Law Application Fee due to the...

Business Committee Agenda Request

1. Meeting Date Requested: 05/13/20

2. General Information:

Session: Open Executive – must qualify under §107.4-1.
Justification: *Choose reason for Executive.*

3. Supporting Documents:

Contract Document(s) Legal Review Resolution
 Correspondence Minutes Statement of Effect
 Fiscal Impact Statement Report Travel Documents
 Other: *Describe*

4. Budget Information:

Budgeted Budgeted – Grant Funded Unbudgeted
 Not Applicable Other: Reduced revenue

5. Submission:

Authorized Sponsor: Lisa Summers, Secretary

Primary Requestor: _____

Additional Requestor: (Name, Title/Entity)

Additional Requestor: (Name, Title/Entity)

Submitted By: LLIGGINS

A good mind. A good heart. A strong fire.



Business Committee Agenda Request – Cover Memo

From: Lisa Liggins, Information Management Specialist

Date: 5/11/2020

RE: Suspend Pardon and Forgiveness Application Fee

PURPOSE

The fee is set by resolution; suspension would require action by the OBC.

BACKGROUND

Due to the financial impacts of the COVID-19 pandemic, this resolution is being presented for consideration in alignment with previous action taken by the OBC in BC resolution # 04-08-20-L which suspended payments for rent, mortgage and lease payments. With the assistance of the attorneys in the Legislative Reference Office, this resolution is presented for consideration to be in effect for the duration of the Public Health State of Emergency.

REQUESTED ACTION

Adopt the resolution entitled Suspension of the Pardon and Forgiveness Law Application Fee due to the COVID-19 Public Health State of Emergency

Oneida Nation

Post Office Box 365

Phone: (920)869-2214

Oneida, WI 54155



BC Resolution # _____

Suspension of the Pardon and Forgiveness Law Application Fee due to the COVID-19 Public Health State of Emergency

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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 Pardon and Forgiveness law (“the Law”) provides a fair, efficient and formal process by which: a member of the Nation may receive a pardon for the conviction of a crime(s); a member of the Nation may receive forgiveness for acts that render him or her ineligible for housing with the Nation or other benefits; and a member of the Nation or non-member may receive forgiveness for acts that render him or her ineligible for employment with the Nation; an occupational license, certification or permit issued by the Nation, housing through the Nation or other benefit; and

WHEREAS, the Law requires that the Oneida Business Committee set a nonrefundable application fee amount for a pardon or forgiveness from the Nation through the adoption of a resolution; and

WHEREAS, the Oneida Business Committee adopted resolution **BC- - - -** which set the application fee for a pardon or forgiveness by the Nation at fifty dollars (\$50); and

WHEREAS, the federal government has proclaimed a public health emergency related to the spread of the COVID-19 virus and has identified that the spread of the virus has resulted in large numbers of individuals becoming ill and high mortality rates, impacts to the stock markets, and businesses; and

WHEREAS, state governors, including the State of Wisconsin, have declared public health emergencies and state public health officers have issued orders, for example, closing public schools, limiting public gatherings, and closing restaurants and bars except for take-out orders; and

WHEREAS, on March 12, 2020, Chairman Tehassi Hill signed a “*Declaration of Public Health State of Emergency*” regarding COVID-19 which declared a Public Health State of Emergency for the Nation until April 12, 2020, and set into place the necessary authority for action to be taken and allows the Nation to seek reimbursement of emergency management actions that may result in unexpected expenses; and

WHEREAS, on March 24, 2020, the Nation’s COVID-19 Core Decision Making Team issued a “*Safer at Home*” declaration which prohibits all public gatherings of any number of people and

BC Resolution # _____

Suspension of the Pardon and Forgiveness Law Application Fee due to the COVID-19 Public Health State of Emergency
Page 2 of 2

44 orders all individuals present within the Oneida Reservation to stay at home or at their
45 place of residence, with certain exceptions allowed, and this “*Safer at Home*” declaration
46 was updated on April 21, 2020; and
47

48 **WHEREAS,** on March 28, 2020 the Oneida Business Committee adopted resolution BC-03-28-20-A
49 titled, “*Extension of March 12th Declaration of Public Health State of Emergency*” which
50 extended the Nation’s Public Health State of Emergency declaration until May 12, 2020;
51 and
52

53 **WHEREAS,** on April 8, 2020, the Oneida Business Committee adopted resolution BC-04-08-20-C titled,
54 “*Tier V Budget Contingency Declared for Remainder of Fiscal Year 2020,*” which requires
55 greater reduction in expenses as a result of zero gaming revenues supporting
56 governmental functions, and included initial and on-going layoffs; and
57

58 **WHEREAS,** on May 6, 2020, the Oneida Business Committee adopted resolution BC-05-06-20-A titled,
59 “*Extension of Declaration of Public Health State of Emergency Until June 11, 2020*” which
60 further extended the Nation’s Public Health State of Emergency until June 11, 2020; and
61

62 **WHEREAS,** the layoffs that will occur during the Public Health State of Emergency are likely to have
63 financial impacts that may impede an individual’s ability to apply for a pardon or forgiveness
64 from the Nation; and
65

66 **NOW THEREFORE BE IT RESOLVED,** that the Oneida Business Committee hereby suspends the
67 application fee for a pardon or forgiveness from the Nation for the duration of the COVID-19 public health
68 emergency.
69

70 **BE IT FINALLY RESOLVED,** that the suspension of the application fee for a pardon or forgiveness from
71 the Nation shall be retroactive from March 12, 2020, when the Nation declared the public health emergency,
72 and therefore, any individual who submitted the application fee during the public health emergency shall be
73 refunded the application fee amount.



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



Statement of Effect

Suspension of the Pardon and Forgiveness Law Application Fee due to the COVID-19 Public Health State of Emergency

Summary

This resolution suspends the nonrefundable application fee for requesting a pardon or forgiveness from the Nation in accordance with the Pardon and Forgiveness law during the Nation's Public Health State of Emergency and retroactively back to March 12, 2020, when the Nation first declared a Public Health State of Emergency due to the COVID-19 virus.

Submitted by: Clorissa N. Santiago, Senior Staff Attorney, Legislative Reference Office

Date: May 5, 2020

Analysis by the Legislative Reference Office

The Pardon and Forgiveness law ("the Law") was adopted by the Oneida Business Committee for the purpose of providing a fair, efficient and formal process by which a member of the Nation may receive a pardon for the conviction of a crime(s); a member of the Nation may receive forgiveness for acts that render him or her ineligible for housing with the Nation or other benefits; and a member of the Nation or non-member may receive forgiveness for acts that render him or her ineligible for employment with the Nation, an occupational license, certification or permit issued by the Nation, housing through the Nation or other benefit. [1 O.C. 126.1-1].

The Law requires that an application for a pardon or forgiveness include payment of a nonrefundable fee. [1 O.C. 126.6-4(a)(6) and 126.6-4(b)(9)]. The Oneida Business Committee is delegated the responsibility to set the fee amount through resolution. [1 O.C. 126.7-1]. On May 13, 2020, the Oneida Business Committee will consider the adoption of a resolution to set the application fee for a pardon or forgiveness from the Nation at fifty dollars (\$50).

Due to the potential for financial impacts of the COVID-19 virus to limit the ability of an individual to apply for a pardon or forgiveness, this resolution suspends the application fee for a pardon or forgiveness from the Nation for the duration of the COVID-19 Public Health State of Emergency. The suspension of the application fee for a pardon or forgiveness from the Nation shall be retroactive from March 12, 2020, when the Nation first declared the Public Health State of emergency. Therefore, any individual who submitted the application fee during the Public Health State of Emergency shall be refunded the application fee amount.

Conclusion

Adoption of this resolution would not conflict with any of the Nation's laws.

Oneida Business Committee Agenda Request

Adopt resolution entitled Adoption of Emergency Amendments to the Election Law

1. Meeting Date Requested: 5 / 13 / 20

2. General Information:

Session: Open Executive - See instructions for the applicable laws, then choose one:

Agenda Header:

Accept as Information only

Action - please describe:

Adopt the resolution "Adoption of Emergency Amendments to the Election Law"

3. Supporting Materials

Report Resolution Contract

Other:

1.

3.

2.

4.

Business Committee signature required

4. Budget Information

Budgeted - Tribal Contribution Budgeted - Grant Funded Unbudgeted

5. Submission

Authorized Sponsor / Liaison:

Primary Requestor/Submitter: Clorissa N. Santiago, LRO Senior Staff Attorney
Your Name, Title / Dept. or Tribal Member

Additional Requestor: _____
Name, Title / Dept.

Additional Requestor: _____
Name, Title / Dept.



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 [Signature]
 DATE: May 13, 2020
 RE: Election Law Emergency Amendments

Please find the following attached backup documentation for your consideration of the Election Law Emergency Amendments:

1. Resolution: Adoption of Emergency Amendments to the Election Law
2. Statement of Effect: Adoption of Emergency Amendments to the Election
3. Election Law Emergency Amendments Legislative Analysis
4. Election Law Amendments (Redline)
5. Election Law Amendments (Clean)

Overview

Emergency amendments to the Election law (the “Law”) are being sought to address the impact of the COVID-19 pandemic on the Nation’s 2020 General Election. The emergency amendments to the Law will:

- Allow the Election Board to recommend to the Oneida Business Committee the cancellation of the primary election when large gatherings of people present a substantial risk to the health and safety of the Nation’s citizens, and subsequently allow the Oneida Business Committee to cancel the primary election [1 O.C. 102.12-2(b)]; and
- Clarify that if a primary election is canceled then all eligible candidates shall be placed on the ballot for the general election [1 O.C. 102.12-2(b)(1)].

The world is currently facing a pandemic of COVID-19 after an outbreak began in Wuhan, China and quickly spread to many other countries throughout the world, including the United States. The COVID-19 pandemic has resulted in high rates of infection and mortality as well as vast economic impacts including effects on the stock market and the closing of all non-essential businesses. The number of positive tests in Wisconsin, as well as across the country, continue to increase.

On March 12, 2020, in accordance with Emergency Management and Homeland Security law, Chairman Tehassi Hill signed a “*Declaration of Public Health State of Emergency*” regarding COVID-19 which declared a Public Health State of Emergency for the Nation until April 12, 2020, and provided the necessary authority should action need to be taken and allowed the Nation to seek reimbursement of emergency management actions that may result in unexpected expenses. [3 O.C. 302.8-1]. This declaration of a Public Health State of Emergency was extended by the Oneida Business Committee until May 12, 2020, through the adoption resolution BC-03-28-20-A titled, “*Extension of March 12th Declaration of Public Health State of Emergency,*” and then

extended again until June 11, 2020, through the adoption of resolution BC-05-06-20-A titled, “*Extension of Declaration of Public Health State of Emergency Until June 11, 2020.*”

On March 24, 2020, the Nation’s COVID-19 Core Decision Making Team issued a “*Safer at Home*” declaration which prohibits all public gatherings of any number of people and orders all individuals present within the Oneida Reservation to stay at home or at their place of residence, with certain exceptions allowed. The “*Safer at Home*” declaration was updated by the COVID-19 Core Decision Making Team on April 21, 2020.

The Oneida Business Committee can temporarily enact legislation when legislation is necessary for the immediate preservation of the public health, safety, or general welfare of the Reservation population, and the amendment of the legislation is required sooner than would be possible under the Legislative Procedures Act. [1 O.C. 109.9-5]. A fiscal impact statement and public meeting are not required for emergency legislation. [1 O.C. 109.9-5(a)].

The emergency amendments to this Law are necessary for the preservation of the public health, safety, and general welfare of the Reservation population. The emergency amendments are needed to protect the Reservation population against the public health crisis that is the COVID-19 pandemic. The elimination of the requirement to hold a primary election while allowing those individuals who applied to be placed on the ballot for the general election, as long as all eligibility requirements are met, will eliminate any unnecessary contact between individuals which could spread COVID-19, while also ensuring that the July 2020 General Election can occur without interruption.

Additionally, observance of the requirements under the Legislative Procedures Act for the adoption of these amendments would be contrary to public interest. The primary election is required to occur at least sixty (60) calendar days prior to the General Election, which is tentatively scheduled for July 25, 2020. [1 O.C. 102.12-1]. Therefore, the process and requirements of the Legislative Procedures Act cannot be completed in time to ensure that the General Election could still occur on July 25, 2020, without violating the primary election procedures contained in the Election law.

The emergency amendments to the Law will become effective immediately upon adoption by the Oneida Business Committee and will remain effective for six (6) months, or until the 2020 General Election has concluded, whichever is sooner. There will be one (1) opportunity to extend the emergency amendments for an additional six (6) months. [1 O.C. 109.9-5(b)].

Requested Action

Approve the Resolution: Adoption of Emergency Amendments to the Election Law

Oneida Nation

Post Office Box 365

Phone: (920)869-2214



Oneida, WI 54155

BC Resolution # Adoption of Emergency Amendments to the Election Law

- 1 **WHEREAS,** the Oneida Nation is a federally recognized Indian government and a treaty tribe
- 2 recognized by the laws of the United States of America; and
- 3
- 4 **WHEREAS,** the Oneida General Tribal Council is the governing body of the Oneida Nation; and
- 5
- 6 **WHEREAS,** the Oneida Business Committee has been delegated the authority of Article IV, Section 1,
- 7 of the Oneida Tribal Constitution by the Oneida General Tribal Council; and
- 8
- 9 **WHEREAS,** the Election law (“the Law”) was adopted by the General Tribal Council for the purpose of
- 10 governing the procedures for the conduct of orderly elections of the Nation, and was most
- 11 recently amended by the Oneida Business Committee on an emergency basis through the
- 12 adoption of resolution BC-03-17-20-B; and
- 13
- 14 **WHEREAS,** the Law requires a primary election be held on a Saturday at least sixty (60) calendar days
- 15 prior to the election whenever there are three (3) or more candidates for any Oneida
- 16 Business Committee officer positions or sixteen (16) or more candidates for the at-large
- 17 council member positions; and
- 18
- 19 **WHEREAS,** after the primary election the two (2) candidates receiving the highest number of votes cast
- 20 for each Oneida Business Committee officer position shall be placed on the ballot for the
- 21 General Election, while the fifteen (15) candidates receiving the highest number of votes
- 22 cast for the at-large council member positions shall be placed on the ballot for the General
- 23 Election; and
- 24
- 25 **WHEREAS,** the federal government has proclaimed a public health emergency related to the spread of
- 26 the COVID-19 virus and has identified that the spread of the virus has resulted in large
- 27 numbers of individuals becoming ill and high mortality rates, impacts to the stock markets,
- 28 and businesses; and
- 29
- 30 **WHEREAS,** state governors, including the State of Wisconsin, have declared public health emergencies
- 31 and state public health officers have issued orders, for example, closing public schools,
- 32 limiting public gatherings, and closing restaurants and bars except for take-out orders; and
- 33
- 34 **WHEREAS,** on March 12, 2020, Chairman Tehassi Hill signed a “*Declaration of Public Health State of*
- 35 *Emergency*” regarding COVID-19 which declared a Public Health State of Emergency for
- 36 the Nation until April 12, 2020, and set into place the necessary authority for action to be
- 37 taken and allows the Nation to seek reimbursement of emergency management actions
- 38 that may result in unexpected expenses; and
- 39
- 40 **WHEREAS,** on March 24, 2020, the Nation’s COVID-19 Core Decision Making Team issued a “*Safer*
- 41 *at Home*” declaration which prohibits all public gatherings of any number of people and
- 42 orders all individuals present within the Oneida Reservation to stay at home or at their
- 43 place of residence, with certain exceptions allowed; and
- 44

- 45 **WHEREAS,** on March 28, 2020 the Oneida Business Committee adopted resolution BC-03-28-20-A
46 titled, "*Extension of March 12th Declaration of Public Health State of Emergency*" which
47 extended the Nation's Public Health State of Emergency declaration until May 12, 2020;
48 and
49
- 50 **WHEREAS,** on May 6, 2020, the Oneida Business Committee adopted resolution BC-05-06-20-A titled,
51 "*Extension of Declaration of Public Health State of Emergency Until June 11, 2020*" which
52 further extended the Nation's Public Health State of Emergency declaration until June 11,
53 2020; and
54
- 55 **WHEREAS,** on April 27, 2020, the Oneida Election Board took action to postpone the primary for the
56 2020 General Elections in order to avoid large gatherings of members where the virus
57 could be easily spread; and
58
- 59 **WHEREAS,** the Center for Disease Control has identified that the months of March, April and May
60 should be the time when the potential for the highest increases in the number of confirmed
61 cases would occur; and
62
- 63 **WHEREAS,** the Oneida Election Board has requested emergency amendments to the Election law to
64 address the impact of COVID-19 on the Nation; and
65
- 66 **WHEREAS,** the proposed emergency amendments to the Law allow the Election Board to recommend
67 to the Oneida Business Committee the cancellation of the primary election when large
68 gatherings of people present a substantial risk to the health and safety of the Nation's
69 citizens, and subsequently allow the Oneida Business Committee to cancel the primary
70 election; and
71
- 72 **WHEREAS,** the proposed emergency amendments to the Law clarify that if a primary election is
73 canceled then all eligible candidates shall be placed on the ballot for the General Election;
74 and
75
- 76 **WHEREAS,** the Legislative Procedures Act authorizes the Oneida Business Committee to enact
77 legislation on an emergency basis, to be in effect for a period of six (6) months, renewable
78 for an additional six (6) months; and
79
- 80 **WHEREAS,** emergency adoption of legislation is allowed when legislation is necessary for the
81 immediate preservation of the public health, safety, or general welfare of the Reservation
82 population, and the amendment of the legislation is required sooner than would be possible
83 under the Legislative Procedures Act; and
84
- 85 **WHEREAS,** the emergency adoption of these amendments to the Law are necessary for the
86 preservation of the public health, safety, and general welfare of the Reservation population
87 to protect the Reservation population against the public health crisis that is the COVID-19
88 pandemic since the elimination of the requirement to hold a primary election while allowing
89 those individuals who applied to be placed on the ballot for the General Election, as long
90 as all eligibility requirements are met, will eliminate any unnecessary contact between
91 individuals which could spread COVID-19; and
92
- 93 **WHEREAS,** observance of the requirements under the Legislative Procedures Act for adoption of this
94 amendment would be contrary to public interest since the primary election at is required to
95 occur at least sixty (60) calendar days prior to the General Election, which is tentatively
96 scheduled for July 25, 2020, and the process and requirements of the Legislative
97 Procedures Act cannot be completed in time to ensure that the General Election could still
98 occur on July 25, 2020, without violating the primary election procedures contained in the
99 Election law; and

100
101 **WHEREAS,** the Legislative Procedures Act does not require a public meeting or fiscal impact statement
102 when considering emergency legislation; and
103
104 **WHEREAS,** the Oneida Election Board is actively monitoring the public health crises and will notify
105 membership as soon as possible should the election days be canceled, postponed or
106 polling processes be amended to reduce the spread of the virus; and
107
108 **NOW THEREFORE BE IT RESOLVED,** the Oneida Business Committee hereby adopts emergency
109 amendments to the Election Law effective immediately for six (6) months from the date of adoption of this
110 resolution, or until the 2020 General Election is concluded, whichever is sooner.



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



Statement of Effect

Adoption of Emergency Amendments to the Election Law

Summary

This resolution adopts emergency amendments to the Election law which allows the Election Board to recommend to the Oneida Business Committee the cancellation of the primary election when large gatherings of people present a substantial risk to the health and safety of the Nation's citizens.

Submitted by: Clorissa N. Santiago, Senior Staff Attorney, Legislative Reference Office

Date: May 4, 2020

Analysis by the Legislative Reference Office

This resolution adopts emergency amendments to the Election law ("the Law"). The purpose of the Law is to govern the procedures for the conduct of orderly elections of the Nation. [1 O.C. 102.1-1]. The emergency amendments to the Law will:

- Allow the Election Board to recommend to the Oneida Business Committee the cancellation of the primary election when large gatherings of people present a substantial risk to the health and safety of the Nation's citizens, and subsequently allow the Oneida Business Committee to cancel the primary election [1 O.C. 102.12-2(b)]; and
- Clarify that if a primary election is canceled then all eligible candidates shall be placed on the ballot for the general election [1 O.C. 102.12-2(b)(1)].

The Legislative Procedures Act (LPA) allows the Oneida Business Committee to take emergency action where it is necessary for the immediate preservation of the public health, safety or general welfare of the reservation population and when enactment or amendment of legislation is required sooner than would be possible under the LPA. [1 O.C. 109.9-5].

The resolution provides various information on the COVID-19 pandemic that the world is now facing. This pandemic has resulted in many countries experiencing the effects of illness and health issues related to COVID-19, as well as vast economic impacts. On March 12, 2020, in accordance with Emergency Management and Homeland Security law, Chairman Tehassi Hill signed a "Declaration of Public Health State of Emergency" regarding COVID-19. [3 O.C. 302.8-1]. This declaration of a Public Health State of Emergency set into place the necessary authority should action need to be taken and allows the Nation to seek reimbursement of emergency management actions that may result in unexpected expenses. This declaration of a Public Health State of Emergency was extended by the Oneida Business Committee until May 12, 2020, through the adoption of resolution BC-03-28-20-A titled, "Extension of March 12th Declaration of Public Health State of Emergency," and then extended again until June 11, 2020, through the adoption of resolution BC-05-06-20-A titled, "Extension of Declaration of Public Health State of Emergency Until June 11, 2020."

On March 24, 2020, the Nation's COVID-19 Core Decision Making Team issued a “*Safer at Home*” declaration which prohibits all public gatherings of any number of people and orders all individuals present within the Oneida Reservation to stay at home or at their place of residence, with certain exceptions allowed. The “*Safer at Home*” declaration was updated by the COVID-19 Core Decision Making Team on April 21, 2020.

The resolution provides that the emergency amendments to this Law are necessary for the preservation of the public health, safety, and general welfare of the Reservation population. The emergency amendments are needed to protect the Reservation population against the public health crisis that is the COVID-19 pandemic. The elimination of the requirement to hold a primary election while allowing those individuals who applied to be placed on the ballot for the General Election, as long as all eligibility requirements are met, will eliminate any unnecessary contact between individuals which could spread COVID-19, while also ensuring that the July 2020 General Election can occur without interruption.

Additionally, observance of the requirements under the Legislative Procedures Act for the adoption of these amendments would be contrary to public interest. The primary election is required to occur at least sixty (60) calendar days prior to the General Election, which is tentatively scheduled for July 25, 2020. [1 O.C. 102.12-1]. Therefore, the process and requirements of the Legislative Procedures Act cannot be completed in time to ensure that the General Election could still occur on July 25, 2020, without violating the primary election procedures contained in the Election law.

The emergency amendments to the Law will take effect immediately upon adoption by the Oneida Business Committee. The emergency amendments will remain effective for six (6) months, or until the 2020 General Election concludes, whichever is sooner. The LPA provides the possibility to extend the emergency amendments for an additional six (6) months, or until the emergency amendments expire or are permanently adopted. [1 O.C. 109.9-5(b)].

Conclusion

Adoption of this resolution would not conflict with any of the Nation's laws.



EMERGENCY AMENDMENTS TO ELECTION LAW LEGISLATIVE ANALYSIS

SECTION 1. EXECUTIVE SUMMARY

<i>Analysis by the Legislative Reference Office</i>	
Intent of the Proposed Amendments	<ul style="list-style-type: none"> ▪ Allow the Election Board to recommend to the Oneida Business Committee the cancellation of the primary election when large gatherings of people present a substantial risk to the health and safety of the Nation’s citizens, and subsequently allow the Oneida Business Committee to cancel the primary election; and ▪ Clarify that if a primary election is canceled then all eligible candidates shall be placed on the ballot for the General Election.
Purpose	To govern the procedures for the conduct of orderly elections of the Nation [1 O.C. 102.1-1]
Affected Entities	Oneida Election Board, Business Committee Support Office, Oneida Business Committee, Oneida Nation Judiciary, Oneida Gaming Commission, Legal Resource Center, Oneida Land Claims Commission, Oneida Land Commission, Oneida Nation Commission on Aging, Oneida Nation School Board, Oneida Trust Enrollment Committee.
Related Legislation	Boards, Committees, and Commissions law, Emergency Management and Homeland Security law.
Public Meeting	A public meeting is not required for emergency legislation [1 O.C. 109.8-1(b) and 109.9-5(a)].
Fiscal Impact	A fiscal impact statement is not required for emergency legislation [1 O.C. 109.9-5(a)].
Expiration of Emergency Amendments	Emergency amendments expire six (6) months after adoption and may be renewed for one additional six (6) month period.

SECTION 2. LEGISLATIVE DEVELOPMENT

A. Background. The Election law was first adopted on June 19, 1993, and most recently amended on an emergency basis by the Oneida Business Committee on March 17, 2020. The Election law governs the procedures for the conduct of orderly elections of the Nation. [1 O.C. 102.1-1].

▪ *March 17, 2020 Emergency Amendments.* The Election law was amended on an emergency basis through resolution BC-03-17-20-B in response to the COVID-19 pandemic for the purpose of:

- Eliminating the caucus from the election process;
- Requiring an individual to submit an application in order to have his or her name placed on a ballot for an election;
- Eliminating the requirement for an individual to obtain at least ten (10) signatures of qualified voters when submitting an application to be placed on the ballot;
- Requiring that all applications be submitted to the Business Committee Support Office by the close of business on April 24, 2020;
- Eliminating referendums from the election process; and
- Reducing the number of Oneida Election Board members who are required to sign the election totals on machine counted ballots.

- 68 ▪ Five (5) vacancies – Council Member, three (3) year term.
- 69 ▪ Oneida Election Board;
- 70 ▪ Three (3) vacancies – three (3) year term.
- 71 ▪ Oneida Gaming Commission;
- 72 ▪ One (1) vacancy – five (5) year term.
- 73 ▪ Legal Resource Center;
- 74 ▪ One (1) vacancy – Attorney, four (4) year term.
- 75 ▪ One (1) vacancy – Advocate, four (4) year term.
- 76 ▪ Oneida Land Claims Commission;
- 77 ▪ Two (2) vacancies – three (3) year term.
- 78 ▪ Oneida Land Commission;
- 79 ▪ Two (2) vacancies – three (3) year term.
- 80 ▪ Oneida Nation Commission on Aging;
- 81 ▪ Three (3) vacancies – three (3) year term.
- 82 ▪ Oneida Nation School Board;
- 83 ▪ Three (3) vacancies – Parent, three (3) year term.
- 84 ▪ Oneida Trust Enrollment Committee; and
- 85 ▪ Two (2) vacancies – three (3) year term.
- 86 ▪ Oneida Judiciary.
- 87 ▪ Court of Appeals:
- 88 ▪ One (1) vacancy – Appellate Court Chief Judge, six (6) year term.
- 89 ▪ One (1) vacancy – Appellate Court Judge, six (6) year term.
- 90 ▪ Trial Court:
- 91 ▪ One (1) vacancy – Trial Court Chief Judge, six (6) year term.
- 92 ▪ One (1) vacancy – Trial Court Judge, six (6) year term.
- 93 ▪ Originally, the caucus for the 2020 General Election was scheduled to be held on March 14, 2020,
- 94 with the primary election to be held on May 16, 2020, and the General Election occurring on July
- 95 4, 2020. Upon cancelation of the caucus through the adoption of emergency amendments through
- 96 BC-03-17-20-B, the primary election was rescheduled to May 23, 2020, and the 2020 General
- 97 Election was rescheduled to July 25, 2020.
- 98 **D. *Request for Emergency Amendments.*** In response to the COVID-19 pandemic, emergency
- 99 amendments to the Law are being sought by the Election Board to allow the Oneida Business
- 100 Committee, upon recommendation of the Election Board, to cancel a primary election when large
- 101 gatherings of people present a substantial risk to the health and safety of the Nation’s citizens. Canceling
- 102 the primary election and providing that all eligible candidates be placed on the ballot for the General
- 103 Election will ensure that the July 2020 General Election can occur as scheduled.

105 **SECTION 3. CONSULTATION AND OUTREACH**

- 106 **A.** Representatives from the following departments or entities participated in the development of this Law
- 107 and legislative analysis:
- 108 ▪ Oneida Law Office.
- 109 **B.** The following laws were reviewed in the drafting of this analysis:
- 110 ▪ Oneida Nation Constitution and Bylaws;
- 111 ▪ Emergency Management and Homeland Security law; and
- 112 ▪ Boards, Committees, and Commissions law.

113 **SECTION 4. PROCESS**

- 114 **A.** These amendments are being considered on an emergency basis. The Oneida Business Committee may
- 115 temporarily enact an emergency law “where legislation is necessary for the immediate preservation of
- 116

117 public health, safety, or general welfare of the Reservation population and enactment or amendment of
118 legislation is required sooner than would be possible under this law” [1 O.C. 109.9-5].

119 ■ Emergency amendments are being pursued for the immediate preservation of the public health,
120 safety, and general welfare of the Reservation population against the public health crisis that is the
121 COVID-19 pandemic. Chairman Tehassi Hill declared a Public Health State of Emergency for the
122 Nation on March 12, 2020.

123 ■ Observance of the requirements under the Legislative Procedures Act for the adoption of these
124 amendments would be contrary to public interest. The primary election at is required to occur at
125 least sixty (60) calendar days prior to the General Election, which is tentatively scheduled for July
126 25, 2020. [1 O.C. 102.12-1]. Therefore, the process and requirements of the Legislative Procedures
127 Act cannot be completed in time to ensure that the General Election could still occur on July 25,
128 2020, without violating the primary election procedures contained in the Election law.

129 B. Emergency amendments typically expire six (6) months after adoption, with one (1) opportunity for a
130 six (6) month extension of the emergency amendments. [1 O.C. 109.9-5(b)]. The resolution for these
131 emergency amendments provides that the amendment will expire in six (6) months or until the 2020
132 General Election is concluded, whichever is sooner.

133 C. The Legislative Procedures Act does not require a public meeting or fiscal impact statement when
134 considering emergency legislation. [1 O.C. 109.9-5(a)]. However, a public meeting and fiscal impact
135 statement will eventually be required when considering permanent adoption of these amendments.

136 D. The Legislative Operating Committee added these emergency amendments to the Active Files List on
137 March 16, 2020.

138 SECTION 5. CONTENTS OF THE LEGISLATION

139 A. **Cancelation of the Primary Election.** A primary election is held on a Saturday at least sixty (60)
140 calendar days prior to the election whenever there are three (3) or more candidates for any Oneida
141 Business Committee officer positions or sixteen (16) or more candidates for the at-large council
142 member positions. [1 O.C. 102.12-1]. The purpose of a primary election is to narrow down the
143 candidates that will appear on the ballot for the General Election. After the primary election the two (2)
144 candidates receiving the highest number of votes cast for each officer position shall be placed on the
145 ballot for the General Election, while the fifteen (15) candidates receiving the highest number of votes
146 cast for the at-large council member positions shall be placed on the ballot for the General Election. [1
147 O.C. 102.12-1(a)-(b)]. The proposed amendments allow the Election Board to recommend to the
148 Oneida Business Committee the cancellation of the primary election when large gatherings of people
149 present a substantial risk to the health and safety of the Nation’s citizens. [1 O.C. 102.12-2(b)]. The
150 Oneida Business Committee is then required to consider the Election Board’s recommendation at the
151 next scheduled Oneida Business Committee meeting and decide whether to cancel the primary election.
152 [1 O.C. 102.12-2(b)]. If the Oneida Business Committee makes the decision to cancel the primary
153 election, then all candidates that are determined eligible according to section 102.5 and are not made
154 ineligible under section 102.6-2 shall be placed on the ballot for the General Election. [1 O.C. 102.12-
155 2(b)(1)]. Previously, the Election law only allowed the Election Board to cancel a primary election
156 when the Business Committee positions did not draw the requisite number of candidates for a primary.
157 [GTC-04-23-17-A - 1 O.C. 102.12-3].

158 ■ **Effect.** The proposed emergency amendment would provide flexibility for a primary election to be
159 canceled by the Oneida Business Committee when large gatherings of people present a substantial
160 risk to the health and safety of the Nation’s citizens. The elimination of the requirement to hold a
161 primary election while allowing those individuals who applied to be placed on the ballot for the
162 General Election, as long as all eligibility requirements are met, will eliminate any unnecessary
163 contact between individuals which could spread COVID-19. The inclusion of this provision in the
164 Election law also ensures that the July 2020 General Election can occur without interruption.
165
166

167 **SECTION 6. EXISTING LEGISLATION**168 **A. Related Legislation.** The following laws of the Nation are related to the emergency amendments to this
169 Law:

- 170 ▪ *Boards, Committees, and Commissions law.* The Boards, Committees, and Commission law
171 governs boards, committees, and commissions of the Nation, including the procedures regarding
172 the appointment and election of persons to boards, committees and commissions, creation of
173 bylaws, maintenance of official records, compensation, and other items related to boards,
174 committees and commissions. [1 O.C. 105.1-1].
- 175 ▪ The Boards, Committees, and Commissions law provides that all elected positions shall be
176 nominated at a caucus called by the Oneida Election Board, or petition for ballot placement,
177 in accordance with the Nation’s laws and/or policies governing elections, except where an
178 entity’s bylaws allow for a vacancy to be filled by appointment. [1 O.C. 105.8-1]. The
179 Boards, Committees, and Commissions law then goes on to provide that all other processes
180 for the election of a member of an entity shall be as directed by the Nation’s laws and/or
181 policies governing elections. [1 O.C. 105.8-2].
- 182 ▪ In accordance with the Boards, Committees, and Commissions law, this Law shall govern
183 the election process for the election of a member of an entity.
- 184 ▪ *Emergency Management and Homeland Security law.* The Emergency Management and
185 Homeland Security law provides for the development and execution of plans for the protection of
186 residents, property, and the environment in an emergency or disaster; and provides for the direction
187 of emergency management, response, and recovery on the Reservation; as well as coordination
188 with other agencies, victims, businesses, and organizations; and establishes the use of the National
189 Incident Management System; and designates authority and responsibilities for public health
190 preparedness. [3 O.C. 302.1-1].
- 191 ▪ The Emergency Management and Homeland Security law provides that the Oneida Business
192 Committee shall be responsible for proclaiming or ratifying the existence of an emergency.
193 [3 O.C. 302.8-1]. A public health emergency is defined as the occurrence or imminent threat
194 of an illness or health condition which:
 - 195 (1) is a quarantinable disease, or is believed to be caused by bioterrorism or a biological
196 agent; and
 - 197 (2) poses a high probability of any of the following:
 - 198 (A) a large number of deaths or serious or long-term disability among humans; or
 - 199 (B) widespread exposure to a biological, chemical, or radiological agent that
200 creates a significant risk of substantial future harm to a large number of people.
201 [3 O.C. 302.3-1(o)].
- 202 ▪ Chairman Tehassi Hill’s March 12, 2020, “*Declaration of Public Health State of*
203 *Emergency*” and the subsequent extensions conform with the requirements of the
204 Emergency Management and Homeland Security law.
205

206 **SECTION 7. OTHER CONSIDERATIONS**

- 207 **A. Deadline for Permanent Adoption of Amendments.** The emergency amendments will expire six (6)
208 months after adoption or until the 2020 General Election is concluded, whichever is sooner. The
209 emergency amendments may be renewed for an additional six (6) month period.
 - 210 ▪ *Conclusion:* The Legislative Operating Committee will need to consider the development and
211 adoption of permanent amendments to this Law within the next six (6) to twelve (12) months.
- 212 **B. Consideration of Additional Amendments.** The Oneida Election Board will be actively monitoring the
213 Public Health State of Emergency and will notify the membership of the Nation as soon as possible
214 should the 2020 General Election day be canceled or postponed, or if the polling processes need to be
215 amended to reduce the spread of COVID-19.
 - 216 ▪ *Conclusion:* The Legislative Operating Committee may have to consider additional amendments

217 to this Law if the 2020 General Election timeframe or procedure will be further impacted by the
218 COVID-19 Public Health State of Emergency.
219 C. **Fiscal Impact.** A fiscal impact statement is not required for emergency legislation.
220 ■ Under the Legislative Procedures Act, a fiscal impact statement is required for all legislation except
221 emergency legislation [1 O.C. 109.6-1].
222

Title 1. Government and Finances - Chapter 102
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People of the Standing Stone how it is we will appoint them the kind of laws we have
ELECTION

102.1. Purpose and Policy	102.8. Registration of Voters
102.2. Adoption, Amendment, Repeal	102.9. Election Process
102.3. Definitions	102.10. Tabulating and Securing Ballots
102.4. Election Board	102.11. Election Outcome and Ties
102.5. Candidate Eligibility	102.12. Elections
102.6. Selection of Candidates	102.13. Oneida Nation Constitution and By-law Amendments
102.7. Notice of Polling Places	

102.1. Purpose and Policy

102.1-1. It is the policy of the Nation that this law shall govern the procedures for the conduct of orderly elections of the Nation, including pre-election activities. Because of the desire for orderly and easily understood elections, there has not been an allowance made for write-in candidates on ballots.

102.1-2. This law defines the duties and responsibilities of the Election Board members and other persons employed by the Oneida Nation in the conduct of elections. It is intended to govern all procedures used in the election process.

102.2. Adoption, Amendment, Repeal

102.2-1. This law was adopted by the Oneida General Tribal Council by resolution GTC 07-06-98-A and amended by resolutions GTC-01-04-10-A, BC-02-25-15-C, GTC-04-23-17-A, BC-03-17-20-B, and emergency amended by BC-03-17-20-B.

102.2-2. This law may be amended or repealed by the Oneida General Tribal Council pursuant to the procedures set out in the Legislative Procedures Act. Actions of the Election Board regarding amendments to this law and policies adopted regarding implementation of this law are to be presented to the Business Committee who shall then adopt or forward action(s) to the General Tribal Council for adoption.

102.2-3. 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.

102.2-4. 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.

102.2-5. This law is adopted under authority of the Constitution of the Oneida Nation.

102.3. Definitions

102.3-1. 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.

102.3-2. "Alternate" shall mean an individual appointed by the Business Committee to serve on the Election Board during an election and until election results have been certified.

102.3-3. "Applicant" shall mean a potential candidate who has not yet been officially approved for acceptance on a ballot.

102.3-4. "Business day" shall mean Monday through Friday, 8:00 a.m. – 4:30 p.m., excluding holidays of the Nation.

102.3-5. "Campaigning" shall mean all efforts designed to influence members of the Nation to support or reject a particular candidate of the Nation including, without limitation, advertising, rallying, public speaking, or other communications with members of the Nation.

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38 102.3-6. "Candidate" shall mean an applicant for an elected position whose name is placed on the
39 ballot by the Election Board after successful application.

40 102.3-7. "Clerk" shall mean the election official who identifies proper registration for the purpose
41 of determining voter eligibility.

42 102.3-8. "Close of business" shall mean 4:30 p.m. Monday through Friday.

43 102.3-9. "Conflict of Interest" shall mean any interest, whether it be personal, financial, political
44 or otherwise, in which a Nation elected official, employee, consultant, appointed or elected,
45 member of any board, committee or commission, or their immediate relatives, friends or
46 associates, or any other person with whom they have contact, that conflicts with any right of the
47 Nation to property, information, or any other right to own and operate its enterprises, free from
48 undisclosed competition or other violation of such rights of the Oneida Nation, or as defined in
49 any law or policy of the Nation.

50 102.3-10. "Election" shall mean every primary and election.

51 102.3-11. "General election" shall mean the election held every three (3) years in July to elect the
52 Chairperson, Vice-Chairperson, Secretary, Treasurer, and the five Council Members of the
53 Business Committee and may include contests for elected boards, committees and commissions
54 positions.

55 102.3-12. "Judge" shall mean the election official who informs and advises the Chairperson of
56 discrepancies, complaints and controversy regarding voter eligibility.

57 102.3-13. "Judiciary" means the judicial system that was established by Oneida General Tribal
58 Council resolution GTC-01-07-13-B to administer the judicial authorities and responsibilities of
59 the Nation.

60 102.3-14. "Lot drawing" shall mean the equal chance method used to select a candidate as the
61 winner of an elected position, in the case of a tie between two (2) or more candidates.

62 102.3-15. "Nation" means the Oneida Nation.

63 102.3-16. "Nation's newspaper" shall mean the Kalihwisaks, or any other newspaper operated by
64 the Nation for the benefit of transmitting news to members of the Nation, which is designated by
65 the Election Board as a source for election related news.

66 102.3-17. "Oneida Police Officer" shall mean an enrolled member of the Oneida Nation who is a
67 police officer on any police force.

68 102.3-18. "Private property" shall mean any lot of land not owned by the Nation, a residential
69 dwelling or a privately owned business within the boundaries of the Reservation.

70 102.3-19. "Prominent locations" shall mean the polling places, main doors of the Norbert Hill
71 Center, main doors of the Oneida Community Library, Tsyunhehkwa Retail Store, the Oneida
72 Community Health Center, the SEOTS building and all One-Stop locations.

73 102.3-20. "Qualified voter" shall mean an enrolled member of the Nation who is eighteen (18)
74 years of age or older.

75 102.3-21. "Rejected Ballots" shall mean those ballots which are rejected by the vote tabulating
76 machine.

77 102.3-22. "Spoiled Ballot" shall mean a ballot which contains a voter error or is otherwise marred
78 and is not tabulated.

79 102.3-23. "Teller" shall mean the election official in charge of collecting and storing of all ballots.

80

81

82 **102.4. Election Board**

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83 *Section A. Establishment, Composition and Election*

84 102.4-1. An Election Board is hereby created for the purpose of carrying out the provisions of this
85 law and Article III, Sections 2 and 3 of the Oneida Nation Constitution.

86 102.4-2. The Election Board shall consist of nine (9) elected members. All members shall be
87 elected to terms of three (3) years, not to exceed two (2) consecutive terms.

88 102.4-3. *Recusal.* An Election Board member shall recuse himself/herself from participating as an
89 Election Board member in any pre-election, election day, or post-election activities while he or
90 she is an applicant or candidate in any election or there is otherwise a conflict of interest.

91 102.4-4. *Removal.* Removal of members shall be pursuant to the Oneida Removal Law. A member
92 who is removed from the Election Board shall be ineligible to serve on the Board for three (3)
93 years from the time he or she is removed from the Election Board.

94 102.4-5. *Vacancies.* Any vacancy in an unexpired term shall be filled by appointment by the
95 Business Committee for the balance of the unexpired term. The filling of a vacancy may be timed
96 to correspond with the pre-election activities and the needs of the Election Board.

97 102.4-6. The Election Board shall identify tellers, judges and clerks in advance of an election.

98 102.4-7 The Business Committee may appoint or reappoint a sufficient number of alternates to
99 the Election Board, as recommended by the Election Board, to assist with election day and pre-
100 election activities.

101 102.4-8. The Election Board shall choose a Chairperson from amongst themselves as set out in
102 the By-laws of the Election Board, to preside over the meetings. This selection shall be carried
103 out at the first meeting of the Election Board following an election. The Chairperson shall then
104 ask the Election Board to select a Vice-Chairperson and Secretary.

105
106 *Section B. Duties of the Election Board*

107 102.4-9. The Election Board shall have the following duties, along with other responsibilities listed
108 throughout this law.

- 109 (a) The Election Board shall be in charge of all registration and election procedures; and
110 (b) Upon completion of an election, the Election Board shall make a final report on the
111 election results as set out in this law.

112
113 *Section C. Specific Duties of Officers and Election Board Members*

114 102.4-10. Specific duties of the Chairperson and other Election Board members, in addition to
115 being present at all Election Board meetings and assisting the handicapped through the voting
116 process, are as set out herein:

117 (a) Chairperson: Shall preside over meetings of the Election Board; shall select the hearing
118 body for applicants found to be ineligible in accordance with 102.5-6 in the event of an
119 appeal; shall oversee the conduct of the election; shall dismiss the alternates and Trust
120 Enrollment Department personnel when their election day duties are complete; and shall
121 post and report election results.

122 (b) Vice-Chairperson: Shall preside over all meetings in the absence of the Chairperson.

123 (c) Secretary: Shall keep a record of the meetings and make them available to the Nation's
124 Secretary, other Election Board members and the public as required in the Open Records
125 and Open Meetings Law.

126 (d) Clerks: Shall implement the requirements of identifying and registering all voters and
127 determining voter eligibility. Clerks shall work in conjunction with the Trust Enrollment

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128 Department personnel in the registration process, and assist the Chairperson as directed in
129 conducting the election. Clerks cannot be currently employed by the Trust Enrollment
130 Department.

131 (e) Tellers: Shall collect and keep safe all ballots, until the election is complete, as
132 determined by this law. Shall assist the Chairperson in conducting the election.

133 (f) Judges: Shall inform and advise the Chairperson of all aspects of the election conducted
134 under this law. In case of disputes among Election Board members, or between members
135 of the Nation and Election Board members, or any controversy regarding voter eligibility,
136 the Judge(s) shall assist the Chairperson in making a determination. The Judge(s) shall
137 also ensure that all ballots of voters whose eligibility may be in question, remain
138 confidential.

139

140 *Section D. Compensation Rates*

141 102.4-11. Election Board members are to be compensated at an hourly rate when conducting
142 elections as provided for in the Election Board's bylaws as approved by the Business Committee.
143 The Election Board shall have a budget, approved through the Nation's budgeting process.

144 102.4-12. The Trust Enrollment Department personnel and Oneida Police Officer(s) shall be
145 compensated at their regular rate of pay out of their respective budgets.

146

147 **102.5. Candidate Eligibility**

148 *Section A. Requirements*

149 102.5-1. In addition to any specific requirements and/or exceptions set out in duly adopted by-
150 laws or other documents, all applicants shall meet the minimum requirements set out in this section
151 in order to become a candidate.

152 102.5-2. Minimum Requirements. In order to be eligible to be a candidate, applicants shall:

153 (a) be an enrolled member of the Nation, as verified by membership rolls of the Nation.

154 (b) be a qualified voter on the day of the election.

155 (c) provide proof of physical residency as required for the position for which they have
156 applied. Proof of residency may be through one (1) or more of the following:

157 (1) a valid Wisconsin driver's license;

158 (2) a bill or pay check stub showing name and physical address of the candidate
159 from the prior or current month;

160 (3) another form of proof that identifies the candidate and that the candidate has
161 physically resided at the address and identifies that address as the primary
162 residence.

163 102.5-3. No applicant may have a conflict of interest with the position for which they are being
164 considered, provided that any conflict of interest which may be eliminated within thirty (30)
165 calendar days of being elected shall not be considered as a bar to election.

166 102.5-4. Applications shall be filed by presenting the information to the Nation's Secretary, or
167 designated agent, during normal business hours, 8:00 to 4:30 Monday through Friday, by April 24,
168 2020. No mailed, internal Nation mail delivery, faxed or other delivery method shall be accepted.

169 102.5-5. The names of the candidates and the positions sought shall be a public record and made
170 available to the public upon the determination of eligibility by the Election Board or the Board's
171 designated agent.

172

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173 *Section B. Eligibility Review*

174 102.5-6. Applicants found to be ineligible shall have two (2) business days to request an appeal.
175 At least four (4) Election Board members shall constitute a hearing body. The Chairperson shall
176 select the hearing body. The hearing shall be held within two (2) business days of receipt of the
177 appeal. The applicant shall be notified by phone of time and place of the hearing. The decision
178 of the hearing body shall be sent via certified mail or hand delivery within two (2) business days
179 of the hearing. Any appeal from a decision of the Election Board hearing body shall be to the
180 Judiciary on an accelerated schedule.

181 102.5-7. The Election Board shall be responsible for reviewing the qualifications of applicants to
182 verify eligibility. Any applicant found to be ineligible for a position shall be notified by certified
183 mail return receipt requested. The notice shall provide the following information:

- 184 (a) Position for which they were considered
185 (b) Qualification of the position and citation of the source. (Copies of source may be
186 attached.)
187 (c) A brief summary explaining why the applicant was found to be ineligible.
188 (d) That the applicant has two (2) business days from notification to make an appeal.
189 Appeals must be filed at the location designated on the notice by hand delivery. The
190 location designated shall be on the Reservation. No mailed, internal Nation mail, faxed or
191 other delivery method will be accepted.

192

193 *Section C. Campaign Financing*

194 102.5-8. Contributions:

- 195 (a) Solicitation of Contributions by Candidates.
196 (1) Candidates shall only accept contributions from individuals who are members
197 of the Nation or individuals related by blood or marriage to the candidate.
198 Candidates may not accept contributions from any business, whether sole
199 proprietorship, partnership, corporation, or other business entity.
200 (2) Candidates shall not solicit or accept contributions in any office or
201 business/facility of the Nation.

202 (b) Fines. Violation of the contribution restrictions shall result in a fine imposed by the
203 Election Board in an amount specified in a resolution adopted by the Business Committee.

204 102.5-9. Campaign Signs and Campaigning:

- 205 (a) Placement of campaign signs:
206 (1) Campaign signs shall not be posted or erected on any property of the Nation
207 except for private property with the owner/tenant's permission.
208 (2) No campaign sign shall exceed sixteen (16) square feet in area. A maximum
209 of seven (7) such signs may be placed on a building or on a lot.
210 (3) No campaign sign shall project beyond the property line into the public right
211 of way.
212 (b) Removal of campaign signs. All campaign signs shall be removed within five (5)
213 business days after an election.
214 (c) Employees of the Nation shall not engage in campaigning for offices of the Nation
215 during work hours. The Nation's employees shall be subject to disciplinary action under
216 the personnel policies and procedures for political campaigning during work hours.
217 (d) Enforcement. The Zoning Administrator shall cause to be removed any campaign

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218 signs that are not in compliance with this law, in accordance with the Zoning and Shoreland
219 Protection Law.

220 (e) Fines. Violation of the campaign sign restrictions shall result in a fine imposed by the
221 Election Board in an amount specified in a resolution adopted by the Business Committee.
222

223 *Section D. Candidate Withdrawal*

224 102.5-10. Any candidate may withdraw his or her name from a ballot if submitted in writing by
225 the candidate prior to submission of the ballot for printing to any Election Board member,
226 excluding alternates.

227 102.5-11. After printing of the ballot, any candidate may withdraw his or her name from the
228 election by submitting in writing a statement indicating they are withdrawing from the election
229 prior to the opening of the polls to any Election Board member, excluding alternates. This
230 statement shall be posted alongside any sample ballot printed prior to the election in the newspaper
231 or any posting at the polling places.

232 102.5-12. Candidates withdrawing after opening of the polls shall request, in writing to the
233 Election Board members in charge of the polling place, to be removed from the ballot. The written
234 statement shall be posted next to any posted sample ballot.

235 102.5-13. Candidates withdrawing by any method listed herein shall be denied any position from
236 which they have withdrawn regardless of the number of votes cast for that candidate. A written
237 statement shall be considered the only necessary evidence of withdrawal and acceptance of denial
238 of any position withdrawn from.

239 *102.5-14. Candidate Withdrawal After Winning an Election.*

240 (a) In the event a candidate declines an office after winning an election, the Election Board
241 shall declare the next highest vote recipient the winner. This procedure shall be repeated
242 as necessary until a winner is declared.

243 (b) If all vote recipients decline or are otherwise unable to be declared the winner, then a
244 Special Election shall be held.
245

246 **2.6. Selection of Candidates**

247 102.6-1. Any eligible member of the Nation may apply to be placed on a ballot according to the
248 following procedures:

249 (a) Applicants shall use an official form as designated by this law which may be
250 obtained in the Office of the Nation's Secretary.

251 (b) The form shall consist of information that satisfies the minimum requirements for
252 eligible candidates, as described in section 102.5-2 of this law.

253 (c) Applications shall be presented to the Nation's Secretary, or designated agent,
254 during normal business hours, 8:00 to 4:30 Monday through Friday, but no later than
255 prior to close of business on April 24, 2020. The location to drop-off applications shall
256 be the Business Committee Support Office.

257 (d) The Nation's Secretary shall forward all applications to the Election Board
258 Chairperson the next business day following the close of submissions.

259 102.6-2. A person who runs for a position on the Oneida Business Committee, or a position on a
260 judicial court or commission, shall not run for more than one (1) elective office or seat per election.
261

262 **102.7. Notice of Polling Places**

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263 102.7-1. The Election Board shall post a notice in the prominent locations, stating the location of
264 the polling places and the time the polls will be open. This notice shall also be posted in an easily
265 visible position, close to the entrance of the Nation's businesses/facilities.

266 102.7-2. Polling information shall be posted no less than ten (10) calendar days prior to the
267 election, and shall remain posted until the poll closes on the day of the election.

268 102.7-3. Except for a Special Election, notice for the election shall be mailed to all Nation
269 members, stating the time and place of the election and a sample of the ballot, no less than ten (10)
270 calendar days prior to the election, through a mass mailing. The Trust Enrollment Department
271 shall be notified, by the Election Board Chairperson, no less than twenty (20) calendar days prior
272 to the requested mailing.

273 102.7-4. Notice of the election shall be placed in the Nation's newspaper.

274

102.8. Registration of Voters*Section A. Requirements*

276 102.8-1. *Registration of Voters.* All enrolled members of the Nation, who are eighteen (18) years
277 of age or over, are qualified voters of such election(s) as defined in Article III, Section 2 of the
278 Oneida Nation Constitution.

279

Section B. Identification of Voters

281 102.8-2. All voters must present one of the following picture identifications in order to be able to
282 vote:

283

284 (a) Oneida Nation I.D.

285 (b) Drivers License.

286 (c) Other I.D. with name and photo.

287

Section C. Registration Procedures

288 102.8-3. Voters shall physically register, on the day of the election, at the polls.

289 102.8-4. Trust Enrollment Department personnel shall be responsible for verifying enrollment
290 with the Nation. Conduct of Trust Enrollment Department personnel is governed by the Election
291 Officials during the voting period.

292 102.8-5. Every person who intends to vote must sign his/her name on an official Voter Registration
293 Form containing the voter's following information:

294 (a) name and maiden name (if any);

295 (b) current address;

296 (c) date of birth; and

297 (d) enrollment number.

298

Section D. Qualification/Verification of Voter Eligibility

299 102.8-6. Should a question or dispute arise as to the eligibility of a voter being qualified to vote,
300 the Judges of the Election Officials appointed by the Election Board Chairperson shall meet with
301 the Trust Enrollment Department personnel who are registering voters, to decide the voting
302 member's eligibility currently being questioned and shall make such decisions from the facts
303 available, whether the applicant is, in fact, qualified/verifiable under the Oneida Nation
304 Constitution, Article III Section 2, to vote in the Nation's elections.

305 102.8-7. Any voter denied eligibility shall be allowed to vote, provided that the ballot shall be
306
307

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308 placed in an envelope, initialed by two (2) Election Officials, sealed and numbered. The name of
309 the voter shall be written next to a numbered list which corresponds to the numbered and sealed
310 envelope. The voter shall be required to mail a written appeal to the Election Board at P.O. Box
311 413, Oneida, Wisconsin, 54155, postmarked within two (2) business days of the election if they
312 desire to challenge the decision made by the Election Officials. The Election Board shall make a
313 final decision, within five (5) business days of receiving the appeal and shall report this decision
314 in the final report sent to the Oneida Business Committee.
315

102.9. Election Process*Section A. Polling Places and Times*

317 102.9-1. In accordance with Article III, Section 5 of the Oneida Nation Constitution, elections
318 shall be held in the month of July on a date set by the General Tribal Council. The General Tribal
319 Council shall set the election date at the January annual meeting, or at the first GTC meeting held
320 during a given year. Special Elections shall be set in accordance with 102.12-6.
321

322 102.9-2. Elections shall be held in an Oneida Nation facility(s) as determined by the Election
323 Board.

324 102.9-3. Voting for elections shall begin at 7:00 a.m. and shall end at 7:00 p.m. All voters in line
325 to vote at 7:00 p.m. shall be allowed to vote.

326 (a) If a ballot counting machine is used, the ballot counting machine shall be prepared
327 prior to 7:00 a.m. on the day of the election. The Judges shall open the polls only after four
328 (4) members of the Nation verify, through signature on the tape, the ballot box is empty
329 and the ballot counting machine printer tape has a zero (0) total count.

330 102.9-4. At least one (1) Oneida Police Officer shall be present during the time the polls are open,
331 and until the counting of ballots is completed, and tentative results posted.

332 102.9-5. The Election Board shall provide a voting area sufficiently isolated for each voter such
333 that there is an area with at least two sides and a back enclosure.

334 102.9-6. No campaigning of any type shall be conducted within two hundred eighty (280) feet of
335 the voting area, excluding private property.

336 102.9-7. No one causing a disturbance shall be allowed in the voting area.

337 102.9-8. Election Board members may restrict the voting area to qualified voters only. This
338 restriction is in the interest of maintaining security of the ballots and voting process.
339

Section B. Ballot Box

341 102.9-9. All ballots being votes, shall be placed in a receptacle clearly marked "Ballot Box" and
342 shall be locked until counting at the close of polls. Provided that, with electronic ballot counting,
343 the ballots may be placed within the ballot counting machine as they are received.
344

Section C. Spoiled Ballots

346 102.9-10. If a voter spoils his/her ballot, he/she shall be given a new ballot.

347 102.9-11. The spoiled ballot shall be marked "VOID" and initialed by two (2) Election Officials
348 and placed in an envelope marked as "Spoiled Ballots."

349 102.9-12. The Spoiled Ballot envelopes shall be retained and secured for no less than fifteen (15)
350 calendar days following finalization of any challenge of the election, at the Records Management
351 Department.
352

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353 *Section D. Rejected Ballots*

354 102.9-13. Rejected Ballots are to be placed in a specially marked container and sealed.

355 (a) Computer rejected ballots shall be reviewed by the Election Officials to verify the
356 authenticity of the ballot. Ballots rejected because of mutilation shall be added to the final
357 computer total, provided that, a new ballot was not received as set out in sections 102.9-10
358 through 102.9-12.359 (b) Ballots rejected, either during the computer process or during a manual counting, shall
360 be reviewed by the Election Officials to verify that they are authentic. If the Election
361 Officials determine that the ballot is not an official ballot, or that it is an illegal ballot, the
362 ballot shall be designated 'void,' and placed in a sealed container marked "Void Ballots."
363364 **102.10. Tabulating and Securing Ballots**365 *Section A. Machine Counted Ballots*366 102.10-1. When ballots are counted by machine, at the close of polls the Judges shall generate
367 from the ballot counting machine copies of the election totals from the votes cast.368 102.10-2. At least three (3) Election Board members shall sign the election totals, which shall
369 include the tape signed by the members of the Nation before the polls were opened per section
370 102.9-3(a).
371372 *Section B. Manually Counted Ballots*373 102.10-3. When ballots are manually counted, at the close of polls the Judges shall unlock the
374 ballot box and remove the ballots.375 102.10-4. If the ballots need to be counted at a location other than the polling site, the ballots shall
376 be secured in a sealed container for transportation to the ballot counting location. The sealed
377 ballots shall be transported by an Oneida Police Officer with at least three (3) of the Election
378 Officials for counting/tallying of ballots.379 102.10-5. The sealed ballots shall be opened at the time of counting by the Election Officials and
380 witnessed/monitored by an Oneida Police Officer.381 102.10-6. Ballots must be counted by two different Election Officials until two final tallies are
382 equal in back to back counting. Final tallies shall be verified by the Election Judges.
383384 *Section C. Securing Ballots*385 102.10-7. The Judges shall place together all ballots counted and secure them together so that they
386 cannot be untied or tampered with without breaking the seal. The secured ballots, and the election
387 totals with the signed tape, if applicable, shall then be secured by the Judges in a sealed container
388 in such a manner that the container cannot be opened without breaking the seals or locks, or
389 destroying the container. The Oneida Police Officer shall then deliver, on the day of the election,
390 the sealed container to the Records Management Department for retaining.
391392 **102.11. Election Outcome and Ties**393 *Section A. Election Results Announcement*394 102.11-1. The tentative results of an election shall be announced and posted by the Election Board
395 within twenty-four (24) hours after the closing of the polls. Notices of election results shall contain
396 the following statement:397 *"The election results posted here are tentative results. Final election results are forwarded*

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398 *by the Oneida Election Board to the Oneida Business Committee via a Final Report after*
399 *time has lapsed for recount requests, or challenges or after all recounts or challenges*
400 *have been completed, whichever is longer”*

401 102.11-2. The Election Board shall post, in the prominent locations, and publish in the Nation’s
402 newspaper, the tentative results of an election.

403

404 *Section B. Tie*

405 102.11-3. In the event of a tie for any office, and where the breaking of a tie is necessary to
406 determine the outcome of an election, the Election Board shall conduct an automatic recount of
407 the votes for each candidate receiving the same number of votes. Any recount conducted shall be
408 the only recount allowed for the tied candidates.

409 102.11-4. For Business Committee positions, a run-off election between the candidates with the
410 same number of votes shall be held if there remains a tie after the recount. Said run-off election
411 shall be held within twenty one (21) calendar days after the recount. For all other positions, if
412 there remains a tie after the recount, the Election Board shall decide the winner of the tied positions
413 at least two (2) business days after, but no more than five (5) business days after the recount
414 through a lot drawing, which shall be open to the public.

415 (a) The Election Board shall notify each of the tied candidates and the public of the date,
416 time, and place of the drawing at least one (1) business day before the drawing. Notice to
417 the tied candidates shall be in writing. Notice to the public shall be posted by the Election
418 Board in the prominent locations.

419 (b) On the date and at the time and place the drawing was noticed, the Election Board
420 Chairperson shall clearly write the name of each tied candidate on separate pieces of paper
421 in front of any witnesses present. The pieces of paper shall be the same, or approximately
422 the same, color, size, and type. The papers shall be folded in half and placed in a container
423 selected by the Election Board Chairperson.

424 (c) The Election Board Chairperson shall designate an uninterested party to draw a name
425 from the container. The candidate whose name is drawn from the container first shall be
426 declared the winner. An Election Board member other than the Chairperson shall remove
427 the remaining pieces of paper from the container and show them to the witnesses present.

428

429 *Section C. Recount Procedures*

430 102.11-5. A candidate may request the Election Board to complete a recount, provided the margin
431 between the requesting candidate’s vote total and vote total for the unofficial winner was within
432 two percent (2%) of the total votes for the office being sought or twenty (20) votes, whichever is
433 greater. A candidate requests a recount by hand delivering a written request to the office of the
434 Nation’s Secretary, or noticed designated agent, within five (5) business days after the election.
435 Requests shall be limited to one (1) request per candidate. The Nation’s Secretary shall contact
436 the Election Board Chairperson by the next business day after the request for recounts.

437 102.11-6. The Election Board shall respond by the close of business on the fifth (5th) day after the
438 request regarding the results of the recount. Provided that, no recount request need be honored
439 where there have been two (2) recounts completed as a result of a request either as a recount of the
440 whole election results, or of that sub-section.

441 102.11-7. All recounts shall be conducted manually with, if possible, the original Election
442 Officials and Oneida Police Officer present, regardless of the original type of counting process.

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443 Manual recounts may, at the discretion of the Election Officials, be of the total election results, or
444 of the challenged sub-section of the election results.

445 102.11-8. The Oneida Police Officer shall be responsible for picking up the locked, sealed
446 container with the ballots from the Records Management Department and transporting it to the
447 ballot recounting location.

448 102.11-9. A recount shall be conducted by a quorum of the Election Board, including at least three
449 (3) of the original Election Officials. The locked, sealed ballots shall be opened by the Election
450 Board Chairperson and an Oneida Police Officer shall witness the recount.

451 102.11-10. Recounting of ballots may be performed manually or by computer. All ballots shall be
452 counted until two (2) final tallies are equal in back to back counting and the total count of ballots
453 reconciles with the total count from the ballot counting machine. Sub-sections of candidates may
454 be recounted in lieu of a full recount.

455 (a) Manually counted ballots shall be recounted by the Election Board. Ballots shall be
456 counted twice by different persons and certified by the Judges.

457 (b) Computer counted ballots shall be recounted twice and certified by the Judges. Prior
458 to using an electronic ballot counting device, it shall be certified as correct either by the
459 maker, lessor of the machine, or Election Board.

460

461 *Section D. Challenges and Declaration of Results*

462 102.11-11. *Challenges.* Any qualified voter may challenge the results of an election by filing a
463 complaint with the Judiciary within ten (10) calendar days after the election. The Judiciary shall
464 hear and decide a challenge to any election within two (2) business days after the challenge is filed.
465 Any appeal to the appellate body of the Judiciary shall be filed within one (1) business day after
466 the issuance of the lower body's decision and decided within two (2) business days after the appeal
467 is filed.

468 (a) The person challenging the election results shall prove by clear and convincing
469 evidence that the Election Law was violated or an unfair election was conducted, and that
470 the outcome of the election would have been different but for the violation.

471 (b) If the Judiciary invalidates the election results, a Special Election shall be ordered by
472 the Judiciary for the office(s) affected to be held on a date set by the Judiciary for as soon
473 as the Election Law allows for a Special Election.

474 102.11-12. *The Final Report.* The Election Board shall forward a Final Report to the Nation's
475 Secretary after time has lapsed for recount requests, or challenges or after all recounts or challenges
476 have been completed, whichever is longer. The Final Report shall consist of the following
477 information:

478 (a) Total number of persons voting.

479 (b) Total votes cast for each candidate by subsection of the ballot.

480 (c) List of any ties and final results of those ties, including the method of resolution.

481 (d) List of candidates elected and position elected to.

482 (e) Number of spoiled ballots.

483 (f) Cost of the election, including the compensation paid to each Election Board member.

484 102.11-13. *Declaration of Results.* The Business Committee shall declare the official results of
485 the election and send notices regarding when the swearing in of newly elected officials shall take
486 place within ten (10) business days after receipt of the Final Report.

487 102.11-14. Candidates elected to the Business Committee shall resign from any salaried position

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488 effective prior to taking a Business Committee oath of office

489 102.11-15. Except in the event of an emergency, as determined by the Business Committee,
490 newly elected officials shall be sworn into office no later than thirty (30) calendar days after the
491 official results of an election are declared by the Business Committee.

492 (a) If a newly elected official is not sworn in within thirty (30) calendar days, the seat shall
493 be considered vacant and the Election Board shall declare the next highest vote recipient
494 the winner. This procedure shall be repeated as necessary until a winner is declared.

495 (b) If all vote recipients decline or are otherwise unable to be declared the winner, then a
496 Special Election shall be held.

497 102.11-16. The Election Board shall send notice to the Records Management Department to
498 destroy the ballots thirty (30) calendar days after the election or after the final declaration of official
499 election results occurs, whichever is longer.

500

501 102.12. Elections

502 Section A. Primary Elections; Business Committee

503 102.12-1. ~~When to Hold a primary Primary Election. A primary election for Business Committee~~
504 ~~positions is required under 102.12-2, it shall~~to be held on a Saturday at least sixty (60) calendar
505 days prior to the election-

506 ~~102.12-2. There shall be a primary election for Business Committee positions~~ whenever there are
507 three (3) or more candidates for any officer positions or sixteen (16) or more candidates for the at-
508 large council member positions.

509 (a) The two (2) candidates receiving the highest number of votes cast for each officer
510 position shall be placed on the ballot.

511 (b) The fifteen (15) candidates receiving the highest number of votes cast for the at-large
512 council member positions shall be placed on the ballot.

513 (c) Any position where a tie exists to determine the candidates to be placed on the ballot
514 shall include all candidates where the tie exists.

515 102.12-~~3-2~~. ~~Cancelation of a Primary Election. A primary election for Business Committee~~
516 ~~positions may be canceled in the following circumstances:~~

517 (a) The Election Board shall cancel the primary election if the Business Committee
518 positions did not draw the requisite number of candidates for a primary.

519 (b) ~~The Election Board may recommend to the Business Committee the cancellation of~~
520 ~~the primary election when large gatherings of people present a substantial risk to the~~
521 ~~health and safety of the Nation's citizens. The Business Committee shall consider the~~
522 ~~Election Board's recommendation at the next scheduled Business Committee meeting and~~
523 ~~decide whether to cancel the primary election.~~

524 (1) ~~In the event the Business Committee cancels the primary election, all~~
525 ~~candidates that are determined eligible according to section 102.5 and are not~~
526 ~~made ineligible under section 102.6-2 shall be placed on the ballot for the general~~
527 ~~election.~~

528 102.12-4. In the event a candidate withdraws or is unable to run for office after being declared a
529 winner in the primary, the Election Board shall declare the next highest primary vote recipient the
530 primary winner. This procedure shall be repeated as necessary until the ballot is full or until there
531 are no available candidates. If the ballot has already been printed, the procedures for notifying the
532 Oneida public in section 102.5-11 and 102.5-12 shall be followed, including the requirement to

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§ 33 print a notice in the Nation's newspaper if ~~time lines~~timelines allow.

534

Section B. Special Elections

536 102.12-5. Matters subject to a Special Election, i.e., referendum, vacancies, petitions, etc., as
537 defined in this law, may be placed on the same ballot as the subject matter of an election.

538 102.12-6. Dates of all Special Elections shall be set, as provided for in this law, by the Business
539 Committee as recommended by the Election Board or as ordered by the Judiciary in connection
540 with an election challenge.

541 102.12-7. Notice of said Special Election shall be posted by the Election Board in the prominent
542 locations, and placed in the Nation's newspaper not less than ten (10) calendar days prior to the
543 Special Election.

544 102.12-8. In the event of an emergency, the Election Board may reschedule the election, provided
545 that no less than twenty-four (24) hours notice of the rescheduled election date is given to the
546 voters, by posting notices in the prominent locations.

547

Section C. Initiation of Special Elections

549 102.12-9. Special Elections may be initiated by a request or directive of the General Tribal Council
550 or the Oneida Business Committee.

551 102.12-10. Special Election may be requested by a member of the Nation to the Business
552 Committee or General Tribal Council.

553 102.12-11. All Special Elections shall follow rules established for all other elections. This includes
554 positions for all Boards, Committees and Commissions.

555

102.13. Oneida Nation Constitution and By-law Amendments

557 102.13-1. Pursuant to Article VI of the Oneida Nation Constitution, amendments to the Oneida
558 Nation Constitution and By-laws may be initiated by the Oneida Business Committee or a petition
559 of qualified voters. The requirements for the Oneida Business Committee's initiation of
560 Constitutional amendments are as provided in the Constitution and as further detailed in the
561 supporting standard operating procedures which the Oneida Business Committee shall adopt.
562 Qualified voters may petition to amend the Oneida Nation Constitution and By-laws by submitting
563 a petition to the Office of the Nation's Secretary which includes the full text of the proposed
564 amendments and signatures that are equal in number to at least ten percent (10%) of all members
565 qualified to vote.

566 (a) Qualified voters may request a petition form from the Office of the Nation's Secretary.

567 (b) When a petition form is requested, the Nation's Secretary, or his or her designee, shall
568 direct the Trust Enrollment Department to calculate the number of signatures currently
569 required for a petition submittal, which shall be ten percent (10%) of all members qualified
570 to vote on the date the petition form is requested from the Office of the Nation's Secretary.
571 When the Nation's Secretary receives the calculation from the Trust Enrollment
572 Department, the Nation's Secretary shall provide the requester with the petition form and
573 the number of signatures that are currently required.

574 (c) Such petitions shall be circulated with all supporting materials and submitted a
575 minimum of ninety (90) days prior to the election at which the proposed amendment is to
576 be voted upon. If a petition includes supporting materials in addition to the petition form,
577 each qualified voter signing the petition shall also acknowledge that the supporting

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578 materials were available for review at the time he or she signed the petition by initialing
579 where required on the petition form.

580 (d) The Nation's Secretary shall forward submitted petitions to the Trust Enrollment
581 Department for verification of signatures and to the Election Board to provide notice that
582 the petition may need to be placed on an upcoming ballot.

583 (e) If the petition is verified by the Trust Enrollment Department to contain signatures from
584 at least ten percent (10%) of all qualified voters, the Election Board shall make an official
585 announcement of the proposed amendments to the Oneida Nation Constitution at least sixty
586 (60) days prior to the election at which the proposed amendments are to be voted on.

587 102.13-2. The Election Board shall place any proposed amendments to the Oneida Nation
588 Constitution that meet the requirements contained in 102.13-1 on the ballot at the next general
589 election. Provided that, the Oneida Business Committee or General Tribal Council may order a
590 special election be held to consider the proposed amendments. In such circumstances, the Election
591 Board shall place any proposed amendments to the Oneida Nation Constitution on the ballot at the
592 next special election.

593 102.13-3. The Election Board shall publish any proposed amendments by publishing a sample
594 ballot no less than ten (10) calendar days prior to the election, through a mass mailing. The Trust
595 Enrollment Department shall be notified, by the Election Board Chairperson, no less than twenty
596 (20) calendar days prior to the requested mailing. Copies of such publications shall be prominently
597 posted in each polling place and at administrative offices of the Nation and shall also be published
598 in official Oneida media outlets, which the Oneida Business Committee shall identify by
599 resolution. For the purposes of this section, Oneida administrative offices means the location
600 where the Oneida Business Committee conducts business.

601 102.13-4. The Election Board shall ensure that the ballot contains a statement of the purpose of
602 the proposed amendments prepared by the Oneida Law Office. The Oneida Law Office shall
603 ensure that the statement of purpose is one hundred (100) words or less exclusive of caption, is a
604 true and impartial statement and is written in such a manner that does not create prejudice for or
605 against the proposed amendment.

606 102.13-5. Pursuant to Article VI, Section 3 of the Oneida Nation Constitution, proposed
607 amendments that are approved by sixty-five percent (65%) of the qualified voters that vote on that
608 amendment shall become part of the Constitution and By-laws, and shall abrogate or amend
609 existing provisions of the Constitution and By-laws at the end of thirty (30) days after submission
610 of the final election report.

611 102.13-6. If two (2) or more amendments approved by the voters at the same election conflict, the
612 amendment receiving the highest affirmation vote prevails.
613
614

615 *End.*

~~616~~

618 Adopted - June 19, 1993

619 Amended - June 28, 1995 (Adopted by BC on Behalf of GTC, Completion of Agenda)

620 Presented for Adoption of 1997 Revisions - GTC-7-6-98-A

621 Amended- October 11, 2008 (General Tribal Council Meeting)

622 Amended-GTC-01-04-10-A

623 Amended – BC-02-25-15-C

624 Amended – GTC-04-23-17-A

625 Emergency Amended – BC-03-17-20-B

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§26 Emergency Amended – BC- - - -

Title 1. Government and Finances - Chapter 102
On<yote>a=k@= Tho Ni= Y%t Tsi> <yethiyatal@ko Tsi> Kayanl^hsla
People of the Standing Stone how it is we will appoint them the kind of laws we have
ELECTION

102.1. Purpose and Policy	102.8. Registration of Voters
102.2. Adoption, Amendment, Repeal	102.9. Election Process
102.3. Definitions	102.10. Tabulating and Securing Ballots
102.4. Election Board	102.11. Election Outcome and Ties
102.5. Candidate Eligibility	102.12. Elections
102.6. Selection of Candidates	102.13. Oneida Nation Constitution and By-law Amendments
102.7. Notice of Polling Places	

1 **102.1. Purpose and Policy**

2 102.1-1. It is the policy of the Nation that this law shall govern the procedures for the conduct of
3 orderly elections of the Nation, including pre-election activities. Because of the desire for orderly
4 and easily understood elections, there has not been an allowance made for write-in candidates on
5 ballots.

6 102.1-2. This law defines the duties and responsibilities of the Election Board members and other
7 persons employed by the Oneida Nation in the conduct of elections. It is intended to govern all
8 procedures used in the election process.

9

10 **102.2. Adoption, Amendment, Repeal**

11 102.2-1. This law was adopted by the Oneida General Tribal Council by resolution GTC 07-06-
12 98-A and amended by resolutions GTC-01-04-10-A, BC-02-25-15-C, GTC-04-23-17-A, BC-03-
13 17-20-B, and emergency amended by BC-__-__-__-__.

14 102.2-2. This law may be amended or repealed by the Oneida General Tribal Council pursuant to
15 the procedures set out in the Legislative Procedures Act. Actions of the Election Board regarding
16 amendments to this law and policies adopted regarding implementation of this law are to be
17 presented to the Business Committee who shall then adopt or forward action(s) to the General
18 Tribal Council for adoption.

19 102.2-3. Should a provision of this law or the application thereof to any person or circumstances
20 be held as invalid, such invalidity shall not affect other provisions of this law which are considered
21 to have legal force without the invalid portions.

22 102.2-4. In the event of a conflict between a provision of this law and a provision of another law,
23 the provisions of this law shall control.

24 102.2-5. This law is adopted under authority of the Constitution of the Oneida Nation.

25

26 **102.3. Definitions**

27 102.3-1. This section shall govern the definitions of words and phrases used within this law. All
28 words not defined herein shall be used in their ordinary and everyday sense.

29 102.3-2. "Alternate" shall mean an individual appointed by the Business Committee to serve on
30 the Election Board during an election and until election results have been certified.

31 102.3-3. "Applicant" shall mean a potential candidate who has not yet been officially approved for
32 acceptance on a ballot.

33 102.3-4. "Business day" shall mean Monday through Friday, 8:00 a.m. – 4:30 p.m., excluding
34 holidays of the Nation.

35 102.3-5. "Campaigning" shall mean all efforts designed to influence members of the Nation to
36 support or reject a particular candidate of the Nation including, without limitation, advertising,
37 rallying, public speaking, or other communications with members of the Nation.

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- 38 102.3-6. "Candidate" shall mean an applicant for an elected position whose name is placed on the
39 ballot by the Election Board after successful application.
- 40 102.3-7. "Clerk" shall mean the election official who identifies proper registration for the purpose
41 of determining voter eligibility.
- 42 102.3-8. "Close of business" shall mean 4:30 p.m. Monday through Friday.
- 43 102.3-9. "Conflict of Interest" shall mean any interest, whether it be personal, financial, political
44 or otherwise, in which a Nation elected official, employee, consultant, appointed or elected,
45 member of any board, committee or commission, or their immediate relatives, friends or
46 associates, or any other person with whom they have contact, that conflicts with any right of the
47 Nation to property, information, or any other right to own and operate its enterprises, free from
48 undisclosed competition or other violation of such rights of the Oneida Nation, or as defined in
49 any law or policy of the Nation.
- 50 102.3-10. "Election" shall mean every primary and election.
- 51 102.3-11. "General election" shall mean the election held every three (3) years in July to elect the
52 Chairperson, Vice-Chairperson, Secretary, Treasurer, and the five Council Members of the
53 Business Committee and may include contests for elected boards, committees and commissions
54 positions.
- 55 102.3-12. "Judge" shall mean the election official who informs and advises the Chairperson of
56 discrepancies, complaints and controversy regarding voter eligibility.
- 57 102.3-13. "Judiciary" means the judicial system that was established by Oneida General Tribal
58 Council resolution GTC-01-07-13-B to administer the judicial authorities and responsibilities of
59 the Nation.
- 60 102.3-14. "Lot drawing" shall mean the equal chance method used to select a candidate as the
61 winner of an elected position, in the case of a tie between two (2) or more candidates.
- 62 102.3-15. "Nation" means the Oneida Nation.
- 63 102.3-16. "Nation's newspaper" shall mean the Kalihwisaks, or any other newspaper operated by
64 the Nation for the benefit of transmitting news to members of the Nation, which is designated by
65 the Election Board as a source for election related news.
- 66 102.3-17. "Oneida Police Officer" shall mean an enrolled member of the Oneida Nation who is a
67 police officer on any police force.
- 68 102.3-18. "Private property" shall mean any lot of land not owned by the Nation, a residential
69 dwelling or a privately owned business within the boundaries of the Reservation.
- 70 102.3-19. "Prominent locations" shall mean the polling places, main doors of the Norbert Hill
71 Center, main doors of the Oneida Community Library, Tsyunhehkwa Retail Store, the Oneida
72 Community Health Center, the SEOTS building and all One-Stop locations.
- 73 102.3-20. "Qualified voter" shall mean an enrolled member of the Nation who is eighteen (18)
74 years of age or older.
- 75 102.3-21. "Rejected Ballots" shall mean those ballots which are rejected by the vote tabulating
76 machine.
- 77 102.3-22. "Spoiled Ballot" shall mean a ballot which contains a voter error or is otherwise marred
78 and is not tabulated.
- 79 102.3-23. "Teller" shall mean the election official in charge of collecting and storing of all ballots.

80

81

102.4. Election Board

82

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83 *Section A. Establishment, Composition and Election*

84 102.4-1. An Election Board is hereby created for the purpose of carrying out the provisions of this
85 law and Article III, Sections 2 and 3 of the Oneida Nation Constitution.

86 102.4-2. The Election Board shall consist of nine (9) elected members. All members shall be
87 elected to terms of three (3) years, not to exceed two (2) consecutive terms.

88 102.4-3. *Recusal.* An Election Board member shall recuse himself/herself from participating as an
89 Election Board member in any pre-election, election day, or post-election activities while he or
90 she is an applicant or candidate in any election or there is otherwise a conflict of interest.

91 102.4-4. *Removal.* Removal of members shall be pursuant to the Oneida Removal Law. A member
92 who is removed from the Election Board shall be ineligible to serve on the Board for three (3)
93 years from the time he or she is removed from the Election Board.

94 102.4-5. *Vacancies.* Any vacancy in an unexpired term shall be filled by appointment by the
95 Business Committee for the balance of the unexpired term. The filling of a vacancy may be timed
96 to correspond with the pre-election activities and the needs of the Election Board.

97 102.4-6. The Election Board shall identify tellers, judges and clerks in advance of an election.

98 102.4-7 The Business Committee may appoint or reappoint a sufficient number of alternates to
99 the Election Board, as recommended by the Election Board, to assist with election day and pre-
100 election activities.

101 102.4-8. The Election Board shall choose a Chairperson from amongst themselves as set out in
102 the By-laws of the Election Board, to preside over the meetings. This selection shall be carried
103 out at the first meeting of the Election Board following an election. The Chairperson shall then
104 ask the Election Board to select a Vice-Chairperson and Secretary.

105
106 *Section B. Duties of the Election Board*

107 102.4-9. The Election Board shall have the following duties, along with other responsibilities listed
108 throughout this law.

- 109 (a) The Election Board shall be in charge of all registration and election procedures; and
110 (b) Upon completion of an election, the Election Board shall make a final report on the
111 election results as set out in this law.

112
113 *Section C. Specific Duties of Officers and Election Board Members*

114 102.4-10. Specific duties of the Chairperson and other Election Board members, in addition to
115 being present at all Election Board meetings and assisting the handicapped through the voting
116 process, are as set out herein:

117 (a) Chairperson: Shall preside over meetings of the Election Board; shall select the hearing
118 body for applicants found to be ineligible in accordance with 102.5-6 in the event of an
119 appeal; shall oversee the conduct of the election; shall dismiss the alternates and Trust
120 Enrollment Department personnel when their election day duties are complete; and shall
121 post and report election results.

122 (b) Vice-Chairperson: Shall preside over all meetings in the absence of the Chairperson.

123 (c) Secretary: Shall keep a record of the meetings and make them available to the Nation's
124 Secretary, other Election Board members and the public as required in the Open Records
125 and Open Meetings Law.

126 (d) Clerks: Shall implement the requirements of identifying and registering all voters and
127 determining voter eligibility. Clerks shall work in conjunction with the Trust Enrollment

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128 Department personnel in the registration process, and assist the Chairperson as directed in
129 conducting the election. Clerks cannot be currently employed by the Trust Enrollment
130 Department.

131 (e) Tellers: Shall collect and keep safe all ballots, until the election is complete, as
132 determined by this law. Shall assist the Chairperson in conducting the election.

133 (f) Judges: Shall inform and advise the Chairperson of all aspects of the election conducted
134 under this law. In case of disputes among Election Board members, or between members
135 of the Nation and Election Board members, or any controversy regarding voter eligibility,
136 the Judge(s) shall assist the Chairperson in making a determination. The Judge(s) shall
137 also ensure that all ballots of voters whose eligibility may be in question, remain
138 confidential.

139

140 *Section D. Compensation Rates*

141 102.4-11. Election Board members are to be compensated at an hourly rate when conducting
142 elections as provided for in the Election Board's bylaws as approved by the Business Committee.
143 The Election Board shall have a budget, approved through the Nation's budgeting process.

144 102.4-12. The Trust Enrollment Department personnel and Oneida Police Officer(s) shall be
145 compensated at their regular rate of pay out of their respective budgets.

146

147 **102.5. Candidate Eligibility**

148 *Section A. Requirements*

149 102.5-1. In addition to any specific requirements and/or exceptions set out in duly adopted by-
150 laws or other documents, all applicants shall meet the minimum requirements set out in this section
151 in order to become a candidate.

152 102.5-2. Minimum Requirements. In order to be eligible to be a candidate, applicants shall:

153 (a) be an enrolled member of the Nation, as verified by membership rolls of the Nation.

154 (b) be a qualified voter on the day of the election.

155 (c) provide proof of physical residency as required for the position for which they have
156 applied. Proof of residency may be through one (1) or more of the following:

157 (1) a valid Wisconsin driver's license;

158 (2) a bill or pay check stub showing name and physical address of the candidate
159 from the prior or current month;

160 (3) another form of proof that identifies the candidate and that the candidate has
161 physically resided at the address and identifies that address as the primary
162 residence.

163 102.5-3. No applicant may have a conflict of interest with the position for which they are being
164 considered, provided that any conflict of interest which may be eliminated within thirty (30)
165 calendar days of being elected shall not be considered as a bar to election.

166 102.5-4. Applications shall be filed by presenting the information to the Nation's Secretary, or
167 designated agent, during normal business hours, 8:00 to 4:30 Monday through Friday, by April 24,
168 2020. No mailed, internal Nation mail delivery, faxed or other delivery method shall be accepted.

169 102.5-5. The names of the candidates and the positions sought shall be a public record and made
170 available to the public upon the determination of eligibility by the Election Board or the Board's
171 designated agent.

172

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174 102.5-6. Applicants found to be ineligible shall have two (2) business days to request an appeal.
175 At least four (4) Election Board members shall constitute a hearing body. The Chairperson shall
176 select the hearing body. The hearing shall be held within two (2) business days of receipt of the
177 appeal. The applicant shall be notified by phone of time and place of the hearing. The decision
178 of the hearing body shall be sent via certified mail or hand delivery within two (2) business days
179 of the hearing. Any appeal from a decision of the Election Board hearing body shall be to the
180 Judiciary on an accelerated schedule.

181 102.5-7. The Election Board shall be responsible for reviewing the qualifications of applicants to
182 verify eligibility. Any applicant found to be ineligible for a position shall be notified by certified
183 mail return receipt requested. The notice shall provide the following information:

- 184 (a) Position for which they were considered
185 (b) Qualification of the position and citation of the source. (Copies of source may be
186 attached.)
187 (c) A brief summary explaining why the applicant was found to be ineligible.
188 (d) That the applicant has two (2) business days from notification to make an appeal.
189 Appeals must be filed at the location designated on the notice by hand delivery. The
190 location designated shall be on the Reservation. No mailed, internal Nation mail, faxed or
191 other delivery method will be accepted.

192

193 *Section C. Campaign Financing*

194 102.5-8. Contributions:

- 195 (a) Solicitation of Contributions by Candidates.
196 (1) Candidates shall only accept contributions from individuals who are members
197 of the Nation or individuals related by blood or marriage to the candidate.
198 Candidates may not accept contributions from any business, whether sole
199 proprietorship, partnership, corporation, or other business entity.
200 (2) Candidates shall not solicit or accept contributions in any office or
201 business/facility of the Nation.
202 (b) Fines. Violation of the contribution restrictions shall result in a fine imposed by the
203 Election Board in an amount specified in a resolution adopted by the Business Committee.

204 102.5-9. Campaign Signs and Campaigning:

- 205 (a) Placement of campaign signs:
206 (1) Campaign signs shall not be posted or erected on any property of the Nation
207 except for private property with the owner/tenant's permission.
208 (2) No campaign sign shall exceed sixteen (16) square feet in area. A maximum
209 of seven (7) such signs may be placed on a building or on a lot.
210 (3) No campaign sign shall project beyond the property line into the public right
211 of way.
212 (b) Removal of campaign signs. All campaign signs shall be removed within five (5)
213 business days after an election.
214 (c) Employees of the Nation shall not engage in campaigning for offices of the Nation
215 during work hours. The Nation's employees shall be subject to disciplinary action under
216 the personnel policies and procedures for political campaigning during work hours.
217 (d) Enforcement. The Zoning Administrator shall cause to be removed any campaign

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218 signs that are not in compliance with this law, in accordance with the Zoning and Shoreland
219 Protection Law.

220 (e) Fines. Violation of the campaign sign restrictions shall result in a fine imposed by the
221 Election Board in an amount specified in a resolution adopted by the Business Committee.
222

223 *Section D. Candidate Withdrawal*

224 102.5-10. Any candidate may withdraw his or her name from a ballot if submitted in writing by
225 the candidate prior to submission of the ballot for printing to any Election Board member,
226 excluding alternates.

227 102.5-11. After printing of the ballot, any candidate may withdraw his or her name from the
228 election by submitting in writing a statement indicating they are withdrawing from the election
229 prior to the opening of the polls to any Election Board member, excluding alternates. This
230 statement shall be posted alongside any sample ballot printed prior to the election in the newspaper
231 or any posting at the polling places.

232 102.5-12. Candidates withdrawing after opening of the polls shall request, in writing to the
233 Election Board members in charge of the polling place, to be removed from the ballot. The written
234 statement shall be posted next to any posted sample ballot.

235 102.5-13. Candidates withdrawing by any method listed herein shall be denied any position from
236 which they have withdrawn regardless of the number of votes cast for that candidate. A written
237 statement shall be considered the only necessary evidence of withdrawal and acceptance of denial
238 of any position withdrawn from.

239 102.5-14. *Candidate Withdrawal After Winning an Election.*

240 (a) In the event a candidate declines an office after winning an election, the Election Board
241 shall declare the next highest vote recipient the winner. This procedure shall be repeated
242 as necessary until a winner is declared.

243 (b) If all vote recipients decline or are otherwise unable to be declared the winner, then a
244 Special Election shall be held.
245

246 **2.6. Selection of Candidates**

247 102.6-1. Any eligible member of the Nation may apply to be placed on a ballot according to the
248 following procedures:

249 (a) Applicants shall use an official form as designated by this law which may be
250 obtained in the Office of the Nation's Secretary.

251 (b) The form shall consist of information that satisfies the minimum requirements for
252 eligible candidates, as described in section 102.5-2 of this law.

253 (c) Applications shall be presented to the Nation's Secretary, or designated agent,
254 during normal business hours, 8:00 to 4:30 Monday through Friday, but no later than
255 prior to close of business on April 24, 2020. The location to drop-off applications shall
256 be the Business Committee Support Office.

257 (d) The Nation's Secretary shall forward all applications to the Election Board
258 Chairperson the next business day following the close of submissions.

259 102.6-2. A person who runs for a position on the Oneida Business Committee, or a position on a
260 judicial court or commission, shall not run for more than one (1) elective office or seat per election.
261

262 **102.7. Notice of Polling Places**

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263 102.7-1. The Election Board shall post a notice in the prominent locations, stating the location of
264 the polling places and the time the polls will be open. This notice shall also be posted in an easily
265 visible position, close to the entrance of the Nation's businesses/facilities.

266 102.7-2. Polling information shall be posted no less than ten (10) calendar days prior to the
267 election, and shall remain posted until the poll closes on the day of the election.

268 102.7-3. Except for a Special Election, notice for the election shall be mailed to all Nation
269 members, stating the time and place of the election and a sample of the ballot, no less than ten (10)
270 calendar days prior to the election, through a mass mailing. The Trust Enrollment Department
271 shall be notified, by the Election Board Chairperson, no less than twenty (20) calendar days prior
272 to the requested mailing.

273 102.7-4. Notice of the election shall be placed in the Nation's newspaper.

274

275 **102.8. Registration of Voters**

276 *Section A. Requirements*

277 102.8-1. *Registration of Voters.* All enrolled members of the Nation, who are eighteen (18) years
278 of age or over, are qualified voters of such election(s) as defined in Article III, Section 2 of the
279 Oneida Nation Constitution.

280

281 *Section B. Identification of Voters*

282 102.8-2. All voters must present one of the following picture identifications in order to be able to
283 vote:

- 284 (a) Oneida Nation I.D.
- 285 (b) Drivers License.
- 286 (c) Other I.D. with name and photo.

287

288 *Section C. Registration Procedures*

289 102.8-3. Voters shall physically register, on the day of the election, at the polls.

290 102.8-4. Trust Enrollment Department personnel shall be responsible for verifying enrollment
291 with the Nation. Conduct of Trust Enrollment Department personnel is governed by the Election
292 Officials during the voting period.

293 102.8-5. Every person who intends to vote must sign his/her name on an official Voter Registration
294 Form containing the voter's following information:

- 295 (a) name and maiden name (if any);
- 296 (b) current address;
- 297 (c) date of birth; and
- 298 (d) enrollment number.

299

300 *Section D. Qualification/Verification of Voter Eligibility*

301 102.8-6. Should a question or dispute arise as to the eligibility of a voter being qualified to vote,
302 the Judges of the Election Officials appointed by the Election Board Chairperson shall meet with
303 the Trust Enrollment Department personnel who are registering voters, to decide the voting
304 member's eligibility currently being questioned and shall make such decisions from the facts
305 available, whether the applicant is, in fact, qualified/verifiable under the Oneida Nation
306 Constitution, Article III Section 2, to vote in the Nation's elections.

307 102.8-7. Any voter denied eligibility shall be allowed to vote, provided that the ballot shall be

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308 placed in an envelope, initialed by two (2) Election Officials, sealed and numbered. The name of
309 the voter shall be written next to a numbered list which corresponds to the numbered and sealed
310 envelope. The voter shall be required to mail a written appeal to the Election Board at P.O. Box
311 413, Oneida, Wisconsin, 54155, postmarked within two (2) business days of the election if they
312 desire to challenge the decision made by the Election Officials. The Election Board shall make a
313 final decision, within five (5) business days of receiving the appeal and shall report this decision
314 in the final report sent to the Oneida Business Committee.

315

102.9. Election Process*Section A. Polling Places and Times*

317 102.9-1. In accordance with Article III, Section 5 of the Oneida Nation Constitution, elections
318 shall be held in the month of July on a date set by the General Tribal Council. The General Tribal
319 Council shall set the election date at the January annual meeting, or at the first GTC meeting held
320 during a given year. Special Elections shall be set in accordance with 102.12-6.

321 102.9-2. Elections shall be held in an Oneida Nation facility(s) as determined by the Election
322 Board.

323 102.9-3. Voting for elections shall begin at 7:00 a.m. and shall end at 7:00 p.m. All voters in line
324 to vote at 7:00 p.m. shall be allowed to vote.

325 (a) If a ballot counting machine is used, the ballot counting machine shall be prepared
326 prior to 7:00 a.m. on the day of the election. The Judges shall open the polls only after four
327 (4) members of the Nation verify, through signature on the tape, the ballot box is empty
328 and the ballot counting machine printer tape has a zero (0) total count.

329 102.9-4. At least one (1) Oneida Police Officer shall be present during the time the polls are open,
330 and until the counting of ballots is completed, and tentative results posted.

331 102.9-5. The Election Board shall provide a voting area sufficiently isolated for each voter such
332 that there is an area with at least two sides and a back enclosure.

333 102.9-6. No campaigning of any type shall be conducted within two hundred eighty (280) feet of
334 the voting area, excluding private property.

335 102.9-7. No one causing a disturbance shall be allowed in the voting area.

336 102.9-8. Election Board members may restrict the voting area to qualified voters only. This
337 restriction is in the interest of maintaining security of the ballots and voting process.

338

Section B. Ballot Box

339 102.9-9. All ballots being votes, shall be placed in a receptacle clearly marked "Ballot Box" and
340 shall be locked until counting at the close of polls. Provided that, with electronic ballot counting,
341 the ballots may be placed within the ballot counting machine as they are received.

342

Section C. Spoiled Ballots

343 102.9-10. If a voter spoils his/her ballot, he/she shall be given a new ballot.

344 102.9-11. The spoiled ballot shall be marked "VOID" and initialed by two (2) Election Officials
345 and placed in an envelope marked as "Spoiled Ballots."

346 102.9-12. The Spoiled Ballot envelopes shall be retained and secured for no less than fifteen (15)
347 calendar days following finalization of any challenge of the election, at the Records Management
348 Department.

349

350

351

352

353 *Section D. Rejected Ballots*

354 102.9-13. Rejected Ballots are to be placed in a specially marked container and sealed.

355 (a) Computer rejected ballots shall be reviewed by the Election Officials to verify the
356 authenticity of the ballot. Ballots rejected because of mutilation shall be added to the final
357 computer total, provided that, a new ballot was not received as set out in sections 102.9-10
358 through 102.9-12.359 (b) Ballots rejected, either during the computer process or during a manual counting, shall
360 be reviewed by the Election Officials to verify that they are authentic. If the Election
361 Officials determine that the ballot is not an official ballot, or that it is an illegal ballot, the
362 ballot shall be designated 'void,' and placed in a sealed container marked "Void Ballots."
363364 **102.10. Tabulating and Securing Ballots**365 *Section A. Machine Counted Ballots*366 102.10-1. When ballots are counted by machine, at the close of polls the Judges shall generate
367 from the ballot counting machine copies of the election totals from the votes cast.368 102.10-2. At least three (3) Election Board members shall sign the election totals, which shall
369 include the tape signed by the members of the Nation before the polls were opened per section
370 102.9-3(a).
371372 *Section B. Manually Counted Ballots*373 102.10-3. When ballots are manually counted, at the close of polls the Judges shall unlock the
374 ballot box and remove the ballots.375 102.10-4. If the ballots need to be counted at a location other than the polling site, the ballots shall
376 be secured in a sealed container for transportation to the ballot counting location. The sealed
377 ballots shall be transported by an Oneida Police Officer with at least three (3) of the Election
378 Officials for counting/tallying of ballots.379 102.10-5. The sealed ballots shall be opened at the time of counting by the Election Officials and
380 witnessed/monitored by an Oneida Police Officer.381 102.10-6. Ballots must be counted by two different Election Officials until two final tallies are
382 equal in back to back counting. Final tallies shall be verified by the Election Judges.
383384 *Section C. Securing Ballots*385 102.10-7. The Judges shall place together all ballots counted and secure them together so that they
386 cannot be untied or tampered with without breaking the seal. The secured ballots, and the election
387 totals with the signed tape, if applicable, shall then be secured by the Judges in a sealed container
388 in such a manner that the container cannot be opened without breaking the seals or locks, or
389 destroying the container. The Oneida Police Officer shall then deliver, on the day of the election,
390 the sealed container to the Records Management Department for retaining.
391392 **102.11. Election Outcome and Ties**393 *Section A. Election Results Announcement*394 102.11-1. The tentative results of an election shall be announced and posted by the Election Board
395 within twenty-four (24) hours after the closing of the polls. Notices of election results shall contain
396 the following statement:397 *"The election results posted here are tentative results. Final election results are forwarded*

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398 *by the Oneida Election Board to the Oneida Business Committee via a Final Report after*
399 *time has lapsed for recount requests, or challenges or after all recounts or challenges*
400 *have been completed, whichever is longer”*

401 102.11-2. The Election Board shall post, in the prominent locations, and publish in the Nation’s
402 newspaper, the tentative results of an election.

403

404 *Section B. Tie*

405 102.11-3. In the event of a tie for any office, and where the breaking of a tie is necessary to
406 determine the outcome of an election, the Election Board shall conduct an automatic recount of
407 the votes for each candidate receiving the same number of votes. Any recount conducted shall be
408 the only recount allowed for the tied candidates.

409 102.11-4. For Business Committee positions, a run-off election between the candidates with the
410 same number of votes shall be held if there remains a tie after the recount. Said run-off election
411 shall be held within twenty one (21) calendar days after the recount. For all other positions, if
412 there remains a tie after the recount, the Election Board shall decide the winner of the tied positions
413 at least two (2) business days after, but no more than five (5) business days after the recount
414 through a lot drawing, which shall be open to the public.

415 (a) The Election Board shall notify each of the tied candidates and the public of the date,
416 time, and place of the drawing at least one (1) business day before the drawing. Notice to
417 the tied candidates shall be in writing. Notice to the public shall be posted by the Election
418 Board in the prominent locations.

419 (b) On the date and at the time and place the drawing was noticed, the Election Board
420 Chairperson shall clearly write the name of each tied candidate on separate pieces of paper
421 in front of any witnesses present. The pieces of paper shall be the same, or approximately
422 the same, color, size, and type. The papers shall be folded in half and placed in a container
423 selected by the Election Board Chairperson.

424 (c) The Election Board Chairperson shall designate an uninterested party to draw a name
425 from the container. The candidate whose name is drawn from the container first shall be
426 declared the winner. An Election Board member other than the Chairperson shall remove
427 the remaining pieces of paper from the container and show them to the witnesses present.

428

429 *Section C. Recount Procedures*

430 102.11-5. A candidate may request the Election Board to complete a recount, provided the margin
431 between the requesting candidate’s vote total and vote total for the unofficial winner was within
432 two percent (2%) of the total votes for the office being sought or twenty (20) votes, whichever is
433 greater. A candidate requests a recount by hand delivering a written request to the office of the
434 Nation’s Secretary, or noticed designated agent, within five (5) business days after the election.
435 Requests shall be limited to one (1) request per candidate. The Nation’s Secretary shall contact
436 the Election Board Chairperson by the next business day after the request for recounts.

437 102.11-6. The Election Board shall respond by the close of business on the fifth (5th) day after the
438 request regarding the results of the recount. Provided that, no recount request need be honored
439 where there have been two (2) recounts completed as a result of a request either as a recount of the
440 whole election results, or of that sub-section.

441 102.11-7. All recounts shall be conducted manually with, if possible, the original Election
442 Officials and Oneida Police Officer present, regardless of the original type of counting process.

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443 Manual recounts may, at the discretion of the Election Officials, be of the total election results, or
444 of the challenged sub-section of the election results.

445 102.11-8. The Oneida Police Officer shall be responsible for picking up the locked, sealed
446 container with the ballots from the Records Management Department and transporting it to the
447 ballot recounting location.

448 102.11-9. A recount shall be conducted by a quorum of the Election Board, including at least three
449 (3) of the original Election Officials. The locked, sealed ballots shall be opened by the Election
450 Board Chairperson and an Oneida Police Officer shall witness the recount.

451 102.11-10. Recounting of ballots may be performed manually or by computer. All ballots shall be
452 counted until two (2) final tallies are equal in back to back counting and the total count of ballots
453 reconciles with the total count from the ballot counting machine. Sub-sections of candidates may
454 be recounted in lieu of a full recount.

455 (a) Manually counted ballots shall be recounted by the Election Board. Ballots shall be
456 counted twice by different persons and certified by the Judges.

457 (b) Computer counted ballots shall be recounted twice and certified by the Judges. Prior
458 to using an electronic ballot counting device, it shall be certified as correct either by the
459 maker, lessor of the machine, or Election Board.

460

461 *Section D. Challenges and Declaration of Results*

462 102.11-11. *Challenges.* Any qualified voter may challenge the results of an election by filing a
463 complaint with the Judiciary within ten (10) calendar days after the election. The Judiciary shall
464 hear and decide a challenge to any election within two (2) business days after the challenge is filed.
465 Any appeal to the appellate body of the Judiciary shall be filed within one (1) business day after
466 the issuance of the lower body's decision and decided within two (2) business days after the appeal
467 is filed.

468 (a) The person challenging the election results shall prove by clear and convincing
469 evidence that the Election Law was violated or an unfair election was conducted, and that
470 the outcome of the election would have been different but for the violation.

471 (b) If the Judiciary invalidates the election results, a Special Election shall be ordered by
472 the Judiciary for the office(s) affected to be held on a date set by the Judiciary for as soon
473 as the Election Law allows for a Special Election.

474 102.11-12. *The Final Report.* The Election Board shall forward a Final Report to the Nation's
475 Secretary after time has lapsed for recount requests, or challenges or after all recounts or challenges
476 have been completed, whichever is longer. The Final Report shall consist of the following
477 information:

478 (a) Total number of persons voting.

479 (b) Total votes cast for each candidate by subsection of the ballot.

480 (c) List of any ties and final results of those ties, including the method of resolution.

481 (d) List of candidates elected and position elected to.

482 (e) Number of spoiled ballots.

483 (f) Cost of the election, including the compensation paid to each Election Board member.

484 102.11-13. *Declaration of Results.* The Business Committee shall declare the official results of
485 the election and send notices regarding when the swearing in of newly elected officials shall take
486 place within ten (10) business days after receipt of the Final Report.

487 102.11-14. Candidates elected to the Business Committee shall resign from any salaried position

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488 effective prior to taking a Business Committee oath of office
489 102.11-15. Except in the event of an emergency, as determined by the Business Committee,
490 newly elected officials shall be sworn into office no later than thirty (30) calendar days after the
491 official results of an election are declared by the Business Committee.

492 (a) If a newly elected official is not sworn in within thirty (30) calendar days, the seat shall
493 be considered vacant and the Election Board shall declare the next highest vote recipient
494 the winner. This procedure shall be repeated as necessary until a winner is declared.

495 (b) If all vote recipients decline or are otherwise unable to be declared the winner, then a
496 Special Election shall be held.

497 102.11-16. The Election Board shall send notice to the Records Management Department to
498 destroy the ballots thirty (30) calendar days after the election or after the final declaration of official
499 election results occurs, whichever is longer.

500

501 **102.12. Elections**

502 *Section A. Primary Elections; Business Committee*

503 102.12-1. *When to Hold a Primary Election.* A primary election for Business Committee positions
504 is required to be held on a Saturday at least sixty (60) calendar days prior to the election whenever
505 there are three (3) or more candidates for any officer positions or sixteen (16) or more candidates
506 for the at-large council member positions.

507 (a) The two (2) candidates receiving the highest number of votes cast for each officer
508 position shall be placed on the ballot.

509 (b) The fifteen (15) candidates receiving the highest number of votes cast for the at-large
510 council member positions shall be placed on the ballot.

511 (c) Any position where a tie exists to determine the candidates to be placed on the ballot
512 shall include all candidates where the tie exists.

513 102.12-2. *Cancellation of a Primary Election.* A primary election for Business Committee
514 positions may be canceled in the following circumstances:

515 (a) The Election Board shall cancel the primary election if the Business Committee
516 positions did not draw the requisite number of candidates for a primary.

517 (b) The Election Board may recommend to the Business Committee the cancellation of
518 the primary election when large gatherings of people present a substantial risk to the
519 health and safety of the Nation's citizens. The Business Committee shall consider the
520 Election Board's recommendation at the next scheduled Business Committee meeting and
521 decide whether to cancel the primary election.

522 (1) In the event the Business Committee cancels the primary election, all
523 candidates that are determined eligible according to section 102.5 and are not
524 made ineligible under section 102.6-2 shall be placed on the ballot for the general
525 election.

526 102.12-4. In the event a candidate withdraws or is unable to run for office after being declared a
527 winner in the primary, the Election Board shall declare the next highest primary vote recipient the
528 primary winner. This procedure shall be repeated as necessary until the ballot is full or until there
529 are no available candidates. If the ballot has already been printed, the procedures for notifying the
530 Oneida public in section 102.5-11 and 102.5-12 shall be followed, including the requirement to
531 print a notice in the Nation's newspaper if timelines allow.

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533 *Section B. Special Elections*

534 102.12-5. Matters subject to a Special Election, i.e., referendum, vacancies, petitions, etc., as
535 defined in this law, may be placed on the same ballot as the subject matter of an election.

536 102.12-6. Dates of all Special Elections shall be set, as provided for in this law, by the Business
537 Committee as recommended by the Election Board or as ordered by the Judiciary in connection
538 with an election challenge.

539 102.12-7. Notice of said Special Election shall be posted by the Election Board in the prominent
540 locations, and placed in the Nation's newspaper not less than ten (10) calendar days prior to the
541 Special Election.

542 102.12-8. In the event of an emergency, the Election Board may reschedule the election, provided
543 that no less than twenty-four (24) hours notice of the rescheduled election date is given to the
544 voters, by posting notices in the prominent locations.

545

546 *Section C. Initiation of Special Elections*

547 102.12-9. Special Elections may be initiated by a request or directive of the General Tribal Council
548 or the Oneida Business Committee.

549 102.12-10. Special Election may be requested by a member of the Nation to the Business
550 Committee or General Tribal Council.

551 102.12-11. All Special Elections shall follow rules established for all other elections. This includes
552 positions for all Boards, Committees and Commissions.

553

554 **102.13. Oneida Nation Constitution and By-law Amendments**

555 102.13-1. Pursuant to Article VI of the Oneida Nation Constitution, amendments to the Oneida
556 Nation Constitution and By-laws may be initiated by the Oneida Business Committee or a petition
557 of qualified voters. The requirements for the Oneida Business Committee's initiation of
558 Constitutional amendments are as provided in the Constitution and as further detailed in the
559 supporting standard operating procedures which the Oneida Business Committee shall adopt.
560 Qualified voters may petition to amend the Oneida Nation Constitution and By-laws by submitting
561 a petition to the Office of the Nation's Secretary which includes the full text of the proposed
562 amendments and signatures that are equal in number to at least ten percent (10%) of all members
563 qualified to vote.

564 (a) Qualified voters may request a petition form from the Office of the Nation's Secretary.

565 (b) When a petition form is requested, the Nation's Secretary, or his or her designee, shall
566 direct the Trust Enrollment Department to calculate the number of signatures currently
567 required for a petition submittal, which shall be ten percent (10%) of all members qualified
568 to vote on the date the petition form is requested from the Office of the Nation's Secretary.
569 When the Nation's Secretary receives the calculation from the Trust Enrollment
570 Department, the Nation's Secretary shall provide the requester with the petition form and
571 the number of signatures that are currently required.

572 (c) Such petitions shall be circulated with all supporting materials and submitted a
573 minimum of ninety (90) days prior to the election at which the proposed amendment is to
574 be voted upon. If a petition includes supporting materials in addition to the petition form,
575 each qualified voter signing the petition shall also acknowledge that the supporting
576 materials were available for review at the time he or she signed the petition by initialing
577 where required on the petition form.

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578 (d) The Nation's Secretary shall forward submitted petitions to the Trust Enrollment
579 Department for verification of signatures and to the Election Board to provide notice that
580 the petition may need to be placed on an upcoming ballot.

581 (e) If the petition is verified by the Trust Enrollment Department to contain signatures from
582 at least ten percent (10%) of all qualified voters, the Election Board shall make an official
583 announcement of the proposed amendments to the Oneida Nation Constitution at least sixty
584 (60) days prior to the election at which the proposed amendments are to be voted on.

585 102.13-2. The Election Board shall place any proposed amendments to the Oneida Nation
586 Constitution that meet the requirements contained in 102.13-1 on the ballot at the next general
587 election. Provided that, the Oneida Business Committee or General Tribal Council may order a
588 special election be held to consider the proposed amendments. In such circumstances, the Election
589 Board shall place any proposed amendments to the Oneida Nation Constitution on the ballot at the
590 next special election.

591 102.13-3. The Election Board shall publish any proposed amendments by publishing a sample
592 ballot no less than ten (10) calendar days prior to the election, through a mass mailing. The Trust
593 Enrollment Department shall be notified, by the Election Board Chairperson, no less than twenty
594 (20) calendar days prior to the requested mailing. Copies of such publications shall be prominently
595 posted in each polling place and at administrative offices of the Nation and shall also be published
596 in official Oneida media outlets, which the Oneida Business Committee shall identify by
597 resolution. For the purposes of this section, Oneida administrative offices means the location
598 where the Oneida Business Committee conducts business.

599 102.13-4. The Election Board shall ensure that the ballot contains a statement of the purpose of
600 the proposed amendments prepared by the Oneida Law Office. The Oneida Law Office shall
601 ensure that the statement of purpose is one hundred (100) words or less exclusive of caption, is a
602 true and impartial statement and is written in such a manner that does not create prejudice for or
603 against the proposed amendment.

604 102.13-5. Pursuant to Article VI, Section 3 of the Oneida Nation Constitution, proposed
605 amendments that are approved by sixty-five percent (65%) of the qualified voters that vote on that
606 amendment shall become part of the Constitution and By-laws, and shall abrogate or amend
607 existing provisions of the Constitution and By-laws at the end of thirty (30) days after submission
608 of the final election report.

609 102.13-6. If two (2) or more amendments approved by the voters at the same election conflict, the
610 amendment receiving the highest affirmation vote prevails.

611
612
613 *End.*

~~614~~

616 Adopted - June 19, 1993

617 Amended - June 28, 1995 (Adopted by BC on Behalf of GTC, Completion of Agenda)

618 Presented for Adoption of 1997 Revisions - GTC-7-6-98-A

619 Amended- October 11, 2008 (General Tribal Council Meeting)

620 Amended-GTC-01-04-10-A

621 Amended – BC-02-25-15-C

622 Amended – GTC-04-23-17-A

623 Emergency Amended – BC-03-17-20-B

624 Emergency Amended – BC- _ - _ - _ -

Oneida Business Committee Agenda Request

Adopt resolution entitled Oneida Nation Support of the Wisconsin Department of Transportation's...

1. Meeting Date Requested: 05 / 13 / 20

2. General Information:

Session: Open Executive - See instructions for the applicable laws, then choose one:

Agenda Header: Resolutions

Accept as Information only

Action - please describe:

Business Committee consider adopting the resolution to **Support the Wisconsin Department of Transportation's South Bridge Connector Project.**

3. Supporting Materials

Report Resolution Contract

Other:

1. Resolution

3.

2. Memorandum

4.

Business Committee signature required

4. Budget Information

Budgeted - Tribal Contribution Budgeted - Grant Funded Unbudgeted

5. Submission

Authorized Sponsor / Liaison:

Melinda J. Danforth, Director of Intergovernmental Affairs

Primary Requestor/Submitter:

Your Name, Title / Dept. or Tribal Member

Additional Requestor:

Name, Title / Dept.

Additional Requestor:

Name, Title / Dept.

Oneida Business Committee Agenda Request

6. Cover Memo:

Describe the purpose, background/history, and action requested:

The Oneida Nation has been supportive of the WI Department of Transportation's South Bridge Connector project and the WI Department of Transportation is requesting the Oneida Nation's formal support.

Please see attached memorandum for additional information.

Requested Action:

The Business Committee to consider adopting the attached resolution that supports the WI Department of Transportation's South Bridge Connector project.

1) Save a copy of this form for your records.

2) Print this form as a *.pdf *OR* print and scan this form in as *.pdf.

3) E-mail this form and all supporting materials in a **SINGLE** *.pdf file to: BC_Agenda_Requests@oneidanation.org



MEMORANDUM

TO: Business Committee

FROM: Melinda J. Danforth, Director
Intergovernmental Affairs
Tana Aguirre, Local Lobbyist

DATE: May 12, 2020

SUBJECT: WI Department of Transportation, South Bridge Connector Project

The Oneida Nation has supported the WI Department of Transportation's (WisDOT) South Bridge Connector project by advocating for the project to be a WisDOT budget priority and seeking out federal funding opportunities. To date, there has not been official action taken by the Business Committee to officially endorse this project and WisDOT is now requesting the Nation to formally support the South Bridge Connector project.

Project Background

In 1996, Brown County adopted a land use and transportation plan to enhance east-west travel in the southern portion of the County. The plan called for two phases as the area is developed over the next 20 years.

The first phase called for replacing the deteriorating Claude Allouez Bridge (State Highway 32) in De Pere. The bridge was built with the acknowledgement that another bridge would be needed to handle the volume of traffic by 2020. However, when the four-lane structure was completed in 2008 it didn't take many years to exceed the traffic projections, which are causing severe traffic congestion

The second phase of the plan called for a new bridge to be constructed to reduce traffic congestion on both the Claude Allouez Bridge and State Highway 172. Brown County has been working with the WisDOT, Federal Highway Administration (FHWA) and local municipalities in southern Brown County to complete the required environmental studies.

Project Overview

There were three alternative routes for consideration. All three routes would connect County

Highways EB and F in the Town of Lawrence and County Highways GV and X in the Town of Ledgeview with a bridge over the Fox River.

- Alternative 1: A bridge would be constructed to connect Scheuring and Heritage Roads.
- Alternative 2: A bridge would be placed at the roads of Rockland and Red Maple. An interchange would also be constructed onto Interstate 41, about a mile south of Scheuring Road near the Foth building.
- Alternative 3: This alternative is similar to alternative 2; however, it would utilize frontage roads for traffic to gain access to Interstate 41 at either the Scheuring Road interchange or the Freedom Road interchange.

Alternative 2 has been selected by WisDOT as the preferred option

Project Purpose

The purpose of the project is to identify the most appropriate improvements for addressing existing east-west transportation demand and demand that will be generated by the planned development in the southern portion of the Green Bay metropolitan area. WisDOT believes the project is needed to:

- Address congestion in the vicinity of the existing Fox River bridges.
- Accommodate existing and planned land use and future travel demand generated by planned development.
- Reduce travel time by improving east-west connectivity.
- Address higher-than-average crash rates and safety issues in the vicinity of the existing Fox River bridges. Long-Range Transportation Study

Project Status

The project will be built in 5 phases which will take approximately 10 years to complete.

Funding is the next step to this project. To demonstrate their dedication to this project, local municipalities are working on investing in the bridge. The City of De Pere, Town of Ledgeview

and Town of Lawrence are meeting to discuss utilizing a multi-jurisdictional TIF district to fund their portion of the project. Multi-jurisdictional TIF is a tool that has never been used in Wisconsin. The stakeholder coalition is also seeking state and federal funds.

In 2019, the Oneida Nation was informed of a potential funding opportunity through the Nationally Significant Federal Lands and Tribal Projects Program. Because this program funds the construction of transportation facilities that provide access to tribal lands, provides priority funding consideration to projects that have estimated costs that equal or exceed \$50 million, and has project selection criteria that are addressed by the South Bridge Connector Project, the Oneida Nation would have applied for funding through this program to improve access between Interstate 41 and an economic development area in the southeast portion of the Oneida Reservation.

To be eligible for funding through the Nationally Significant Federal Lands and Tribal Projects Program, a project that requires an Environmental Impact Statement (EIS) must have a signed Record of Decision (ROD). Unfortunately, the South Bridge Connector Project's EIS and Interstate Access Justification Report (IAJR) were not expected to be approved until at least November of 2019. This schedule significantly reduced the likelihood that Nationally Significant Federal Lands and Tribal Projects Program funding would be available through the first and possibly subsequent application rounds.

In 2019, Chairman Tehassi Tasi Hill joined the Brown County Executive to lobby the WI Department of Transportation's Secretary to designate the project as priority. The Nation also sent a letter requesting the Federal Highway Administration (FHWA) and the Wisconsin Department of Transportation (WisDOT) to accelerate the final approvals of the Environmental Impact Study (EIS), Record of Decision (ROD), and the Interstate Access Justification Report (IAJR). Timothy Marshall, the Acting Division Administrator for FHWA Wisconsin Division responded indicating the expedited timeline could not be achieved even if maximum efficiencies and resources were applied.

Oneida Nation Contribution to the Project

While the federal funding we sought after in 2018-19 has been exhausted, our federal lobbyist is advocating and monitoring for any potential federal funding that this project may qualify for. The Wisconsin State budget has allocated \$6 million to the project, over the course of the biennium, and local governments have also dedicated funding to the project.

In addition to funding, various government and businesses have submitted resolutions in support of the project expressing the importance of the Southern Bridge to their communities.

A good mind. A good heart. A strong fire.



Oneida Nation

Post Office Box 365

Phone: (920)869-2214

Oneida, WI 54155



BC Resolution # _____

Oneida Nation Support of the Wisconsin Department of Transportation's Southern Bridge Corridor Project

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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 Nation understands the need for transportation system improvements; and

WHEREAS, the Oneida Nations supports systems that foster sustainable development and commerce growth that reflect Tsi² niyukwalihot^l (our ways) with innovative approaches that enrich the natural, built and business environments; and

WHEREAS, the Southern Bridge Corridor Project will involve constructing a new Fox River bridge in the City of De Pere and a divided four-lane arterial street corridor between the intersection of County Highways GV and X in the Town of Ledgeview and the intersection of County Highways EB and F in the Town of Lawrence; and

WHEREAS, a new Southern Bridge and connecting arterial street system will minimize congestion-related safety problems by allowing traffic to be distributed between two Fox River crossing locations instead of one; and

WHEREAS, the development of a Southern Bridge Corridor could potentially enhance the Nation's economic development efforts and contribute to Oneida economy as an additional entryway to the reservation; and

NOW THEREFORE BE IT RESOLVED, the Oneida Nation supports the development of the Southern Bridge Corridor project and strongly urges state and federal legislators to ensure that the Southern Bridge Project remains a priority to Wisconsin Department of Transportation and Federal Highway Administration to enable the environmental impact statement and Interstate Access Justification Report to be approved and a signed Record of Decision (ROD).

Approve the Gaming operations re-opening date

Business Committee Agenda Request

1. Meeting Date Requested: 05/13/20

2. General Information:

Session: Open Executive – must qualify under §107.4-1.
Justification: *Choose reason for Executive.*

3. Supporting Documents:

- Contract Document(s) Legal Review Resolution
- Correspondence Minutes Statement of Effect
- Fiscal Impact Statement Report Travel Documents
- Other: *Describe*

4. Budget Information:

- Budgeted Budgeted – Grant Funded Unbudgeted
- Not Applicable Other: *Describe*

5. Submission:

Authorized Sponsor: Louise Cornelius, Gaming General Manager

Primary Requestor: _____

Additional Requestor: (Name, Title/Entity)

Additional Requestor: (Name, Title/Entity)

Submitted By: LLIGGINS



Gaming General Managers Office
P.O. Box 365
Oneida, WI 54155

To: Oneida Business Committee

From: Louise Cornelius, Gaming General Manager
Gaming Administration 

Date: April 29, 2020

Re: Request for Support - Oneida Casino Reopening Plan

The Gaming Division's Senior Management Team and Staff researched health and safety requirements for the reopening of our Main, Mason, and IMAC properties. The attached reopening plan was submitted to Michelle Meyers, Public Health Manager, Dr. Rivinder Vir, Comprehensive Health Medical Division Director, and Debbie Danforth, Division Director Comprehensive Health Operations.

The Gaming Senior Management Team respectfully submits this request for approval to our Oneida Business Committee.

The Gaming Senior Management Team worked with the Oneida Gaming Commission and reviewed the NIGC Reopening Guidance. We have also referenced the Wynn Las Vegas Health and Sanitation Program to ensure our reopening plan aligns with new health guidelines and gaming regulations.

A review of survey results increased our awareness of customers' top safety concerns and interest in returning to our casinos.

Adjusted operating hours allow for early morning deep cleaning at all operational properties.

The Gaming Senior Management Team is requesting Business Committee approval to open at 8:00 AM on Monday, May 11, 2020, or any day thereafter. The current plan is to open a limited operation consisting only of slot machine play at our Main, Mason, and IMAC properties. There is an ongoing assessment for opening other profit centers based on evolving health concerns and our ability to mitigate customer and employee risk in those areas. The proposed hours of operation are 8:00 AM – 4:00 AM daily, seven (7) days a week.

Our plan ensures the safety and social distancing of our customers to the greatest extent feasible. We recommend setting capacity 20% higher than the number of slot machines available for play.

We have participated in multiple meetings with the Oneida Business Committee and the Oneida Team of Health Professionals. The following safeguards have been established to prevent the spread of the COVID-19 virus:

1. Face masks will be required for employees in certain areas. Options include reusable masks made by the Oneida Wardrobe Department or disposable face masks purchased from an outside vendor.
2. Temperature checks and a brief health questionnaire of incoming employees every shift.
3. Notifications: Communication will be visible via, SharePoint, email, text, social media, in-house digital signage, outdoor advertising, and direct mail. Public address announcements promoting social distancing and responsible hygiene.
4. Facilities has established a cleaning protocol during COVID-19 social distancing.
5. Employees returning from furlough will receive training on the following subjects:
 - a. Social Distancing
 - b. Staying home when you are sick
 - c. Covering your cough or sneeze with a tissue
 - d. Proper hand washing techniques
 - e. Avoiding contact with your eyes, nose, and mouth
6. COVID-19 Time Off Standard Operating Procedure was developed for supervisors use regarding employees pay and/or time off related decisions.
7. Security will utilize iPods to monitor customer flow and maximum capacity at each of our properties.

The health and safety of our employees and customers is extremely important to Oneida Casino and we will continue to make this our top priority.

The Gaming Division requests your support and consideration of this proposed plan. Thank you.

Cc: Gaming Senior Management
Oneida Gaming Commission

Oneida Comprehensive Health Division
Oneida Community Health Center
Behavioral Health Services
Anna John Resident Centered Care Community
Employee Health Nursing



To: Louise Cornelius, Gaming General Manager
Chad Fuss, Gaming Assistant CFO

From: Michelle Myers RN, BSN, Public Health Officer
Dr. Ravinder Vir, Medical Director
Debbie Danforth RN, BSN, Operations Director
Oneida Comprehensive Health Division Directors

Date: April 30, 2020

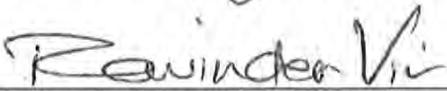
Re: Casino Reopening Plan Approval

The Casino staff have completed extensive research and have taken numerous measures to assure the safety of their staff and patrons through their reopening plan. The staff have gone above and beyond to assure that our recommendations have been taken into consideration to assure they continue to provide a safe and clean gaming facility. It has been a pleasure to work with the Gaming Team and we are confident that their measures that they have implemented will meet with their patron's and their employee's approval. After thorough review of the Casino plan and our scheduled Walk Through today, we find the plan acceptable for approval for Reopening of the Casino based upon their scheduled target date.



Michelle Myers RN, BSN
Oneida Nation Public Health Officer

5/1/2020
Date



Ravinder Vir, MD, Medical Director
Oneida Comprehensive Health Division Dir

5/1/2020
Date



Debra Danforth RN, BSN Operation Director
Oneida Comprehensive Health Division Dir

5/1/2020
Date

Mailing Address: P.O. Box 365, Oneida, WI 54155
<https://oneida-nsn.gov/resources/health/>

Oneida Community Health Center
Behavioral Health Services
Anna John Resident Centered Care Community
Employee Health Nursing

525 Airport Rd., Oneida, WI 54155
2640 West Point Rd., Green Bay, WI 54304
2901 S. Overland Rd., Oneida, WI 54155
701 Packerland Dr., Green Bay, WI 54303

Phone: (920) 869-2711 or 1-866-869-2711
Phone: (920) 490-3790 or 1-888-490-2457
Phone: (920) 869-2797
Phone: (920) 405-4492

Fax: (920) 869-1780
Fax: (920) 490-3883
Fax: (920) 869-3238
Fax: (920) 405-4494

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*Disclaimer: Plans are continuously being improved and upgraded

Lisa L. Duff

From: Louise C. Cornelius
Sent: Monday, April 27, 2020 2:04 PM
To: Lisa L. Duff; Diana L. King
Subject: FW: Updatd Casino Health Plan
Attachments: Oneida Casino Plan to Open Master 04-23-2020.docx

From: Chad M. Fuss <cfuss@oneidanation.org>
Sent: Monday, April 27, 2020 10:58 AM
To: Ravinder Vir <rvir@oneidanation.org>; Michelle L. Myers <mmyers@oneidanation.org>
Cc: Debra J. Danforth <ddanfort@oneidanation.org>; Louise C. Cornelius <lcornel3@oneidanation.org>; Brenda J. Mendolla-Buckley <bbuckley@oneidanation.org>; Lorna G. Skenandore <lskenand@oneidanation.org>; Fawne M. Rasmussen <fteller@oneidanation.org>
Subject: Updatd Casino Health Plan

Dr. Vir,

Here is the newest updated plan. Please let us know who we can work with to do a walk through with soon.

Chad Fuss
Oneida Casino
Gaming Assistant- Chief Financial Officer
cfuss@oneidanation.org
W: 920-429-3264
C: 920-606-9931



In order to be able to recover and reopen Oneida Casino, the following are the steps that will be taken:

- **State of Wisconsin- Department of Health Services Emergency Order #28,**
 - **Enforcement and Applicability**
 - **17. Tribal Nations**
 - **Activities by Tribal members within the boundaries of their Tribal reservations and federal land held in trust for any one of the eleven federally recognized Tribes in Wisconsin are exempt from the restrictions in this Order but may be subject to restrictions by Tribal authorities.**
 - **Non-tribal members should be respectful of and avoid non-essential travel to Tribal territory.**
 - **Wisconsin's local governments shall coordinate, collaborate, and share information with the Tribal Nations in their region.**
- **Oneida Nation COVID-19 Core Decision Making Team Declaration- Updated Safer at Home April 24, 2020**
 - **2. Business Operations**
 - **a. Non-Essential Business and Operations Must Cease. All for profit and non-profit businesses within the Reservation, except Essential Businesses and Operations as defined below, must cease all activities, except:**
 - **i. Minimum Basis Operations, as defined below**
 - **ii. Any operations consisting exclusively of employees or contractors performing activities at their own home or residences (i.e., working from home).**
 - **b. Safe Business Practices**
 - **ii. Essential Businesses and Operations are encouraged to remain open. Essential businesses and operations shall:**
 - **1.To the greatest extent feasible, comply with Social Distancing Requirements as defined in this Declaration between all individuals on the premises, including but not limited to employees, customers, and members of the public.**
 - **2.Restrict the number of workers present on premises to no more than is strictly necessary to perform the essential operation.**
 - **3.Increase standards of facility cleaning and disinfection to limit worker and patron exposure to COVID-19, as well as adopting protocols to clean and disinfect in the event of a positive COVID-19 case in the workplace.**
 - **4.Adopt policies to prevent workers from entering the premises if they display respiratory symptoms or have had contact with a person with a confirmed diagnosis of COVID-19.**
 - **iii. Essential Businesses or Operations that remain open for in-person sales, including retail stores, shall:**
 - **1.Consider establishing curbside pick-up to reduce instore traffic and mitigate outdoor lines.**
 - **2.For stores with less than 50,000 square feet of customer floor space, limit the number of people in the store (including employees) to 25% of the total occupancy limits established by the local municipality.**
 - **3.For stores of more than 50,000 square feet:**
 - **a. Limit the number of customers in the store at one time (excluding employees) to 4 people per 1,000 square feet of customer floor space.**
 - **b. Offer at least two hours per week of dedicated shopping time for vulnerable populations, which for purposes of this Declaration are people over 60, pregnant women, and those with chronic conditions like heart disease, diabetes, and lung disease.**

- 4. Establish lines to regulate entry in accordance with occupancy restrictions in sections 2.b.iii.2. and 2.b.iii.3., with markings for patrons to enable them to stand at least six feet apart from one another while waiting. Stores should also use alternatives to lines, including allowing customers to wait in their cars for a text message or phone call and scheduling pick-ups or entries to the store.
- 5. Provided that, Oneida One Stop retail locations shall operate under Social Distancing Requirements and plans approved by the Public Health Officer.
- c. Provided further that, gaming shall begin operations only upon approval of the safe re-opening plans by the Public Health Officer and approval of the Oneida Business Committee.

Oneida Casino will be ready to open at 8:00am on Date X (May 1st, 2020 or any day thereafter). The current plan is to open a limited operation, which would consist of slot machines for play, at three of our properties – Main-Airport, Irene Moore Activity Center and West Mason. The hours of operation would be from 8 am until 4 am daily, seven (7) days a week.

In order to ensure the safety and social distancing of our customers to the greatest extent feasible, we recommend capacity to be 20% over the slot machines available for play. This will be within the maximum capacity limits of each facility of the Main Casino, Irene Moore Activity Center and West Mason Street Casino.

Customer entrances would be located at:

Main Casino- North Side Ramp Entrance and South Side Valet Entrance
 IMAC- West Side Annex Entrance only
 W. Mason - North side Canopy Entrance only

Employee entrances would be located at:

Main Casino- North Side 1st floor Ramp Entrance
 IMAC- West Side Employee Entrance
 W. Mason - West Side Entrance Only

Health & Safety Program

- **Employee and Guest Health-** The health and safety of our employees and guests is our number one priority.
 - **Notification:** Employees and guests will be constantly reminded to practice distancing and responsible hygiene as expectations. This communication will be visible to both employees and guests via email, text, social media, in house advertising, external advertising, direct mail and announcements.
 - **Physical Distancing.** To the greatest extent feasible guests will be advised to practice physical distancing by standing at least six feet apart while standing in lines. Slot machines and other physical layouts will be arranged to ensure proper distancing. Employees will be reminded not to touch their faces and to practice physical distancing by standing at least six feet away from guests and other employees whenever possible. Occupancy limits will be adhered to.
 - **Hand Sanitizer-** Hand sanitizer dispensers, touchless if possible, will be placed at key guest and employee entrances and contact areas such as the gaming floor, reception areas, restaurants, and high traffic customer and employee areas.
 - **Front of the House Signage-** Front of the house signage will consist of reminders of the safety expectations at Oneida Casino.
 - **Back of the House Signage-** Back of house signage will remind employees of safety expectations at Oneida Casino.
 - **Employee & Guest Health Concerns-** Oneida Nation's Health Professionals will be the direct contact if there are any concerns with COVID-19 cases.
- **Employee Training before return**
 - Physical changes
 - Plexiglass installed

- Floor markings in place to guide employees and customers
- Equipment moves in departments
- Beverage distribution changes for customer and employee
- Administrative changes
 - Slot games only
 - Virtual and safe distancing meeting
 - Safe workplace training and educational materials
 - Daily casino closure for extra sanitizing
- Required safety practices
 - Safety masks worn by employees based on their roles
 - Describing how to wear
 - Gloves utilized when sanitizing surfaces and how to handle and dispose
 - Social Distancing and what that means
 - Hand Hygiene, how to and when to wash
- Helping others follow safety rules
 - Empower employees to help others follow safety rules
- Symptoms of COVID 19
- **Employee Responsibility**
 - **Employee Breakrooms-** To the greatest extent feasible employees will adhere to the six-foot rule while on breaks and will utilize one dedicated break area. Employee is expected to disinfect area after break is done with approved disinfectant wipes.
 - **Protection/Hand Washing-** Encourage all employees when coughing or sneezing to utilize etiquette by utilizing the elbow area to cover. Correct hygiene and frequent handwashing with soap is vital to help combat the spread of the virus. All Oneida Casino employees will be instructed to wash their hands or utilize hand sanitizer frequently following activities such as using restroom, sneezing, touching the face, blowing the nose, cleaning, sweeping, mopping, smoking, eating, drinking, entering and leaving the gaming floor, going on break, and before or after starting a shift.
 - **COVID-19 Training-** All Employees with will receive training on COVID-19 safety and sanitation protocols.
 - **Personal Protective Equipment (PPE)-** Appropriate PPE will be worn by employees in collaboration with Oneida Nation Health Professionals, as well as information sought out by the Center for Disease Control (CDC). An assessment will be completed by area to determine what areas will be mandated to wear masks, which areas will be highly recommended and which areas will be optional. Employees who are mandated to wear masks will be provided one. Employees who are highly recommended to wear or optional will provide their own facial covering. Plexiglass will be put up as a barrier at all points where employees are working static jobs with customer interaction such as: Cage Cashier, Players Club Team Member, Restaurant Podiums, etc.
 - **Daily Pre-Shift & Timekeeping-** An attempt will be made to stagger employee arrival start and end times to minimize traffic volume in behind the house corridors. Time clocks will have six-foot spaces measured out in order to adhere to social distancing. Hand sanitizer will be available at each timeclock location and employees will be required to sanitize after clocking in and out.
- **The Guest Journey**
 - **Guest Arrival-** Customers will have a dedicated entrance per locations, along with constant communication about expectations and responsible behavior.
 - Facemasks, hand sanitizer and hand wipes will be available for purchase.
 - Smoking will be prohibited upon opening and will be assessed as other Nations reopen.
 - Security will be utilizing an app to control the total number of people in the three casinos, not exceed to the determined threshold determined.

- **Employee Breakrooms**

- Alternative break room locations
 - Main: Lombardi's and Soaring Eagle
 - IMAC: Bingo Hall
 - Mason: Conference Room (former F&B storage)
- Social distancing will be adhered to. Pre-identify six-foot spacing for employees
 - Seating
 - Appliance access
- No smoking/vaping in any breakroom building

Safety/Cleaning Mitigation Plans Specific to Departments

- **Slots**

- Minimize Contact with Guests:
 - Only interact when asked to or via change light
 - Make PA announcements regarding need to use the change lights
 - To the greatest extent feasible keep distances when servicing machines
 - Ask guest to remove Players Club card when needed.
 - Wipe down machine surfaces before and after servicing
 - Ask guest to step far enough away to maintain safety
 - Jackpot payouts
 - Write down driver's license information and SS ID information without handling cards
 - Count cash onto chair or another flat surface
 - Do not hand money directly to guest
 - Wipe down pen and sanitize hands after the payout

- **Cleaning**

- Assist custodial in wiping down machines after each customer finishes playing
 - All floor employees need to have access to assist with disinfectant
- Keys in the Key Watcher
 - Will need to be **disinfected** regularly

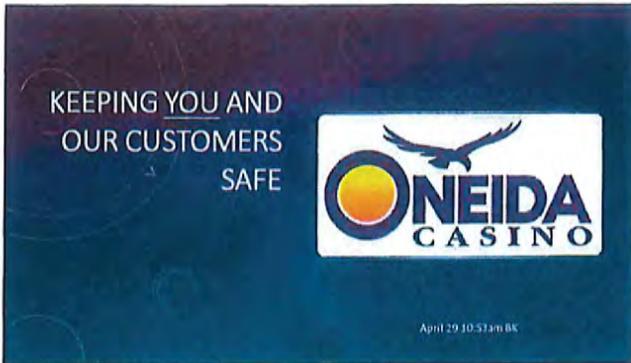
- **Accounting Operations**

- Move hand sanitizer stations from Table Games to the Cage window and next to every NRT in service.
- Move ID and credit card readers to a place that the customers will be able to utilize themselves.
- Get a hand sanitizer station placed next to the Cage window for customer use
- Ideally get a hand sanitizer station placed next to every NRT we put into service and every ATM
- Using **disinfected wipes** from within the Cage, the Cashier wipes down the counter and Ingenico (card reader) between every customer interaction. We must determine if the electronic device can be stretched to the window opening where the customer would dip/swipe their own card for Check Cashing. This would create a hands-free transaction except for the physical exchange of currency.
- Cage – Andy D (from MIS) to complete up to three days prior to opening
 - Check List completed
 - Roll gaming dates in CMP (End Cage Shift)
 - Verify gaming date
 - Test Employee logins
 - Test switching to and from SDS Blue screen
 - Test Ticket redemption
- Contact Loomis when to begin picking up deposits
- Contact DiTronics to fill the ATMs

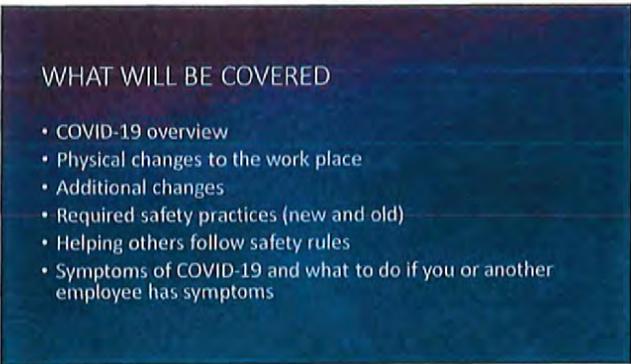
- **Marketing Executive Services**

- Include a player's club card with every comp issued. Hosts would be responsible for printing cards and attaching to comps.
 - Create a basket for players to drop their last term cards. Hosts typically take last terms cards, otherwise the customers do not dispose. Hosts to use gloves and dispose once a day. Basket to be sanitized once a day.
 - Create customer distance squares away from VIP Lounge desks. If possible, signage outside lounge covering safety measures.
 - Cleaning for area: each host will be responsible for cleaning their workstation prior to and ending their shift. Each host will be stationed with social distancing in mind.
 - Player interaction will change as we will not actively go on the floor to deliver comps, keeping social distancing in mind. They can still pick up from the lounge, employees sanitize after each customer interaction.
 - Popcorn, water and business center will remain shut down.
 - Gold Touches will remain discontinued to social distancing.
 - We will keep the doors open to the lounges while an employee is working.
 - Implement a temporary 'food comp on card only'. This eliminates printing, signing and giving to players which would be unnecessary if we just put it on the card, limiting direct contact.
- **Marketing Players Club**
 - PC employees will have the option to:
 - Conduct cleaning/sanitizing procedures prior to opening and/or prior to taking over for another employee
 - After each guest interaction the employee will sanitize work area to include counter-top; pin pads; PC Cards; pens; phone; e.g. anything the customer may have touched while servicing customer at the booth
 - To the greatest extent feasible ensure customers are practicing social distancing by standing on 6ft marker on floor and limiting their interaction to only what is necessary
 - Tape off 6 ft on floor at each booth location to ensure employees are practicing social distancing
 - Guests will be asked to verbally read their Players Club number to the club employee. Identification can be verified by the database driver's license photo. If photo can't be identified, then customer will be asked to provide further information.
 - Additional safety signage will be visible to customers upon approaching
- **F&B**
 - **The Lodge**
 - Opening a grab n' go concept.
 - The bar will open. Safe handling practices TBD
 - Social distance seating will be enforced
 - IMAC will provide a grab n' go concept provided by The Lodge
 - We will evaluate a full menu option based on demand and safety
 - Gloves and masks will be worn based on menu and distribution of food
 - **Spectra**
 - Deli Menu will be limited, with closed bottle alcohol
 - Hours will be 11 am to 8 pm daily.
 - Social distancing and seating will be implemented
 - Continuous cleaning and sanitizing would happen.
 - Gloves and masks will be worn based on menu and distribution of food
 - **Radisson**
 - Noodle Bar opened from 11am to 11pm daily and 12 pm on weekends
 - Precooked meals for customer to choose from
 - Would put in to go box and bagged for customer
 - Glove and masks would be worn and would utilize plexiglass for cashiers
 - Continuous cleaning and sanitizing would happen, as well as lines for 6-foot social distancing

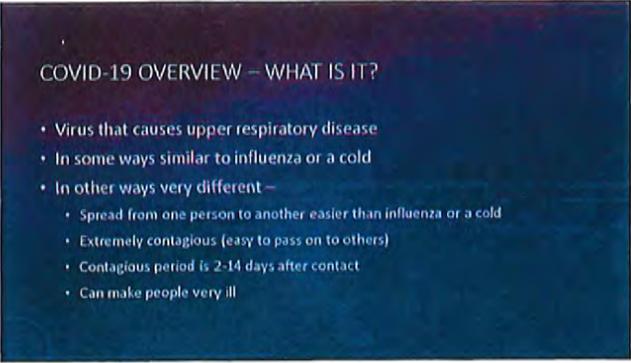
- Limited menu
- **Customer Service**
 - Watch machines for guest – while maintaining safe distance
 - Assist guest with drinks from self-serve (dependent on Government guidelines)
 - Self Service stations will be accessed by employees only
 - Hours of operation for each self-service station will be established and posted
- **Custodial**
 - To the greatest extent feasible, slot machines will be wiped down to ensure that we keep our customers safe.
 - Frequent **disinfecting** will consist of:
 - 1-2 person teams continual moving through the facility cleaning only machines.
 - Attempting to clean each machine after each use
 - Deep cleaning of all usable slot machines daily from 4 am to 8 am.
 - To the greatest extent feasible clean and sanitize 100% of facilities and equipment to ramp up for opening to the public and Oneida personnel returning for business. Train, educate and communicate all additional duties, responsibilities and expectation with this new process.
 - Due to Health and Safety for all guests and Oneida personnel, the Custodial department will be essential. Along with normal daily cleaning of the facilities, **additional cleaning/sanitizing wipes** will be used to entail:
 - Wiping down frequently touched surfaces hourly- doors, counters, windows, elevators, escalators, chairs, printers, etc....
 - Clean restrooms hourly
 - Clean ATM's, NRT's, Key Watchers, Time Clocks hourly
 - Clean share equipment every shift- such as radios, offices equipment, keys, etc....
 - To the greatest extent feasible train employees on proper use of PPE and cleaning supplies. Includes other departments that are also assisting with cleaning.
 - Training should include when to use PPE, what PPE is necessary, how to properly put on, use, and take off, and how to properly dispose of PPE; Trained on any chemical hazards
 - Evaluate supply chain to ensure availability of cleaning supplies
 - To the greatest extent the following supplies will be utilized:
 - Virex II 256- One step disinfectant cleaner and deodorant
 - Glance NA- Glass and Multi-Purpose cleaner non-ammoniated
 - Stride Citrus- Neutral Cleaner
 - Other product offerings:
 - Hand Sanitizer- strategically placed throughout the facilities for high traffic frequently touched areas and where customer and employee transactions take place
 - Disinfectant wipes- available for employees to clean counters, credit card equipment, player cards etc.....
 - Sneeze guards by all transaction windows and counter spaces that are utilized for customer and employee interaction
 -



1



2



3

COVID-19 OVERVIEW – HOW IT IS SPREAD

- Coughing, sneezing, talking
- Shaking hands, hugging
- Touching contaminated objects or surfaces such as:
 - Cell phones
 - Purses
 - Door handles
 - Light switches
 - Other objects

4

WORKPLACE SAFETY
A workplace with safety and health policies and a general culture of safety helps prevent accidents and injuries.

WORKPLACE SAFETY
Most general liability claims are caused by slips, trips and falls.

WORKPLACE SAFETY
In any study of falls, the most common cause was an employee slipping on a liquid spill.

WORKPLACE SAFETY
Employees who hold any position in an office or other work area should be trained in fire safety.

WORKPLACE SAFETY
Public facilities are the leading cause of workplace accidents, including slips, trips and falls.

WORKPLACE SAFETY
The average cost of a workplace injury is \$10,000.

5

PHYSICAL CHANGES TO THE WORKPLACE

- Physical layout changes to reduce employee and customer contact
- Equipment or equipment moved
- Employee disinfection changes for customer and employee safety
- Physical layout changes to reduce employee and customer contact

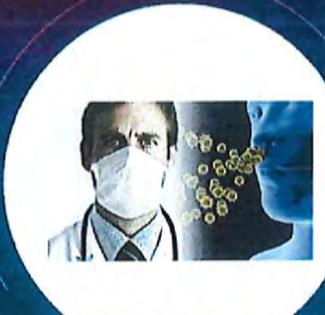
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ADDITIONAL CHANGES

- Daily screening of Gaming employees
- Slot games only – no Table Games or Bingo at this time
- Virtual and safe distancing meetings
- Safe workplace training and educational materials
- Daily Casino closure for extra sanitizing
- Limiting number of customers at each location

7

FACE MASKS



8

FACE MASK

Face masks will be worn by employees based on their role and responsibilities while on Casino property

Face masks will be provided

9

FACE MASK – HOW TO WEAR

- Face masks/coverings should:
 - Fit snugly but comfortably against the side of the face over your mouth and nose and chin
 - Be secured with ties or ear loops
 - Include multiple layers of fabric
 - Allow for breathing without restriction
- Avoid touching the mask while wearing it (wash hands or sanitize if inadvertently touched)

10

HOW TO WEAR A MEDICAL MASK SAFELY

Do's →

Don'ts →

FACE MASK DON'TS

- Do not use a ripped or damp mask
- Do not wear the mask only over the mouth or nose
- Do not wear a loose mask
- Do not touch the front of the mask
- Do not remove the mask to talk to someone
- Do not leave your used mask within the reach of others
- Do not reuse a paper mask

11

FACE MASKS

Cloth face masks should be able to be laundered and dried without damage or changing shape (should be laundered regularly)

Disposable face masks must be disposed of immediately after each use

12

FACE MASKS

- To remove your face mask safely:
 - Handle the straps only
 - Do not touch the front of the mask
 - Avoid touching your eyes, nose and mouth when removing

NOTE: If your glasses fog up try antifogging spray, or look up some tricks on the internet

13

FACE MASKS

- To eat, drink, smoke:
 - Pull the mask down below your chin, OR
 - Remove the mask safely
 - Fold outside edge to outside edge
 - Place into a paper bag for reuse (some available in break rooms)
 - Wash or sanitize hands after removing mask

14

FACE MASK LIMITATIONS

- NOT designed or certified to prevent inhaling airborne contaminants such as COVID-19
- Are designed to be placed on sick people - OR - people who don't know they are infected - to limit the spread of infection
- Are designed to protect yourself from splashes or sprays of bodily fluids
- May also keep contaminated fingers/hands away from your mouth and nose

15



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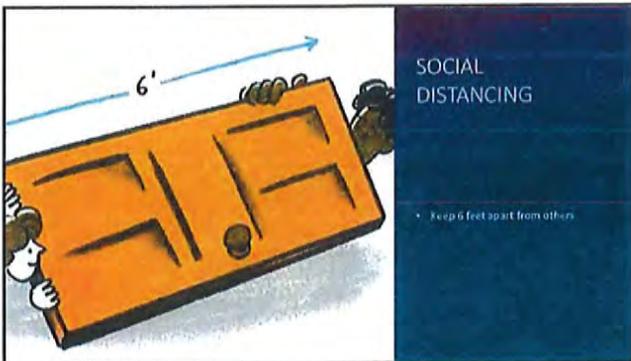
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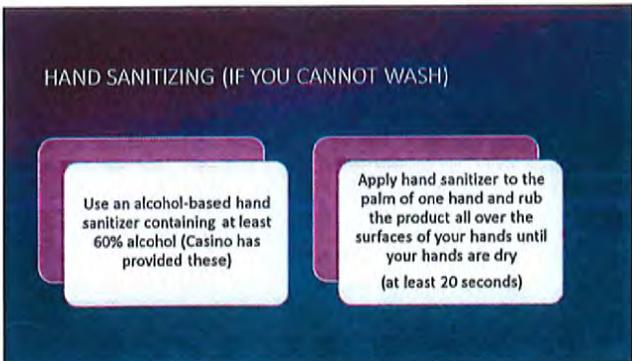
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23



24

HAND SANITIZING NOTES

Apply enough product on hands to cover all surfaces

Do not rinse or wipe off the hand sanitizer before it's dry, it may not work as well against the germs

25

HELPING OTHERS FOLLOW SAFETY RULES

- Think of cues you can help remind others if they are not following the health and safety rules...

26

FACE MASK

Face masks save lives!

The face mask may be uncomfortable – but protect the Casino from spreading the disease!

Don't forget cover your mouth and nose

27

SOCIAL DISTANCING

- Social distancing saves lives!
- Two arm lengths!
- Back up – you're getting into my 6 foot bubble

28

WASHING HANDS

- Don't forget it takes 20 seconds of lathering to kill germs!
- What 20 second song do you sing when you lather your hands?
- Oops, you touched your eyes, don't forget wash or sanitize!

29

SYMPTOMS OF COVID-19 - STAY HOME IF YOU ARE SICK

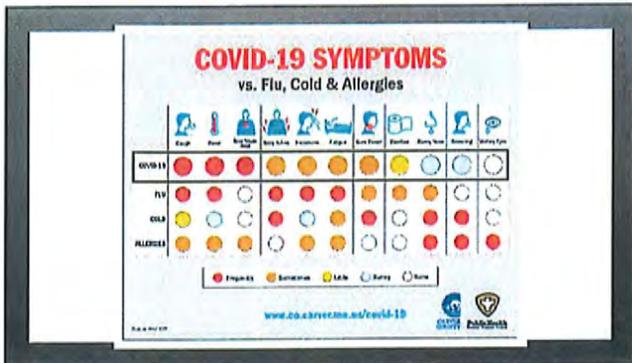
Symptoms can appear 2-14 days after you're exposed to the virus that causes COVID-19

You may have mild to severe illness:

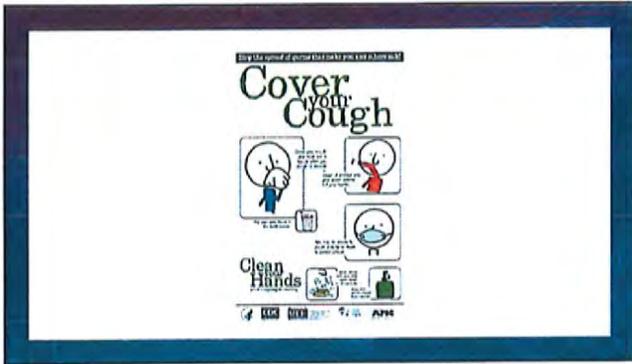
- Fever
- Cough
- Shortness of breath

Seek medical attention if you are having emergency warning signs including: trouble breathing, persistent pain or pressure in the chest, new confusion or not able to be woken, bluish lips or face

30



31



32



33

HOW TO REPORT SUSPECTED ILLNESSES – YOUR OWN

- If you are sick, call in using your normal call-in procedures
- Call your health provider if you feel necessary
- If diagnosed with COVID-19 or ordered by Health Official to quarantine or isolate provide documentation to your supervisor
- Public Health Officials will notify people who may have been exposed

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IF YOU HAVE QUESTIONS

- Contact your supervisor
- Supervisors are expected to seek unknown answers through the proper channels including but not limited to:
 - Chain of command
 - Security
 - Human Resource / Personnel Services Department

35

Louise C. Cornelius

From: Timothy J. Skenandore
Sent: Friday, April 24, 2020 2:21 PM
To: Louise C. Cornelius; Lorna G. Skenandore; Chad M. Fuss; Brenda J. Mendolla-Buckley; Fawne M. Rasmussen
Cc: Timothy J. Skenandore
Subject: Casino Cleaning During COVID 19 Social Distancing
Attachments: Main Casino Sections Current 04.07.14.pdf

Hello,
Attached is an example of the custodial sections at Main Casino. All facilities have sections predetermined for custodial assignments.

- All normal custodial duties and responsibilities will be complete daily, weekly, monthly or as work orders are generated.
- All normal PPE is available for all employees using our products and equipment while helping out.

Additional responsibilities during COVID 19 social distancing:

- Wipe down frequently touched surfaces hourly – doors, counters, windows, elevators, escalators, chairs, printers, etc.
- Clean restrooms hourly
- Designated employees at each facility continually wiping down slot machines after each customer use best we can
- Clean ATM's, NRT's, KeyWatcher's, Time Clocks, hourly
- Clean shared equipment every shift – radio's, offices, equipment, keys, etc.
- Deep Cleaning all usable slot machines daily from 4 am – 8 am.

Cleaning products

- Virex II 256 - One Step Disinfectant Cleaner and Deodorant (EPA approved for COVID 19 listing on CDC)
- Glance NA – Glass & Multi-Purpose Cleaner Non-Ammoniated
- Stride Citrus SC – Neutral Cleaner

Other Products Available

- Hand Sanitizer – strategically placed throughout the facilities for high traffic frequently touched areas and where customer and employee transactions take place.
- Disinfectant wipes – available for employees to clean counters, credit card equipment, players cards, etc..
- Sneeze guards by all transaction windows and counter spaces that are utilized for customer and employee interaction.

This list is not all inclusive but will give you a general sense of what to expect when we open the doors for customers. Thank you and please let me know if you need any other information.

Tim



April 24, 2020

Dear Tribal Leader:

Many of you are now weeks into a full shutdown of your gaming operations and I want to commend you for making the health and safety of your employees and patrons a priority. I understand, though, that “closed” does not mean “idle.” Every tribe, tribal gaming regulatory authority, and tribal gaming facility is no doubt in the midst of ensuring that everything is lined up and ready to go when it is determined they can safely reopen. That date, of course, depends on several factors that vary from location to location. But regardless of when you reopen, being ready to reopen means not only that employees are in place and machines are turned on, but also that everything that can be done to ensure the public health and safety at the operation has been done.

A number of resources are available as you and your colleagues identify preparations necessary to safely reopen tribally licensed gaming operations. Adequate preparation efforts are important to the success of the Indian gaming industry. I join you in knowing that this success has always and will continue to include the public’s safety.

Reopening is a careful and measured decision you must make. As Indian gaming’s federal regulatory body, the National Indian Gaming Commission (NIGC) wants to provide you with information to help your planning efforts. As you consider reopening in the future, here are some resources that might aid in the decision-making process.

President Trump has unveiled Guidelines for Opening Up America Again, a three-phased approach based on the advice of public health experts. These guidelines are available at <https://www.whitehouse.gov/openingamerica>. This resource relies on up-to-date data and an assessment of readiness in order to satisfy gating criteria before proceeding to a phased comeback at the local and regional levels.

The CDC also continues to update its website with helpful information to “help get and keep America open.” It includes guidance geared specifically toward tribes, states, localities, and territories. This can be found at <https://www.cdc.gov/coronavirus/2019-ncov/php/open-america/index.html>.

Partnerships and intergovernmental coordination at the local level are an additional resource. This resource provides an opportunity to anticipate and plan for potential outcomes before reopening. Tribally driven coordination aids in the assessment of local health conditions and neighboring jurisdictions' mitigation plans.

The NIGC continues to update resources available at www.NIGC.gov. I am attaching to this letter guidance related to your planning for a re-opening. In addition, information related to preparation measures for reopening is available on the recently updated NIGC Frequently Asked Questions document. As operations and tribal regulatory bodies identify operational questions and propose site specific solutions, the NIGC will continue to expand on how mitigation measures protect the public's safety and ensure a fair gaming operation.

Tribal gaming regulatory bodies work closely with the NIGC. They are a proven body of knowledge and often entrusted with issuing gaming facility licenses as well as attesting to environmental, public health and safety. Their expertise can provide a unique perspective and help ensure compliance with regulatory expectations. Your tribe's gaming regulatory body is an essential resource to involve in any planning process.

As you consider the appropriate measures necessary to reemerge from a temporary closure, your planning efforts are an opportunity to rebuild and emphasize your community's ability to be prepared for the future. Preparedness will continue to be an area of focus for the NIGC's work as we collaborate with you. I am grateful for your efforts as tribes promote local level planning that will continue to protect Americans.

Sincerely,

A handwritten signature in blue ink, appearing to read "E. Smermeyer". The signature is fluid and cursive, with a large initial "E" and a long, sweeping underline.

E. Sequoyah Smermeyer

Attachment: NIGC Guidance, Updated April 24, 2020



Reopening Guidance for Temporarily Closed Indian Gaming Facilities April 24, 2020

The National Indian Gaming Commission has created this guidance to assist gaming tribes, their tribal gaming regulatory authorities (TGRAs) and their gaming operations as they consider reopening their gaming operations following temporary closure due to COVID-19. Although each Tribe must decide for itself whether and when to reopen, the Indian Gaming Regulatory Act, NIGC regulations, and every approved tribal gaming ordinance requires that the gaming facility be operated in a way that does not jeopardize the public health and safety. This guidance is designed to help Tribes ensure this mandate is upheld as they consider reopening.

In addition, because the NIGC also has an oversight role that includes the public health and safety, we have developed a COVID-19 Environment, Public Health and Safety (EPHS) Preliminary Assessment that our compliance staff will use to assess a gaming operation's compliance with 25 C.F.R. part 559. That assessment document is attached to this guidance. The COVID-19 EPHS Preliminary Assessment's focus is on EPHS and does not address specific internal controls or asset protection that should be considered when reopening. Those areas are addressed in this NIGC re-opening guidance. The Reopening Assessment can be used by the TGRA in conjunction with its own internal checklist or used as a building block to develop its own internal checklist. This assessment is not all-encompassing but, as designed, will give the NIGC and tribe, if they choose to use it, a quick assessment of the main areas of consideration with regards to facility licensing, EPHS attestation and other immediate considerations relative to the COVID-19 pandemic. No one item in the assessment is controlling, rather all of the factors listed are designed to be looked at as a whole, in context of the particular gaming operation. The NIGC is providing this guidance to assist the tribe and its TGRA to prepare for reopening in a way that ensures the public health and safety of your gaming facilities.

The following guidance covers both regulatory requirements found in IGRA and NIGC regulations as well as best practices and suggestions to ensure that the gaming operation is reopened and operated in a way that ensures the health and safety of employees and patrons. This information will be updated as necessary.

Regulatory and Staffing Concerns

1. The NIGC requests that tribes notify the NIGC of their intent to reopen a gaming operation.
2. Review Tribal Gaming Ordinance for any regulatory staffing and quorum requirements.
3. Ensure all key regulatory and licensed gaming positions are filled to ensure compliance with applicable regulations and control over the gaming operation. Critical regulatory positions may include: Surveillance Operators, Inspectors/Compliance Officers, Auditors, and Investigators.
4. Review and assess compliance with MICS, TICS and SICS prior to opening. *See* 25 C.F.R. § 543.
5. Verify that outsourced accounting and/or internal audit contractors are operational and ready for resumption of services. *See* 25 C.F.R. § 571.12; 25 C.F.R. § 543.
6. Review submissions due to the NIGC during the closed period and submit any outstanding submissions accordingly (licensing, audits, fees, etc.) including facility license and EPHS certifications. *See* 25 C.F.R. § 556; 25 C.F.R. § 558; 25 C.F.R. § 559; 25 C.F.R. 571.12; 25 C.F.R. 543.
7. Assess current licensing schedules, including renewals, and other decisions. Issues to be aware of under 25 C.F.R. §§ 556 and 558 include the 60-day NOR submission deadlines, 30-day notification of License Issuance, and the requirements under 25 C.F.R. § 558.3(c), which prohibits a key employee or primary management official from working greater than 90 days without a gaming license.

Public Health and Safety Recommendations (25 U.S.C. § 2710(B)(2)(e); 25 C.F.R. § 522.2(i); 25 C.F.R § 522.4(b)(7); 25 C.F.R. § 559.4)

1. TGRAs and Operations should coordinate and implement measures to ensure public health and safety that may include patron and employee screening, personal protective equipment, physical and social distancing, sanitizing and cleaning plans and any necessary adjustments to internal controls (TICS/SICS).
2. COVID-19 Training: All employees should receive training on COVID-19 safety and sanitation protocols. More comprehensive training may be necessary for Housekeeping, Cleaners, Food & Beverage and Security. Front and back of house signage could be posted reminding employees and patrons of protocols and hygiene reminders.
3. Cleaning Protocols: Cleaning agents should be reviewed to ensure they meet EPA guidelines, are approved for use and are effective against COVID-19 and other viruses. The frequency of cleaning and sanitizing should be increased in all employee and public areas with an emphasis on high traffic areas and frequent contact surfaces.
4. Employee Hand Washing: Correct hygiene and frequent hand-washing with soap is vital to help combat the spread of the virus. All employees should be instructed to wash their hands frequently, or use hand sanitizer when a sink is not available and after any of the following activities: using the restroom, sneezing, touching the face, blowing the nose, cleaning, sweeping, mopping, smoking, eating, drinking, entering and leaving the gaming floor, going on break and before or after starting a shift.

5. Hand Sanitizers: Hand sanitizer dispensers should be placed in various locations including patron and employee entrances, reception areas, lobbies, and casino floors.
6. Personal Protective Equipment (PPE): Determination should be made if PPE should be worn by employees based on their roles and responsibilities. If PPE is used by employees, training should be provided on how to properly use and dispose of all PPE. Determination should also be made with regards to patron use of PPE including face masks. The TGRA should review applicable ordinances, regulations, and/or policies and procedures regarding the use of face masks and consider making appropriate adjustments to TICS/SICS.
7. Physical Distancing: Guests and employees should be advised to practice physical distancing by standing at least six feet apart, while standing in lines, using elevators or moving around the property. Restaurant tables, slot machines, gaming devices, table/card games, and other physical layouts should be arranged to ensure appropriate distancing.

Considerations for Gaming Floor (25. C.F.R. §§ 543; 547)

1. Test internal and external network connectivity to ensure they are functioning properly, (e.g. firewalls for both networks are up and operational).
2. Test internet connectivity.
3. TGRAs and/or Operations should coordinate with vendors to ensure that systems and support are ready to resume operations.
4. Ensure gaming systems, including game servers, have been tested for connectivity and functionality, including wide area ball calls.
5. Test the player tracking system parameters to ensure integrity and proper operation of the system.
6. Review player tracking reports to identify any anomalies such as changes to player accounts and/or point adjustments while the casino was closed. Any discrepancies should be investigated to resolution.
7. Test emergency systems including, but not limited to, smoke/fire alarms and backup generator(s).
8. Test information technology systems and backup data.
9. Review ticket redemption, player point accruals, or coupon expirations, etc. to determine if expiration dates will be extended.
10. Ensure any temporary VPN user accounts that were created during the emergency closure have been deactivated upon resumption of the gaming operations.
11. Ensure that all wide area and in-house progressive jackpot meters are correct and are properly posted for all gaming departments (gaming machines, poker, table games, etc.).

Consideration for Surveillance and Security (25 C.F.R. § 543)

1. Test to ensure surveillance systems are functioning properly, including any back up power sources.
2. Ensure all required camera views and recordings are available in accordance with 25 C.F.R part 543.21.

3. Ensure all previously deactivated electronic employee access privileges have been reactivated.
4. Test all electronic/electromagnetic locks to secure areas to ensure they are functioning properly.
5. If available, the TGRA should review the facility entry logs for non-authorized entry or suspicious activity during the time period the operation was closed.

Considerations for Cage/Vault and Revenue Audit (25 C.F.R § 543)

1. Ensure required minimum cash (See TGRA approved minimum bank role formula) is on site in accordance with 25 C.F.R § 543.18(c)(4)
(<https://www.nigc.gov/images/uploads/checklists-and-worksheets/MinimumBankrollVerification02192018.xlsx>)
2. Reconcile and fill ATMs, kiosks, and cash recyclers if previously emptied.
3. If ATMs, kiosks, and cash recyclers were not dropped prior to closing, funds should be reconciled and verified.
4. Count and verify vault and cage inventories.
5. Emergency and/or final drop proceeds should be reconciled and verified.
6. Audits of assets left in place should be conducted for the period the operation was closed e.g. pull tabs, controlled (sensitive) keys, cheques, cards, dice, bingo paper, gaming devices, pre-numbered forms, monetary instruments and other secure inventory items as appropriate.
7. Consideration should be given to the regular monthly and quarterly inventories required under 25 C.F.R. part 543.24.
8. Audits of non-gaming inventories such as food and beverage, alcohol storage, gift shops, etc. should be conducted.
9. After restoration of the accounting system has been conducted, a review of data should be conducted to identify any potential fraudulent or unauthorized activity.
10. All variances should be fully investigated to resolution.

COVID-19 Preliminary Assessment	
Tribe:	TGRA POC Name/Number:
Casino Name:	Casino POC Name/Number:
Projected Opening Date:	NIGC Compliance Officer:
Date Notified of Reopening:	Class II _____ Class III _____
Applicable NIGC Regulations	

<p>25 CFR §559.1 What is the scope and purpose of this part?</p> <p>(a) The purpose of this part is to ensure that each place, facility, or location where class II or III gaming will occur is located on Indian lands eligible for gaming and obtains an attestation certifying that the construction and maintenance of the gaming facility, and the operation of that gaming, is conducted in a manner that adequately protects the environment and the public health and safety, pursuant to the Indian Gaming Regulatory Act.</p> <p>(b) Each gaming place, facility, or location conducting class II or III gaming pursuant to the Indian Gaming Regulatory Act or on which a tribe intends to conduct class II or III gaming pursuant to the Indian Gaming Regulatory Act is subject to the requirements of this part.</p>					
<p>25 CFR §559.4 What must a tribe submit to the Chair with the copy of each facility license that has been issued or renewed?</p> <p>A tribe shall submit to the Chair with each facility license an attestation certifying that by issuing the facility license, the tribe has determined that the construction and maintenance of the gaming facility, and the operation of that gaming, is conducted in a manner which adequately protects the environment and the public health and safety. This means that a tribe has identified and enforces laws, resolutions, codes, policies, standards or procedures applicable to each gaming place, facility, or location that protect the environment and the public health and safety, including standards, under a tribal-state compact or Secretarial procedures.</p>					
<p>25 CFR §559.6 May the Chair require a tribe to submit applicable and available Indian lands or environmental and public health and safety documentation regarding any gaming place, facility, or location where gaming will occur?</p> <p>A tribe shall provide applicable and available Indian lands or environmental and public health and safety documentation requested by the Chair.</p>					
Applicable Approved Tribal Gaming Ordinance Section(s) : ¹					
Applicable Tribal-State Gaming Compact Section(s): ²					
The NIGC interpretive rule regarding IGRA’s environment, public health, and safety mandate (Federal Register at 67 Fed. Reg. 46109 (July 12, 2002)):					
	Reopening Questions Related to EPH&S	Y	N	N/A	Notes
1	Does the TGRA attest that there is no longer a threat to public health and safety? Identify approving official.				
2	Have all applicable tribal and/or federal restrictions on businesses and/or				

	individual gatherings related to the COVID-19 Pandemic been lifted or amended that allow for reopening? Please list any existing or amended restrictions.				
3	Are there local, county, or State restrictions on businesses and/or individual gatherings related to the COVID-19 pandemic that have been determined to apply to the gaming operation and that are still in effect? ³				
4	If yes to #3, has the Tribe or TGRA reviewed those restrictions and made a determination as to how the Tribe may safely reopen?				
5	Are there other existing local, county, or State restrictions on businesses and/or individual gatherings related to the COVID-19 pandemic? ⁴				
6	Has the TGRA identified and does it have in its possession all EPHS standards applicable to the gaming facility?				
7	Has the TGRA reviewed all the EPHS standards applicable to the gaming facility and can it attest that the facility meets or will meet the standards at the time of reopening?				
8	Has the TGRA conducted or will it cause an inspection of the gaming facility to ensure the gaming facility meets the EPHS standards? List date, organization, contact information of inspector(s).				
9	Do the standards identified in #8 include requirements that the gaming facility perform a deep cleaning to a prescribed standard?				
10	Has the TGRA identified public health and/or EPHS experts to assist with				

	inspections and identification of violations of the Tribe's EPHS standards and instances of imminent jeopardy that may be caused due to the COVID-19 Pandemic?				
11	Do the standards identified in #8 include requirements that the gaming facility perform a deep cleaning to a prescribed standard?				
12	TGRA (or Tribe) adopted additional requirements/protocol to include inspection standards/schedules, use of notices, and enforcement actions, including temporary closure orders, to address the COVID-19 Pandemic?				
13	Have changes to internal controls been approved by the TGRA and/or Casino to allow for personal protective equipment (PPE) to be worn by gaming facility staff and patrons such as masks and gloves? If yes, have existing/additional standards been identified/implemented to ensure that the new policies/procedures will protect against theft. For example, if allowing count room employees to use gloves, masks, or hoods, are there other TICS/SICS in place to ensure against theft?				
14	Has the TGRA developed or adopted current monitoring, testing and reporting mechanisms to address COVID-19 Pandemic rules approved by the TGRA? Describe.				
15	Does the TGRA and Casino have the appropriate staff to ensure internal control and compliance with applicable regulations?				

16	Has the TGRA implemented any social/physical distancing measures within the gaming facility that are consistent with CDC guidelines?				
17	Has the gaming facility adopted protocol to address instances where staff or patrons report or display symptoms of COVID-19? Has the gaming facility adopted protocol to address instances where staff or patrons test positive for COVID-19? Is there a source of protocol or was the protocol developed internally?				
18	Has the Tribe or TGRA determined what indicator(s) will signal consideration for reclosing the gaming facility?				
19	Has the TGRA/Casino tested emergency service systems (fire alarms, sprinklers, etc.)?				
20	Has the TGRA confirmed the gaming facility will have adequate emergency services response (fire, EMS, police) from the agencies previously designated as first responders prior to COVID-19 Pandemic? Has TGRA ensured agencies can and will respond to calls at the gaming facility.				
21	Will areas of the gaming facility remain closed?				
22	Will the TGRA and Casino continue to monitor and prepare for the possibility of a subsequent wave of COVID-19 outbreaks? Describe preparedness plan.				
23	Is the TGRA or Operation requesting any preopening technical assistance?				

Item	Yes	No	N/A	Comments
Compliance-Regulatory				
Slot Department - Opening				
Verify all department keys are accounted for and properly Secured	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Audit key watch/tracker reports during closed period. Compare against floor activity /surveillance reports during the same period. Investigate as applicable.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
If slot machines were left on during closure, pull master game file report, identify machines showing difference in coin in from master game file report pulled before closing. Audit games showing play activity.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
For all games (left on or off), visually verify board seals have not been tampered with	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Suggest alternative measure would also be acceptable to run report (GMAR) to identify open slot doors and only visually verify the logic boards on machines that were opened
After first day live, pay special attention to slot variance reports, validate the cause of the variances	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
End User Testing Results (WAP and IHP meters verified)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	IHP can be verified to be the same readings as closing recordings. However, WAP may not match
Audit manual jackpot, cash expenditure and all other forms and all cash equivalents by comparing current inventory against closing inventories	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Surveillance - Opening				
Directions will be provided from the regulatory body for guidance in each phase of the process.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Generator Testing				
Cage and Vault - Opening				
All funds must be 100 percent counted and verified before being issued to departments This should be performed by a person other than the employee who closed the cage and vault. If this cannot be done, ensure a witness independent of the cage or vault verifies the cash and cash equivalents.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Point/Comp \$ Liability				
With points and/or comp \$ being utilized for Free Play, exchanged for cash, utilized at the POS, etc. there are many different transactions and ways to manipulate points. The offsetting account is the Point/Comp \$ Liability. Points and Comp \$ Liability should be tied out to the player club system reports upon closing.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Revenue Audit - Opening				
Ensure all audits with variances are resolved prior to opening	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Ensure all transaction in transit upon closing have been closed (see closing section above)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Verify opening paperwork and totals in all departments (listed above) tie back to the closing paperwork and totals	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Request copy of closing reports to compare to opening reports	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Bingo - Opening				
Verify card accountability	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Test all Bingo equipment according to MICS standards	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Players Club - Opening/Promotions				
Print exception report from players club. Compare against the same report generate upon closing. Identify any changes made to player accounts, points, PIN changes or other transaction occurring during closing. Investigate accordingly	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	

Item	Yes	No	N/A	Comments
Perform an inventory count on items determined to be material from the closing. Identify any discrepancies between closing and opening inventories. Investigate accordingly	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Card Games/Table Games				
Card Control Logs (Compare to closing log)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Card/Table Game Closing-(Compare to Opening)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Verify Chip Count	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Sanitation				
Inspections performed to ensure proper sanitation was completed.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
License Requirements-Verify Posting				
Postings				
Facility License - Alcohol	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Individual License - Alcohol	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Age Limit	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Tribal / State Tax Commission Licenses	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Facility License	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Elevator Inspection Certification (in elevator or filed in GM office)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Emergency Evacuation Maps	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Occupancy Signs at entrances	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Problem Gambling Information	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Rules for Play of and Prizes for Covered Games	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Title 31 Information	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Compliance - Other Items				
Cage				
No Personal Items	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Title 31 Everi system (On-line)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Cards				
Card Control Logs (Compare to closing log)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Card Storage / Destruction	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Information Systems				
Proper Access Control to IDF Closets in Place	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Proper Access Control to Server Room in Place	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Machines				
EGMs Secured to Base	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	? Not sure I understand the reason for this one?
TITO Tickets	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	? What about tickets?
UPS / Surge Protector Units (EGMS)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
UPS / Surge Protector / Emergency Power Back-Up (Servers)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
MISC				
Drop / Count Team Schedules	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Minimum Bankroll Formula	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Variance (Overages / Shortages) Tracking (determine if any variances were found during the reopen process)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Other				
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Kiosks	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	

Item	Yes	No	N/A	Comments
GMARs (Gaming Machine Access Report)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Player's Club/Promotions				
Comps	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Marketing (Promotions) (Verify what promotions will still occur, and which did not during shut down)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
No Personal Items	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Soft Count				
Clear Containers for Supplies	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Clear Tables	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Count Forms	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Currency Counters Tested	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
EGM Canisters (# marked)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Drop and Count Equipment (uniforms, carts)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
No Items Hindering Surveillance View	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
No Personal Items	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
No Storage Boxes	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Trash Receptacles – See thru	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Security				
Key Inventory (Electronic Key System?) (Review Key Watcher Report)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Surveillance Audio/Camera in Holding Room	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Vault				
Cash Inventory	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Chip Inventory	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Clear Containers for Supplies	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Currency Counter Tested	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
No Items Hindering Surveillance View	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
No Personal Items	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
No Storage Boxes	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Trash Receptacles – See thru	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Safety - Opening				
Request that OGC-Compliance team member be present during walk through	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Obtain copy of final report

WYNN LAS VEGAS HEALTH & SANITATION PROGRAM

We are closely monitoring government policy changes, Centers for Disease Control (CDC) guidelines, government mandates, and public health advancements and will continue to make changes as necessary or appropriate to our protocols and procedures. This program has been developed in consultation with three leading public health medical professionals and fellows of Georgetown and Johns Hopkins Universities.



Version 2.1

WYNN LAS VEGAS HEALTH & SANITATION GUIDELINES

Statement from Matt Maddox, Chief Executive Officer, Wynn Resorts

At Wynn Resorts we care deeply about our family of employees and our communities. When we decided to be the first to close in Nevada, before the state required the closure of casino resorts, we did it with a heavy heart but knew it was in the best interest of our employees and community. We also understood that asking 15,000 employees to stay home during the pandemic is challenging. We chose to pay all our full-time and part-time employees for 60 days through May 15th including an estimate for tips they could earn during the closure. It is costing us approximately \$3 million per day or \$180 million for two months.

I commend our Governor, Steve Sisolak, for making the difficult decision and taking early action in the fight against COVID-19. I believe his decisions saved lives as we were facing potential exponential growth in COVID-19 exposure, given that Las Vegas caters to millions of people from all over the world.

Currently, Nevada is well positioned relative to many other states. Clearly, we will see increases in cases as we accelerate testing. The Roosevelt aircraft carrier data has shown that of the hundreds of sailors that have tested positive the majority are asymptomatic. Stanford University just published research that COVID-19 cases could be 50x higher than reported given the vast amount of asymptomatic and mildly symptomatic individuals. That means as we increase testing, we will see more cases.

So, I believe it is critical to monitor our hospitalizations as we increase testing. We passed our “peak” hospitalizations based on most national models and our hospitals were not overrun. Our COVID-19 related deaths per million are below the national average. We have also acquired enough personal protective equipment (PPE) through a public-private partnership to sufficiently supply our medical community that we all rely on for months.

We now face a new, rapidly decelerating curve we must “flatten”. Our economy is in a free fall. Nevada will likely be one of the hardest hit states in the nation and suffer very high unemployment. It is imperative to flatten this curve so we can re-emerge in a safe, sustainable way.

This plan presents what we will do to keep our guests, employees, and our community safe. Each operating department has its own customized set of procedures, even more detailed than the 20-page summary presented here. It relies on the best available science on sanitization methods in consultation with professional infectious disease experts from the best academic institutions in the country. We will continue to refine and update the plan as our experts provide us more advice. Our procedures are extensive and not applicable to all resorts in our industry.

In addition, I have been on calls almost daily with one of the country’s leading public health and pandemic preparedness experts, as well as various leaders in our medical community representing our hospitals and they agree that an incremental reopening makes sense, and that science and data must lead us out of this in a safe fashion.

In order to be able to recover and reopen in Las Vegas, this is what I believe are the right steps to take:

1. The Governor's appointed Task Force should be focused on COVID-19 testing capabilities and safely reopening the economy.
2. Reopen parts of the local Nevada economy in early May. Begin with reduced occupancy, physical distancing measures in place, temperature checks and no large gatherings. We all need to wear a mask. Wearing a mask is uncomfortable; however, it will allow our economy to reopen faster.
3. Follow the data provided by a team of modeling experts tracking benchmarks based on the following criteria:
 - a. Increases in COVID-19 testing velocity.
 - b. Hospitalizations and deaths per million should not exceed the national average over any sustained period.
 - c. Hospital critical care bed availability should be reserved based on a ratio of current COVID-19 patients in the event of a spike.
 - d. Full transparent data should be public, web based and accessible to anyone.
4. Assuming in mid- to late-May we are still in line with the benchmarks, slowly begin to reopen the Las Vegas strip with extensive safety measures in place.
5. Monitor the data every day. If we need to, marginally pull back or move forward.

The main obstacle on the list above is widespread testing. Our state, the medical community, the Task Force and resort industry leaders are focused on ways to vastly enhance testing and I anticipate it will happen over the coming weeks.

One observation, that is often times overlooked, is that many of our hospitals are in financial distress. They have stopped all elective procedures and surgeries and now mainly focus on emergency issues and COVID-19. Emergency room visits are down substantially, and we have empty beds - thankfully. Compared to last week, COVID-19 hospitalizations in many of our hospitals in Clark County have dropped by approximately 10% and the availability of ventilators has increased.

However, we must keep in mind that various hospitals will likely face significant layoffs as they bleed money during this time. The hospitals need to begin elective surgeries while retaining capacity for COVID-19 patients, otherwise our healthcare system that is meant to save lives will be badly damaged. That would be counterproductive.

I understand that if we incrementally reopen, we might have to pull back if a spike in cases occurs that jeopardizes our healthcare system capacity. However, the only way to cross this river is one stone at a time and we need to put our feet in the water before it is too late.

Wynn Las Vegas Program

1 Employee & Guest Health

The health and safety of our employees and guests is our number one priority.

Thermal Cameras. Points of entry will be limited to allow our security team to conduct non-invasive temperature checks utilizing thermal cameras. Anyone displaying a temperature over 100.0°F¹ will be taken to a private area for a secondary temporal temperature screening. Employees or guests confirmed to have a temperature over 100.0°F will not be allowed entry to the property and will be directed towards appropriate medical care.

Physical Distancing. Guests will be advised to practice physical distancing by standing at least six feet away from other groups of people not traveling with them while standing in lines, using elevators or moving around the property. Restaurant tables, slot machines and other physical layouts will be arranged to ensure appropriate distancing. Employees will be reminded not to touch their faces and to practice physical distancing by standing at least six feet away from guests and other employees whenever possible. All resort outlets will comply with, or exceed, local or state mandated occupancy limits.

Hand Sanitizer. Hand sanitizer dispensers, touchless whenever possible, will be placed at key guest and employee entrances and contact areas such as driveways, reception areas, hotel lobbies, the casino floor, restaurant entrances, meeting and convention spaces, elevator landings, pools, salons and exercise areas. Hand lotion will be provided in guest rooms and throughout the back of house (in touchless dispensers) for employees.

Front of the House Signage. There will be health and hygiene reminders throughout the property including the proper way to wear, handle and dispose of masks. Table game electronic signs will also be used for messaging and communication.

Back of the House Signage. Signage will be posted throughout the property reminding employees of the proper way to wear, handle and dispose masks, use gloves (in positions deemed appropriate by medical experts), wash hands, sneeze and to avoid touching their faces.

Employee & Guest Health Concerns. Our employees have been given clear instructions on how to respond swiftly and report all presumed cases of COVID-19 on property to the Southern Nevada Health District (SNHD). We will be ready to provide support to our guests. Employees are instructed to stay home if they do not feel well and are instructed to contact a manager if they notice a coworker or guest with a cough, shortness of breath, or other known symptoms of COVID-19. Employees and guests who are exhibiting any of the symptoms of COVID-19 while at the property are instructed to immediately notify their manager (employees) or hotel security (guests).

Case Notification. If we are alerted to a presumptive case of COVID-19 at the resort, we will work with the SNHD to follow the appropriate actions recommended by it.

¹ <https://www.cdc.gov/coronavirus/2019-ncov/hcp/infection-control-recommendations.html>

2 Employee's Responsibilities

Wynn Employees are vital for an effective sanitation and health program.

Hand Washing. Correct hygiene and frequent handwashing with soap is vital to help combat the spread of virus. All Wynn employees have been instructed to wash their hands, or use sanitizer when a sink is not available, every 60 minutes (for 20-seconds) and after any of the following activities: using the restroom, sneezing, touching the face, blowing the nose, cleaning, sweeping, mopping, smoking, eating, drinking, entering and leaving the gaming floor, going on break and before or after starting a shift.

COVID-19 Training. All employees will receive training on COVID-19 safety and sanitation protocols with more comprehensive training for our teams with frequent guest contact including Housekeeping, Food & Beverage, Public Area Department, Hotel Operations and Security.

Personal Protective Equipment (PPE). Appropriate PPE will be worn by all employees based on their role and responsibilities and in adherence to state or local regulations and guidance. Training on how to properly use and dispose of all PPE will be mandatory. Every employee entering the resort will be provided a mask and required to wear that mask while on property. Gloves will be provided to employees whose responsibilities require them as determined by medical experts including housekeeping and public area attendants and security officers in direct contact with guests.

Daily Pre-Shift & Timekeeping. Employee pre-shift meetings will be conducted virtually or in areas that allow for appropriate physical distancing between employees. Larger departments will stagger employee arrival times to minimize traffic volume in back of house corridors and service elevators. Hand sanitizer will be available at each timeclock location and employees will be required to sanitize their hands after clocking in. Our management team will ensure constant communication and proper PPE and sanitation procedures are followed and updated per the latest expert guidance.

3 The Guest Journey

Guest Arrival

A security officer will greet each visitor to the resort. Visitors will be screened and asked to use hand sanitizer and to wear a mask (which will be provided by the resort). Appropriate signage will also be prominently displayed outlining proper mask usage and current physical distancing practices in use throughout the resort.

a) Guest Arrival Valet, Taxi or Ride Share

- Guests will enter the resort through doors that are either propped open, are automated or manually operated by an employee.
- Employees will not open the doors of cars or taxis.
- Guests requesting bell service will be assisted and the bell cart will be sanitized after each guest is assisted.
- Valet services will be suspended until further notice.

b) **Guest Arrival by Wynn Limousine**

- Limos will be thoroughly cleaned before and after each use.
- No more than four guests will be permitted per SUV and no more than two guests will be permitted per sedan.
- Guests will not be permitted in the front passenger seat.

Hotel Guest Elevators

- a) An employee will be present to sanitize the button panels at regular intervals, at least once per hour.
- b) Signage will be posted to explain the current procedures.
- c) No more than four guests will be permitted per elevator.

Guest Sanitation Amenities

- a) Each guest will receive an amenity bag during check-in containing masks, hand sanitizer and a COVID-19 awareness card.
- b) A spray bottle of sanitizer or wipes will be provided in each room for guest use (subject to availability and stored out of reach of small children).

4 Cleaning Products and Protocols

Our hotels use cleaning products and protocols which meet EPA guidelines² and are approved for use and effective against viruses, bacteria and other airborne and bloodborne pathogens. We are working with our vendors, distribution partners and suppliers to ensure an uninterrupted supply of these cleaning supplies and the necessary PPE.

Public Spaces and Communal Areas. The frequency of cleaning and sanitizing has been increased in all public spaces with an emphasis on frequent contact surfaces including, but not limited to, front desk check-in counters, bell desks, elevators and elevator buttons, door handles, public bathrooms, room keys and locks, ATMs, escalator and stair handrails, casino cage counters, gaming machines, gaming tables, gym equipment, dining surfaces and seating areas.

Guest Rooms. Industry leading cleaning and sanitizing protocols are used to clean guest rooms, with particular attention paid to high-touch items including television remote controls, toilet seats and handles, door and furniture handles, water faucet handles, nightstands, telephones, in-room control panels, light switches, temperature control panels, alarm clocks, luggage racks and flooring. The existing Amazon Alexa units allow for touchless control of key features including drapery, air conditioning and lighting.

Laundry. All bed linen and laundry will be changed daily and continue to be washed at a high temperature and in accordance with CDC guidelines³. Dirty linen will be bagged in the guest room to eliminate excess contact while being transported to the laundry facility.

² <https://www.epa.gov/pesticide-registration/list-n-disinfectants-use-against-sars-cov-2>

³ <https://www.cdc.gov/coronavirus/2019-ncov/community/disinfecting-building-facility.html>

Back of the House. The frequency of cleaning and sanitizing will also increase in high traffic back of house areas with an emphasis on the employee dining rooms, employee entrances, uniform control rooms, employee restrooms, loading docks, offices, kitchens, security scanning podiums, Employee Relations service desks and training classrooms.

Shared Equipment. Shared tools and equipment will be sanitized before, during and after each shift or anytime the equipment is transferred to a new employee. This includes phones, radios, computers and other communication devices, payment terminals, kitchen implements, engineering tools, safety buttons, folios, cleaning equipment, keys, time clocks and all other direct contact items used throughout the resort. The use of shared food and beverage equipment in back of the house office pantries (including shared coffee brewers) will be discontinued.

Room Recovery Protocol. In the event of presumptive case of COVID-19 the guest's room will be removed from service and quarantined. The guest room will not be returned to service until case has been confirmed or cleared. In the event of a positive case, the room will only be returned to service after undergoing an enhanced sanitization protocol by a licensed third-party expert and approval by the SNHD.

Air Filter and HVAC Cleaning. The frequency of air filter replacement and HVAC system cleaning has been increased and fresh air exchange will be maximized.

5 Locations for the Distribution of Personal Protection Equipment (PPE)

Front of the House

All Resort Entrances & Exits
Registration & Concierge
Red Card Kiosks

Back of the House

Employee Entrances
Department Specific Locations
Including Kitchens, Security Podiums,
Housekeeping & PAD Closets

6 Physical Distancing

Throughout the resort we will meet or exceed state and local health authority guidelines on proper physical distancing.

Queuing. Any area where guests or employees queue will be clearly marked for appropriate physical distancing. This includes check-in, check-out, elevator lobbies, coffee shops and casual dining and taxi lines.

Hotel Front Desk, Business Center and Concierge. Agents will utilize every other workstation to ensure separation between employees whenever possible.

Restaurants and Bars. Restaurants and bars will reduce seating capacities to allow for a minimum of six feet between each seated group/party of guests.

Slot Operations. Slot machines will be turned off and/or reconfigured with the chairs removed to allow for physical separation between guests. Casino Supervisors and managers will ensure that guests do not congregate around slots.

Table Games Operations. Table games will have chairs removed and every other table will be open. Casino Supervisors and managers will ensure that guests do not congregate in groups.

Meeting and Convention Spaces. Meeting and banquet set-up arrangements will allow for physical distancing between guests in all meetings and events based on CDC⁴ and state recommendations. Self-serve buffet style food service will be suspended and replaced by alternative service styles.

Retail Spaces. In coordination with our retail partners and tenants, guest occupancy limits will be enforced to allow for appropriate distancing at our owned and leased retail spaces.

Pools. Pool seating will be configured to allow for at least six feet of separation between groups of guests.

Back of the House. Physical distancing protocols will be used in the employee dining rooms, uniform control areas, training classrooms, shared office spaces, the employee services window (via a teller style window) and other high-density areas in order to ensure appropriate distancing between employees.

⁴ <https://www.cdc.gov/coronavirus/2019-ncov/community/large-events/mass-gatherings-ready-for-covid-19.html>

DEPARTMENT SPECIFIC SANITIZATION POLICIES

Additional department and protocols are under review and will be added/modified as developed

EMPLOYEE SERVICES & HUMAN RESOURCES

7 Uniform Control

Cleaning & Sanitizing Protocol

- a) Laundry to be cleaned in accordance with CDC guidelines⁵

Physical Distancing Protocol

- a) A uniform control employee will be stationed at the entry to control maximum occupancy of the space
- b) Clearly defined lines and waiting areas to be clearly marked on the floor in front of the uniform distribution counters
- c) Locker room floors to be clearly marked with available and unavailable spaces to be used for dressing
- d) One employee at a time will be allowed into the processing area for loaners and exchanges

Guest Considerations

- a) No department specific requirements

CASINO OPERATIONS

All guests wishing to gamble will be requested to briefly lower their masks for age and identification purposes in compliance with Nevada gaming requirements.

8 Casino Cage

Cleaning & Sanitizing Protocol

- a) Guest facing counters to be sanitized at least once per hour

Physical Distancing Protocol

- a) Guests to maintain six feet of separation while waiting in line with the spacing to be clearly marked on the floor

Guest Considerations

- (a) Hand sanitizer bottles are located on the guest counter at the Wynn Baccarat Cage
- (b) Hand sanitizer stations are located outside of the Wynn and Encore Main Cages

9 Slot Operations

Cleaning & Sanitizing Protocol

- (a) Hand sanitizing stations on the Wynn Casino floor including one adjacent to Red Card Booths and all ATMs
- (b) Workstations to be sanitized at least once every four hours
- (c) Slot attendants to offer to sanitize slots for guests sitting down at a machine
- (d) Slots to be sanitized at least once every four hours
- (e) Slot supervisors to complete a log in each section to track each machine's sanitization schedule

⁵ <https://www.cdc.gov/coronavirus/2019-ncov/community/disinfecting-building-facility.html>

Physical Distancing Protocol

- (a) Slot machines will be turned off and/or reconfigured with the chairs removed to allow for separation between guests
- (b) Guests to maintain six feet of separation while waiting in line at Red Card Booths

Guest Considerations

- (a) Hand sanitizer dispensers to be placed throughout the slot floor
- (b) Signage will be placed throughout the slot floor to remind guests to sanitize slot machines before use or contact a slot attendant for assistance

10 Table Games Operations**Cleaning & Sanitizing Protocol**

- (a) Supervisors to sanitize table game rails after each guest leaves a game
- (b) Supervisors to sanitize each chair area after each guest leaves a game
- (c) Dealers to sanitize dice for each new shooter
- (d) Dealer to sanitize the on/off button when entering a game
- (e) Dealer to sanitize the exterior of the card shoe when entering a game and the interior of the card shoe when the game goes dead
- (f) Supervisors to sanitize the outside of shufflers every four hours; inside to be sanitized once per week
- (g) Roulette wheel head, ball and dolly sanitized when a new dealer enters the game
- (h) Supervisor to sanitize the Chipper Champ every hour
- (i) Pai Gow tiles sanitized when new dealer enters game
- (j) Big Six Wheel spokes and mirror to be sanitized by opening and closing supervisor
- (k) Pit Podiums to be sanitized by Pit Administrator every hour including phones, computers, Veridocs, all hard surfaces and cabinetry
- (l) Visual Limits and Elo units to be sanitized every time a new supervisor enters the pit
- (m) Dealer to sanitize the money paddle when arriving at the game
- (n) Baccarat discard pile and BJ discard holders to be sanitized by supervisor once every four hours
- (o) Dealer to sanitize token boxes when entering a game
- (p) PAD to increase trash pick-up in pits
- (q) Pit Technicians to sanitize hard surfaces and push carts at the beginning and end of each shift
- (r) Chip cleaning solutions being reviewed – pending expert guidance
- (s) Employees to sanitize tables and chairs after using the lounge
- (t) Player's lounge to be deep cleaned daily

Physical Distancing Protocol

- (a) Every other table open
- (b) Three chair/guest maximum per table game (corners and middle seat remain)
- (c) Four chair/guest maximum per big baccarat table
- (d) Three players maximum on each side of dice tables
- (e) Discourage unrelated guests from congregating behind players
- (f) Remove seating in the Table Games Lounge and enforce maximum occupancy limits
- (g) Dealers to verbally give breaks instead of "tapping in" and maintain appropriate separation

Guest Considerations

- (a) Guests will be reminded to use hand sanitizer prior to the start of play and reminded of proper mask usage
- (b) Cocktail Servers will remain available and serve beverage upon request; Butlers will remain available for food and beverage service in VIP gaming areas
- (c) Baccarat Buffet service will be suspended

11 Poker Operations

Cleaning & Sanitizing Protocol

- a) Supervisors to sanitize table game rails after each customer leaves (ongoing)
- b) Supervisors to sanitize each chair area after a customer leaves (ongoing)
- c) Supervisors to sanitize the outside of shufflers every hour; inside to be cleaned once per week
- d) Supervisors to sanitize podiums at least once per hour including phones, computers, Veridocs, all hard surface and cabinetry
- e) Dealers to sanitize in table rating units each time they enter a game
- f) Dealers to sanitize token boxes
- g) Chip sanitation solutions being reviewed – pending expert guidance

Physical Distancing Protocol

- a) Every other table open and tables to be staggered
- b) Maximum seating to be established based on expert guidance
- c) Dealers to verbally give breaks instead of “tapping in” and maintain appropriate separation

Guest Considerations

- a) Guests will be reminded to sanitize their hands prior to the start of play
- b) Food service protocols to be reviewed

12 Race & Sportsbook Operations

Cleaning & Sanitizing Protocol

- a) Supervisors to sanitize race carrels and chairs after each guest
- b) Ticket writer to sanitize the counter after each guest
- c) Chairs to be sanitized hourly
- d) Race & Sportsbook to be deep cleaned daily
- e) VIP Booths to be sanitized after each use
- f) Supervisor to clean station every hour including phones, computers, Veridocs, all hard surfaces and counters

Physical Distancing Protocol

- a) Every other betting station open
- b) Six-foot intervals to be marked for ticket window queues
- c) Seats, carrels and booths to be reconfigured or removed to allow for appropriate physical distancing

Guest Considerations

- a) No department specific requirements

HOTEL OPERATIONS

13 Business Services, Office Services, Lost & Found

Cleaning & Sanitizing Protocol

- a) Counters and equipment sanitized at least once per hour
- b) In-house mail vehicle to be sanitized after each use
- c) Addition of a sanitization kit to each locker bank with instructions on how to properly clean the terminal screen and locker box
- d) Sanitize internet stations and post sanitation signage for guest reference

Physical Distancing Protocol

- a) Employees to use separate counters and have individual stations to eliminate shared equipment
- b) Maximum of two employees at counter
- c) Greeter at front door of Business Services, when necessary, to control physical distancing
- d) Credit card swipe moved to front counter
- e) Guest will be requested to place packages directly on the scale and then onto the conveyor
- f) Convert Security Hut Window at Convention Dock into a pickup/drop off point with limited contact for couriers
- g) Enforce six-foot physical distancing minimums with common carriers
- h) Encourage the use e-mail for all guest transactions
- i) Offer Internet Stations for printing and completing any documentation instead of at counter

Guest Considerations

- a) Discontinue print magazine and newspaper services throughout the property. Guests will have access to PressReader on their own devices.
- b) All packages will be placed in sealed single-use plastic bags
- c) Guest packages delivered to the rooms will be placed outside the guest room, the delivery person will call the room and then wait six feet away to ensure the package is retrieved

14 Front Services & Transportation

Cleaning & Sanitizing Protocol

- a) Sanitize high touch front services spaces and equipment including dispatch offices, bell desks, luggage storerooms, luggage belts, bell carts, porte cocheres and drop-off/pick-up waiting areas
- b) Offices, desks, counters, workspaces and related equipment (including iPads and radios) to be sanitized at least once every four hours or upon a new employee using the equipment
- c) Scooters, wheelchairs and other guest amenities to be sanitized after each use
- d) Baggage doors sanitized every hour
- e) Baggage belt divider tubs, bell carts and related equipment to be sanitized after each use
- f) Bell cart carpets to be covered with a cleanable, non-porous or disposable surface
- g) Back of House (BOH) elevator buttons to be sanitized at least once per hour
- h) Vending machines (break room and taxi tunnels) to be sanitized at least once per hour

Physical Distancing Protocol

- a) Guest laundry and dry-cleaning services available using contactless pick-up and delivery protocols
- b) Guest amenity deliveries will be consistent with In Room Dining (IRD) protocols and delivered with contactless procedures whenever possible

Guest Considerations

- a) Valet parking suspended
- b) Self-service ice machines to be suspended and signage posted indicating ice is available through IRD

15 Pool Operations**Cleaning & Sanitizing Protocol**

- a) Chaise lounge chairs to be sanitized after each use
- b) Cabana guest contact surfaces to be sanitized after each use
- c) Cabanas to be pressure washed and sanitized each night
- d) Towel desk, entry kiosks and all other desks and counters to be sanitized at least once per hour
- e) Lifeguard stands to be sanitized upon rotation

Physical Distancing Protocol

- a) Chaise lounge chairs set with appropriate physical distancing

Guest Considerations

- a) No department specific requirements

16 Golf Operations**Cleaning & Sanitizing Protocol**

- a) Golf carts to be sanitized before and after each round by a designated cart 'pit crew'
- b) Loaner clubs to be sanitized before and after each round
- c) Locker rooms and foyer area sanitized at least once every four hours; guest contact areas in each sanitized after each use
- d) All employees to be provided personal size hand sanitizer and wipes to keep on them during their shifts and while on the course
- e) Employees to wash hands or sanitize hands after touching any guest equipment including clubs, bags or shoes

Physical Distancing Protocol

- a) One player per cart unless immediate family members and/or following updates on guidance from local authorities
- b) Addition of inserts into golf hole cups to allow easy removal of balls
- c) Increased tee time spacing to 20-minute intervals
- d) Every other bay to be utilized for warm-up area
- e) Caddies to refrain from handling guest tees, markers, scorecards, pencils and other small equipment
- f) Sand and seed bottles removed from carts; employees will handle between rounds
- g) Remove rakes from bunkers; one rake per golf cart to only be handled by the caddie

Guest Considerations

- a) Attendant at coffee and fruit station providing service; no self-service available
- b) Welcome packet of tees, ball markers a scorecard and pencils pre-set in carts for player use

17 Public Area (PAD)

Cleaning & Sanitizing Protocol

- a) Employees to sanitize the following areas at least once per hour
 - Guest and garage elevators
 - Casino entry doors
 - Slot machines (in coordination with slot team)
 - Credenzas
 - Escalator handrails
 - Plaza and Parasol handrails
 - Employee dining tables and counters
- b) Employees to sanitize the following areas at least once per hour
 - Hotel entry doors
 - Esplanade fountain handrails
 - Exterior elevators and escalator handrails
 - Employee smoking areas
 - Exterior benches
 - Trash bins
- c) All Front of House (FOH) restrooms to be sanitized at least once per hour

Physical Distancing Protocol

- a) No department specific requirements

Guest Considerations

- a) No department specific requirements

18 Front Office

Cleaning & Sanitizing Protocol

- a) Sanitize all guest touchpoints after each transaction including EMV Credit Card Devices, pens and registration countertops
- b) Room keys to be sanitized before stocking
- c) Offices, Call Centers, Registration Desks to be deep cleaned and sanitized upon a shift change

Physical Distancing Protocol

- a) Restructure stanchions to provide appropriate six-foot intervals
- b) Staff every other workstation
- c) Lobby Greeter to provide guidance to arriving and departing guests to ensure physical distancing measures are followed
- d) Implement peak period queuing procedures, including a Lobby Greeter, when the number of guests exceeds the lobby capacity

Guest Considerations

- a) Wynn Tower Suites interior entry doors to be propped open to minimize guest contact
- b) VIP Lounge Ambassador to serve all food and beverage; no self-service available

19 Housekeeping

Cleaning & Sanitizing Protocol

- a) Carts, trolleys and equipment to be sanitized at the start and end of each shift
- b) Guest linen will be delivered and removed from guest rooms in single use sealed bags
- c) Pillow protectors on the guest room beds are to be changed daily
- d) All items stored on shelves in the Housekeeping locker rooms are placed in bags and not exposed to the open air when not in use
- e) Back of house restrooms will be sanitized at least once every four hours
- f) House phones, in unsupervised/controlled areas, to be removed

Physical Distancing Protocol

- a) Minimize contact with guests while cleaning hotel rooms; guest room attendants will offer to return at an alternate time for occupied rooms

Guest Considerations

- a) All reusable collateral to be removed from rooms; critical information to be placed on single use collateral and/or electronically posted (in coordination with IRD)
- b) Disposable collateral to be disposed and changed after each guest
- c) Newspapers and magazines will continue to be provided through PressReader for guests to access on their own devices
- d) Extra pillows and blankets stored in the guest room closets will be removed and available upon guest request
- e) All guest amenities to be packaged before being placed in room
- f) Shoeshine is suspended until further notice
- g) Specific sanitation consideration will be paid to the following guest room areas:
 - Desks, counter tops, tables and chairs
 - Phones, tablets and remotes
 - Thermostats
 - Cabinetry, pulls and hardware
 - Doors and doorknobs
 - Bathroom vanities and accessories
 - Bathroom fixtures and hardware
 - Windows, mirrors and frames
 - Lights and lighting controls
 - Closets, hangers and other amenities

SPA, SALON & FITNESS CENTER

20 Spa

Pending guidance from local authorities and medical experts.

21 Salon

Pending guidance from local authorities and medical experts.

22 Fitness Center

Pending guidance from local authorities and medical experts. Alternative wellness options to be provided to guests as they are developed including in-room and outdoor wellness programming.

RETAIL

23 Wynn Owned Stores

Cleaning & Sanitizing Protocol

- a) Cash wraps, phones, workstations, hard surfaces, handles and frequently touched surfaces to be sanitized at least once per hour and upon a shift change
- b) Sanitize carts and mag liners before and after each use
- c) Sanitize handles, knobs, cage locks, cages and stock room surfaces at least once per hour

Physical Distancing Protocol

- a) Signage will be prominently posted at each store reminding guests of maximum occupancies and distancing guidelines
- b) Tailoring service will be postponed until further notice

Guest Considerations

- a) Displays and retail assortments will be limited to essential items during phase one to include sundries, toiletries, pre-packaged food and beverage
- b) All merchandise will be served/handled by a retail attendant; no self-serve available in any category
- c) All sales final until further notice (including phone orders)
- d) Golf Pro Shop will feature pre-packaged items only (including visors, hats and gloves)

FOOD & BEVERAGE

24 Restaurants, Bars & Lounges

Cleaning & Sanitizing Protocol

- a) Host Podiums including all associated equipment to be sanitized at least once per hour
- b) Service stations, service carts, beverage stations, counters, handrails and trays to be sanitized at least once per hour and logged by a manager
- c) POS terminals to be assigned to a single server where possible and sanitized between each user and before and after each shift. If multiple servers are assigned to a POS terminal, servers will sanitize their hands after each use
- d) Dining tables, bar tops, stools and chairs to be sanitized after each use
- e) Condiments to be served in single use containers (either disposable or washed after each use)
- f) Check presenters, votives, pens and all other reusable guest contact items to be either sanitized after each use or single use
- g) Menus to be single use and/or disposable
- h) Existing porous placemats (including Chilewich style) to be replaced with linen, single use disposable or non-porous placemats that can be machine washed and sanitized after each use
- i) Sanitize trays (all types) and tray stands sanitized after each use
- j) Storage containers to be sanitized before and after each use
- k) Food preparation stations to be sanitized at least once per hour
- l) Kitchens to be deep cleaned and sanitized at least once per day
- m) Food and beverage items being prepared to be transferred to other employees using contactless methods (leaving on expediting tables, conveyors, etc.)

Physical Distancing Protocol

- a) Hostesses and managers to manage physical distancing at entries, waiting areas and queues (in addition to signage)
- b) Peak period queuing procedures to be implemented when guests are not able to be immediately sat
- c) Lounge seating to be removed in SW, Lakeside, Jardin and Sinatra
- d) Tables and booths to be utilized with appropriate physical distancing between each family or traveling party (six feet or as otherwise advised by local authorities)
- e) Reduce bar stool count to provide appropriate physical distancing
- f) Manage the line flow at quick serve outlets to ensure coffee and food pick up areas remain appropriately distanced
- g) Additional quick serve coffee options to open based on demand and length of physically distanced lines (Lobby Bar, Wynn Coffee Cart)
- h) Casino Service Bars will be staffed to allow for appropriate distancing between employees

Guest Considerations

- a) All self-serve condiments and utensils to be removed and available from cashiers or servers
- b) All straws to be wrapped
- c) Napkin service to be suspended until further notice (no placing in a guest's lap or refolding)
- d) Tableside cooking to be suspended until further notice
- e) Remove grab and go offerings; available from fountain workers only
- f) Bar snacks will be served per individual guest and not shared by the table
- g) All food and beverage items to be placed on the table, counter, slot or other surface instead of being handed directly to a guest

Additional Employee Dining Room (EDR) Protocols

- a) No self-serve food available (including snacks)
- b) Food to be served by EDR cooks and line attendants
- c) Single use cups for beverage (no refills)
- d) Prepackaged plastic flatware
- e) Trays and plates to be distributed by EDR attendants
- f) Extension of EDR sneeze guards

25 In Room Dining (IRD)**Cleaning & Sanitizing Protocol**

- a) All equipment will be sanitized prior to assigning for the shift
- b) Employees assigned to individual stations (including Sales Agents) will sanitize their stations and all equipment at least once per hour and at each change of shift
- c) Bus Runners will sanitize all doors, handles and high contact surfaces at least once per hour

Physical Distancing Protocol

- a) Set food on tables in hallway and notify guest when the table is outside of the guest's room (plate covers remain) – guests will retrieve their own table
- b) Request that guests notify IRD when finished with their meal and place their trolley in the hallway outside of their room

Guest Considerations

- a) Printed IRD menus to be removed from rooms
 - Explore menu delivery options: QR Code in room to access a PDF version, scrolling on an in-house tv channel, etc.
- b) Minibars to be locked, all loose product removed, and service suspended until further notice
 - Items will be available upon request from IRD

26 Catering & Banquets**Cleaning & Sanitizing Protocol**

- a) All shared equipment and meeting amenities to be sanitized before and after each use, or be single use if not able to be sanitized
- b) All linen, including underlays, to be replaced after each use
- c) Clean and soiled linens to be transported in sealed single use plastic bags into and out of the meeting rooms

Physical Distancing Protocol

- a) All buffet and self-serve style events to be suspended until further notice
- b) All food and beverage items to be individually plated and served
- c) Coffee and other break items to be attended and served by a server
- d) Flatware to be provided as a roll-up
- e) Condiments to be served in individual PCs or sanitized individual containers
- f) Seating capacities and floor plans to be reviewed on an event by event basis to ensure appropriate physical distancing that follows Clark County Fire Department, SNHD and CDC guidelines (in coordination with Hotel Sales & Convention Services)

Guest Considerations

- a) Individual bottled water will be provided in lieu of water carafes on meeting tables and water stations
- b) Develop examples of physically distanced floor plans for Hotel Sales & Convention Services use
- c) Create modified menus to showcase styles of service and items currently available

SALES**27 Hotel Sales & Convention Services****Cleaning & Sanitizing Protocol**

- a) Sanitize conference room doors, tables, chairs light switch and other equipment after each group use
- b) Meeting Concierge and Specialty Desk will sanitize their respective work areas, counters, doors and equipment at least once every four hours and upon a shift change

Physical Distancing Protocol

- a) Seating capacities and floor plans to be reviewed on an event by event basis to ensure appropriate physical distancing that follows Clark County Fire Department, SNHD and CDC guidelines (in coordination with Catering & Banquets)
- b) Site inspections and meetings will be done virtually and/or appropriately physically distanced

Guest Considerations

- a) Provide example of physically distanced floor plans (in coordination with Catering & Banquets)
- b) Post signage outside of meeting and events reminding guests of appropriate physical distancing guidelines

ENTERTAINMENT

28 Le Reve Theater

Cleaning & Sanitizing Protocol

- a) Performers and divers in close contact with each other to sanitize themselves by fully submersing in the chlorinated theater water
- b) Theater seating and public areas to be sanitized at the conclusion of each performance
- c) All equipment to be individually assigned when possible to eliminate equipment sharing

Physical Distancing Protocol

- a) Theater seating and capacity to be managed to allow for appropriate distancing between groups of guests based on SNHD and CDC guidelines
- b) Show schedule limited to one performance per day
- c) Costume dressing and quick-change protocols are staggered and supervised by wardrobe attendants
- d) Performers complete workouts at home or offsite when possible
- e) Maximum occupancy limits and appropriate PPE usage enforced within Health Services for performers requiring physical therapy

Guest Considerations

- a) Showroom snack bars to follow Food & Beverage protocols
- b) Ushers to assist in guest movement and flow to ensure physical distancing protocols are followed

29 Nightclubs

Pending guidance from local authorities and medical experts.

SECURITY

30 Security Operations

Cleaning & Sanitizing Protocol

- a) All contact surfaces to be sanitized at the completion of an incident (in addition to standard sanitization protocols)
- b) Shift managers will assign specific sanitation responsibilities and ensure proper protocols are followed
- c) Shift Supervisors to log completed tasks
- d) Handcuffs, holding rooms and all related equipment and contact surfaces to be sanitized before and after each use
- e) Shift Manager will notify the Security Command Center (SCC) after unscheduled or specialty cleaning protocols are complete (i.e. after a subject is released from a holding room and the room has been sanitized)

- f) SCC will track critical activities in iTrak

Physical Distancing Protocol

- a) Standard protocols will be followed unless a specific incident requires more invasive contact (i.e. taking a subject into custody for a criminal offense)
- b) Security Officers to assist with enforcing physical distancing protocols in guest queuing areas as required (restaurants, casino floor, registration areas, elevator lobbies, etc.)

Guest Considerations

- a) Security Officers to familiarize themselves with hand sanitizer and mask distribution points for guests and coworkers

ENTRY SCREENING & CASE REPORTING PROTOCOLS

Entry Screening	Non-invasive thermal cameras will be placed at each entry point to the resort. Any person displaying a cough, shortness of breath or other known symptoms of COVID-19 or a temperature above 100.0°F will be discreetly offered a secondary screening.
Secondary Screening	<p>The visitor displaying an elevated temperature will be escorted to a designated, private and isolated area and provided with PPE.</p> <p>A Security Officer using appropriate PPE (including a surgical mask and eye protection) and a temporal thermometer will record a second temperature.</p> <p>If the visitor refuses the secondary reading, they will be denied entry to the property and provided a COVID-19 information card.</p>
<p>Visitors with Elevated Temperature</p> <p>**See additional procedures below for current hotel guests</p>	<p>If the secondary reading confirms that the visitor has a temperature above 100.0°F, the visitor will be denied entry** to the property and be directed towards medical care and provided with resources and recommendations based on CDC and local health authority guidelines.</p> <p>A Security Supervisor will collect basic visitor information including name, names of room shares and close contact guests in their traveling party and ID (i.e. driver's license or employee ID). The Supervisor will then make initial observations for the known symptoms of COVID-19 including cough, fever and shortness of breath.</p> <p>If a visitor refuses to provide information or cooperate with Security, the visitor will be denied entry to the property.</p>
SNHD Reporting	<p>The Security Supervisor handling the case will immediately notify the Southern Nevada Health District (SNHD) at (702) 759-1300 Option 2 and advise the operator that there is a possible case of COVID-19.</p> <p>Inform the SNHD if the visitor is requesting medical care or refusing to cooperate and leaving the property.</p>
In-House Hotel Guests	If a current hotel guest is deemed to have an elevated temperature, and not in medical distress, the guest should be offered the opportunity to return to their room and gather their belongings before transportation is arranged.

(skip to
Transportation
for employees
and non-
resident
guests)

If a guest requests to return to their room:

- A Security Supervisor will be called to escort the guest for the remainder of the process.
- The guest will be provided appropriate PPE (if not already wearing) and escorted directly to their room.
- The Security Supervisor will control the elevator to ensure no other visitors use the same cabin.
- The SCC will notify PAD and the elevator will be returned to service only after properly sanitized by PAD.
- The SCC will notify the Hotel Manager on Duty to pin the room and not permit access until medical clearance is given and/or the room is properly sanitized.

If the guest does not return to their room:

- The SCC will notify the Hotel Manager on Duty to pin the room and not permit access until proper medical clearance is given and/or the room is properly sanitized.
- The guest’s belongings will remain in the room until security can arrange for the safe removal and storage of the belongings.
- Hotel Management will determine the best course of action to handle the outstanding folio on a case by case basis

Guests who have previously displayed an elevated temperature may NOT return to the resort until they have been medically cleared. Once proper medical clearance is given, they may return to their room (if still checked-in).

If the Guest with an elevated temperature is sharing the room or has had close contact with other visitors:

- The Security Supervisor will determine room shares and close contact guests traveling with the elevated temperature guest. The full protocol will be followed beginning with a secondary screening for all close contacts.
- Follow SNHD guidance on required isolation or quarantine procedures for close contacts as appropriate.
- If a room is being used for self-isolation the SCC will inform Hotel Management and CDC and local health authority guidelines will be followed for all additional contact with the guest and service to the room.

If the visitor has their own vehicle the visitor may leave in their own vehicle.

Transportation

If the visitor does not have their own vehicle an ambulance will be called to transport the person to the appropriate medical care facility as directed by the SNHD and local health authorities.

Visitors who are displaying the symptoms of COVID-19 should NOT be directed to use public transportation, taxis, Uber, Lyft or other shared transportation options.

Internal
Reporting

The Security Supervisor will notify the Preliminary Investigator to prepare an incident report.

The report will be submitted to the head of Crisis Management.

At a minimum, the incident report is to include the visitor name, identification information, room number (if applicable), if the temperature reading(s) was above 100.0°F and if the visitor was transported for medical care.

The incident report will be updated as new information is available and when/if the visitor returns to property.

Oneida Business Committee Agenda Request

Consider request from the Oneida Election Board regarding the 2020 Primary Election

1. Meeting Date Requested: 05 / 13 / 20

2. General Information:

Session: Open Executive - See instructions for the applicable laws, then choose one:

Agenda Header:

Accept as Information only

Action - please describe:

to make an emergency amendment to the Election Law, temporarily removing 102.12-2 due to the Public Health Emergency.

3. Supporting Materials

Report Resolution Contract

Other:

1. 3.

2. 4.

Business Committee signature required

4. Budget Information

Budgeted - Tribal Contribution Budgeted - Grant Funded Unbudgeted

5. Submission

Authorized Sponsor / Liaison:

Primary Requestor/Submitter: Shannon Metoxen, Election Board Interim Chair
Your Name, Title / Dept. or Tribal Member

Additional Requestor: Aliskwet Ellis, BCC Clerk
Name, Title / Dept.

Additional Requestor: _____
Name, Title / Dept.



Memorandum

To: Oneida Business Committee
From: Shannon Metoxen, Election Board Interim Chairperson
Date: April 30, 2020
Re: Cancelling the 2020 General Election Primary

On April 27, 2020 the Oneida Election Board took action to cancel the 2020 General Election Primary due to the COVID-19 Public Health Emergency.

*Motion by Racquel Hill for Chair or Designee to submit a BC agenda request to have them make an amendment to the Election Law removing the Primary for the health and safety for all those involved and to start a dialogue with the Business Committee about July election plans and tentatively changing the date, seconded by Patricia Moore.
Motion carried unanimously:*

Ayes: Melinda K. Danforth, Racquel Hill, Lisa John, Christina Liggins, Shannon Metoxen, Patricia Moore, Tina Skenandore, Tracy Smith

This will require an emergency amendment to the Election Law.

102.12-2. There shall be a primary election for Business Committee positions whenever there are three (3) or more candidates for any officer positions or sixteen (16) or more candidates for the at-large council member positions.

(a) The two (2) candidates receiving the highest number of votes cast for each officer position shall be placed on the ballot.

(b) The fifteen (15) candidates receiving the highest number of votes cast for the at-large council member positions shall be placed on the ballot.

(c) Any position where a tie exists to determine the candidates to be placed on the ballot shall include all candidates where the tie exists.

Yaw^ko.

Oneida Business Committee Agenda Request

Research Request: Tate-Univ. of Wisconsin/Madison-Contemporary Culture - Review recommendation...

1. Meeting Date Requested: ___ / ___ / ___

2. General Information:

Session: Open Executive - See instructions for the applicable laws, then choose one:

Agenda Header:

Accept as Information only

Action - please describe:

Approval of research request.

3. Supporting Materials

Report Resolution Contract

Other:

1. 3.

2. 4.

Business Committee signature required

4. Budget Information

Budgeted - Tribal Contribution Budgeted - Grant Funded Unbudgeted

5. Submission

Authorized Sponsor / Liaison:

Primary Requestor/Submitter: _____
Your Name, Title / Dept. or Tribal Member

Additional Requestor: _____
Name, Title / Dept.

Additional Requestor: _____
Name, Title / Dept.

Oneida Business Committee Agenda Request

6. Cover Memo:

Describe the purpose, background/history, and action requested:

See attached research request memo.

Requested Action: Motion to approve the research request submitted by Sarah Tate, UW-Madison regarding contemporary behavior and the promotion of cultural revitalization by Oneida artists consistent with resolution # BC-05-08-19-A, Research Requests: Review and Approval to Conduct, and, to include the following:

- Resolve #2(3), Ms. Tate is required to submit the final draft research paper for review;
- Resolve #2(4), Ms. Tate is required to submit a copy of the published work and can request to present the research findings to the Oneida Business Committee;
- Resolve #5, any further use of this research information is subject to authorization by the Oneida Business Committee.

1) Save a copy of this form for your records.

2) Print this form as a *.pdf *OR* print and scan this form in as *.pdf.

3) E-mail this form and all supporting materials in a **SINGLE** *.pdf file to: BC_Agenda_Requests@oneidanation.org

Jo Anne House, PhD | Chief Counsel
James R. Bittorf | Deputy Chief Counsel
Kelly M. McAndrews | Senior Staff Attorney

Michelle L. Gordon
Carl J. Artman, III
Krystal L. John
Peggy A. Schneider

Law Office



MEMORANDUM

TO: Oneida Business Committee

FROM: Jo Anne House, Chief Counsel

DATE: May 7, 2020

SUBJECT: Research Request – Tate – UW Madison – Contemporary Culture

Ms. Sarah Tate, a graduate student at the University of Wisconsin-Madison, in the doctoral program in the Anthropology Department, is requesting authorization to conduct interviews with Oneida Nation members regarding our art and the change from historical to contemporary in creating connections.

The proposed research study is a qualitative study intended to “offer[] an innovative multi-modal approach to investigating cosmopolitan behavior as a mechanism for the promotion of cultural revitalization through the medium of material culture.” Her dissertation is focused on Iroquois nations, particularly Oneida Nation and Oneida Indian Nation of New York.

Ms. Tate will be working with individual Oneida artists on this research. We will need to conduct a final review regarding any information on the Oneida Nation prior to any publication.

The original research included an archeological aspect which would have been on-site at maple sugar locations within the Reservation. Any finds would not have been removed from the location, and a GPS location would have been filed with the Wisconsin Historical Society. I informed Ms. Tate that this portion would require compliance with the Nation’s *Protection Management of Archeological Historical Resources*, Chapter 113. This would have prohibited recording of the GPS location as well as beginning any archeological activities until a permit was obtained. Ms. Tate has removed this from her research request.

Recommendation: I recommend approval of this research request, consistent with resolution # BC-05-08-19-A, *Research Requests: Review and Approval to Conduct*, and, in accordance with:

- Resolve #2(3), Ms. Tate is required to submit the final draft research paper for review;
- Resolve #2(4), Ms. Tate is required to submit a copy of the published work and can request to present the research findings to the Oneida Business Committee;
- Resolve #5, any further use of this research information is subject to authorization by the Oneida Business Committee.

If you have further questions, please contact me.

