



## **LEGISLATIVE OPERATING COMMITTEE MEETING AGENDA**

Business Committee Conference Room - 2<sup>nd</sup> Floor Norbert Hill Center

April 21, 2021

9:00 a.m.

*This Legislative Operating Committee meeting will be closed to the public due to the Public Health State of Emergency. This is a preventative measure as a result of the COVID-19 pandemic. An audio recording of the meeting will be made available on the Nation's website.*

### **I. Call to Order and Approval of the Agenda**

### **II. Minutes to be Approved**

1. April 7, 2021 LOC Meeting Minutes (pg. 2)

### **III. Current Business**

1. Election Law Emergency Amendments (pg. 3)
2. Public Peace Law (pg. 48)

### **IV. New Submissions**

1. Pardon and Forgiveness Law Emergency Amendments (pg. 70)
2. Pardon and Forgiveness Screening Committee Bylaws Amendments (pg. 102)
3. Petition: L. Elm – Real Property Law Eviction and Termination (pg. 103)

### **V. Additions**

### **VI. Administrative Updates**

### **VII. Executive Session**

### **VIII. Recess/Adjourn**



**LEGISLATIVE OPERATING COMMITTEE MEETING MINUTES**  
Oneida Business Committee Conference Room-2<sup>nd</sup> Floor Norbert Hill Center  
April 7, 2021  
9:00 a.m.

**Present:** David P. Jordan, Kirby Metoxen Jennifer Webster, Marie Summers, Daniel Guzman King

**Others Present:** Clorissa N. Santiago, Kristen Hooker, Kristal Hill, Aliskwet Ellis

**I. Call to Order and Approval of the Agenda**

David P. Jordan called the April 7, 2021, Legislative Operating Committee meeting to order at 9:00 a.m.

Motion by Jennifer Webster to adopt the agenda as is; seconded by Marie Summers. Motion carried unanimously.

**II. Minutes to be Approved**

**1. March 3, 2021 LOC Meeting Minutes**

Motion by Kirby Metoxen to approve the March 3, 2021 LOC meeting minutes and forward to the Business Committee for consideration; seconded by Jennifer Webster. Motion carried unanimously.

**III. Current Business**

**1. Audit Committee Bylaws Amendments**

Motion by Jennifer Webster to accept the Audit Committee bylaws amendments with the three noted changes and forward the bylaws to the Oneida Business Committee for consideration; seconded by Marie Summers. Motion carried unanimously.

**IV. New Submissions**

**1. Election Law Emergency Amendments**

Motion by Jennifer Webster to add the Election law emergency amendments to the Active Files List with Marie Summers as the sponsor; seconded by Marie Summers. Motion carried unanimously.

**V. Additions**

**VI. Administrative Items**

**VII. Executive Session**

**VIII. Adjourn**

Motion by Daniel Guzman King to adjourn at 9:12 a.m.; seconded by Marie Summers. Motion carried unanimously.





Legislative Operating Committee  
April 21, 2021

# Election Law Emergency Amendments

<b>Submission Date:</b> 4/7/21	<b>Public Meeting:</b> n/a
<b>LOC Sponsor:</b> Marie Summers	<b>Emergency Enacted:</b> n/a

**Summary:** *This item was added to the Active Files List in response to the COVID-19 pandemic's effect on the 2021 Special Election. On March 12, 2020, Chairman Tehassi Hill signed a "Declaration of Public Health State of Emergency" in response to the COVID-19 pandemic, which has since been extended for more than a year. On March 24, 2021, the Oneida Election Board submitted a memorandum to the Oneida Business Committee requesting that emergency amendments to the Election law be considered due to COVID-19's effect on the 2021 Special Election. The caucus for the 2021 Special Election was scheduled for May 8, 2021, with the Special Election scheduled for July 10, 2021. On March 24, 2021, the Oneida Business Committee then adopted a motion to send this request to the Legislative Operating Committee.*

**3/24/21 OBC:** Motion by Lisa Liggins to send the request from the Oneida Election Board for emergency amendments to the Election law to the Legislative Operating Committee for consideration, seconded by David P. Jordan. Motion carried.

**4/7/21 LOC:** Motion by Jennifer Webster to add the Election law emergency amendments to the Active Files List with Marie Summers as the sponsor; seconded by Marie Summers. Motion carried unanimously.

**Next Steps:**

- Approve the Election law emergency adoption packet and forward to the Oneida Business Committee for consideration.



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



TO: Oneida Business Committee  
FROM: David P. Jordan, LOC Chairperson  
DATE: April 28, 2021  
RE: Election Law Emergency Amendments

Please find the following attached backup documentation for your consideration of the Election Law Emergency Amendments:

1. Resolution: Emergency Amendments to the Election Law
2. Statement of Effect: Emergency Amendments to the Election Law
3. Election Law Emergency Amendments Legislative Analysis
4. Election Law (Redline)
5. Election Law (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 2021 Special Election. The emergency amendments to the Law will:

- Eliminate the caucus from the election process [1 O.C. 102.6-1];
- Require an individual to submit an application in order to have his or her name placed on a ballot for an election [1 O.C. 102.6-1];
- Eliminate 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 [1 O.C. 102.6-1];
- Require that all applications be submitted to the Business Committee Support Office by the close of business on the application deadline established by the Oneida Election Board [1 O.C. 102.6-1(c)];
- Reduce the number of Oneida Election Board members who are required to sign the election totals on machine counted ballots from six (6) to three (3) [1 O.C. 102.10-2];
- Clarify that elections shall be held at an Oneida Nation facility instead of just in an Oneida Nation facility [1 O.C. 102.9-2]; and
- Eliminate the requirement that referendum questions be submitted in writing at the caucus, and instead allow for referendum questions to be submitted in writing to the Business Committee Support Office by the deadline established by the Oneida Election Board. [1 O.C. 102.12-9(c)].

On March 12, 2020, Chairman Tehassi Hill signed a “*Declaration of Public Health State of Emergency*” due to the COVID-19 pandemic which sets into place the necessary authority should action need to be taken, and allows the Oneida Nation to seek reimbursement of emergency management actions that may result in unexpected expenses. [3 O.C. 302.8-1]. The Oneida Business Committee has extended this Public Health State of Emergency until May 12, 2021,

through the adoption of the following resolutions: BC-03-26-20-A, BC-05-06-20-A, BC-06-10-20-A, BC-07-08-20-A, BC-08-06-20-A, BC-09-09-20-A, BC-10-08-20-A, BC-11-10-20-A, BC-12-09-20-D, BC-01-07-21-A, BC-02-10-21-A, and BC-03-10-21-D. [3 O.C. 302.8-2].

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 the caucus while allowing individuals to be placed on the ballot through the submission of an application, in conjunction with the elimination to obtain at least ten (10) signatures from qualified voters, will eliminate any unnecessary contact between individuals which could spread the COVID-19 virus, while also ensuring that the July 2021 Special 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 caucus is scheduled to be held on May 8, 2021. The Law currently requires that the caucus occur at least forty-five (45) days before a special election. The 2021 Special Election is scheduled to be held on July 10, 2021. Therefore, the process and requirements of the Legislative Procedures Act cannot be completed in time to ensure that the 2021 Special Election could occur uninterrupted without violating the caucus procedures currently contained in the 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. 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**

Adopt the Resolution: Emergency Amendments to the Election Law

# Oneida Nation

Post Office Box 365

Phone: (920)869-2214



Oneida, WI 54155

## BC Resolution # 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 on June 19, 1993
- 10 for the purpose of governing the procedures for the conduct of orderly elections of the
- 11 Nation, and was most recently amended by the General Tribal Council through resolution
- 12 GTC-04-23-17-A; and
- 13
- 14 **WHEREAS,** on March 12, 2020, Chairman Tehassi Hill signed a "*Declaration of Public Health State of*
- 15 *Emergency*" regarding COVID-19 which declared a Public Health State of Emergency for
- 16 the Nation until April 12, 2020, and set into place the necessary authority for action to be
- 17 taken and allows the Nation to seek reimbursement of emergency management actions
- 18 that may result in unexpected expenses; and
- 19
- 20 **WHEREAS,** the Nation's Public Health State of Emergency has since been extended until May 12,
- 21 2021, through the adoption of the following resolutions: BC-03-26-20-A, BC-05-06-20-A,
- 22 BC-06-10-20-A, BC-07-08-20-A, BC-08-06-20-A, BC-09-09-20-A, BC-10-08-20-A, BC-11-
- 23 10-20-A, BC-12-09-20-D, BC-01-07-21-A, BC-02-10-21-A, and BC-03-10-21-D; and
- 24
- 25 **WHEREAS,** on March 24, 2020, the Nation's COVID-19 Core Decision Making Team issued a "*Safer*
- 26 *at Home*" declaration which prohibits all public gatherings of any number of people and
- 27 orders all individuals present within the Oneida Reservation to stay at home or at their
- 28 place of residence, with certain exceptions allowed; and
- 29
- 30 **WHEREAS,** the COVID-19 Core Decision Making Team has issued subsequent declarations modifying
- 31 the "*Safer at Home*" declaration including the April 21, 2020 "*Updated Safer at Home*"
- 32 declaration, the May 19, 2020, "*Safer at Home Declaration, Amendment, Open for*
- 33 *Business*" declaration, the June 10, 2020, "*Stay Safer at Home*" declaration, and the July
- 34 17, 2020, "*Safe Re-Opening Governmental Offices*" declaration; and
- 35
- 36 **WHEREAS,** the 2021 Special Election has been scheduled for July 10, 2021; and
- 37
- 38 **WHEREAS,** the Oneida Election Board has requested emergency amendments to the Election law to
- 39 address the impact of COVID-19 on the 2021 Special Election; and
- 40
- 41 **WHEREAS,** the proposed emergency amendments to the Law eliminate the caucus from the election
- 42 process and instead require that an individual submit an application in order to be placed
- 43 on the ballot; and

44  
45 **WHEREAS,** the proposed emergency amendments to the Law eliminate the requirement of an  
46 individual to obtain no less than ten (10) signatures of qualified voters when submitting a  
47 form to be placed on the ballot; and  
48

49 **WHEREAS,** the proposed emergency amendments to the Law provide that elections shall be held at  
50 an Oneida Nation facility(s) as determined by the Oneida Election Board, as opposed to  
51 just in an Oneida Nation facility(s); and  
52

53 **WHEREAS,** the proposed emergency amendments to the Law lower the number of Oneida Election  
54 Board members that are required sign the election totals, which includes the tape signed  
55 by the members of the Nation before the polls were opened, from six (6) to three (3)  
56 members; and  
57

58 **WHEREAS,** the proposed emergency amendments to the Law provide that referendum questions  
59 regarding issues directing affecting the Nation or general membership are to be presented  
60 to the Nation's Secretary, or designated agent, in writing, during normal business hours,  
61 Monday through Friday by the deadline established by the Election Board; and  
62

63 **WHEREAS,** the Legislative Procedures Act authorizes the Oneida Business Committee to enact  
64 legislation on an emergency basis, to be in effect for a period of six (6) months, renewable  
65 for an additional six (6) months; and  
66

67 **WHEREAS,** emergency adoption of legislation is allowed when legislation is necessary for the  
68 immediate preservation of the public health, safety, or general welfare of the Reservation  
69 population, and the amendment of the legislation is required sooner than would be possible  
70 under the Legislative Procedures Act; and  
71

72 **WHEREAS,** the emergency adoption of the amendments to the Law are necessary for the preservation  
73 of the public health, safety, and general welfare of the Reservation population to protect  
74 the Reservation population against the public health crisis that is the COVID-19 pandemic  
75 since the elimination of the requirement to hold the caucus while allowing individuals to be  
76 placed on the ballot through the submission of an application, in conjunction with the  
77 elimination to obtain at least ten (10) signatures from qualified voters, will eliminate any  
78 unnecessary contact between individuals which could spread the COVID-19, while also  
79 ensuring that the July 2021 Special Election can occur without interruption; and  
80

81 **WHEREAS,** observance of the requirements under the Legislative Procedures Act for adoption of these  
82 amendments would be contrary to public interest since the caucus for the 2021 Special  
83 Election is scheduled for May 8, 2021, and the process and requirements of the Legislative  
84 Procedures Act cannot be completed in time to ensure that the Special Election could still  
85 occur on July 10, 2021, without violating the Law; and  
86

87 **WHEREAS,** the Legislative Procedures Act does not require a public meeting or fiscal impact statement  
88 when considering emergency legislation; and  
89

90 **NOW THEREFORE BE IT RESOLVED,** the Oneida Business Committee hereby adopts emergency  
91 amendments to the Election Law effective immediately.



**Statement of Effect**  
*Emergency Amendments to the Election Law*

**Summary**

This resolution adopts emergency amendments to the Election law in response to the COVID-19 pandemic's effect on the 2021 Special Election.

*Submitted by: Clorissa N. Santiago, Staff Attorney, Legislative Reference Office*  
*Date: April 16, 2021*

**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:

- Eliminate the caucus from the election process [1 O.C. 102.6-1];
- Require an individual to submit an application in order to have his or her name placed on a ballot for an election [1 O.C. 102.6-1];
- Eliminate 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 [1 O.C. 102.6-1];
- Require that all applications be submitted to the Business Committee Support Office by the close of business on the application deadline established by the Oneida Election Board [1 O.C. 102.6-1(c)];
- Reduce the number of Oneida Election Board members who are required to sign the election totals on machine counted ballots from six (6) to three (3) [1 O.C. 102.10-2];
- Clarify that elections shall be held at an Oneida Nation facility instead of just in an Oneida Nation facility [1 O.C. 102.9-2]; and
- Eliminate the requirement that referendum questions be submitted in writing at the caucus, and instead allow for referendum questions to be submitted in writing to the Business Committee Support Office by the deadline established by the Oneida Election Board. [1 O.C. 102.12-9(c)].

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].

On March 12, 2020, in accordance with the Emergency Management law, Chairman Tehassi Hill signed a "Declaration of Public Health State of Emergency" which sets into place the necessary authority should action need to be taken, and allows the Oneida Nation to seek reimbursement of emergency management actions that may result in unexpected expenses. [3 O.C. 302.8-1]. The Oneida Business Committee has extended this Public Health State of Emergency until May 12, 2021, through the adoption of the following resolutions: BC-03-26-20-A, BC-05-06-20-A, BC-



06-10-20-A, BC-07-08-20-A, BC-08-06-20-A, BC-09-09-20-A, BC-10-08-20-A, BC-11-10-20-A, BC-12-09-20-D, BC-01-07-21-A, BC-02-10-21-A, and BC-03-10-21-D. [3 O.C. 302.8-2].

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. On April 21, 2020, the COVID-19 Core Decision Making Team issued an "*Updated Safer at Home*" declaration which allowed for gaming and golf operations to resume. Then on May 19, 2020, the COVID-19 Core Decision Making Team issued a "*Safer at Home Declaration, Amendment, Open for Business*" which directs that individuals within the Oneida Reservation should continue to stay at home, businesses can re-open under certain safer business practices, and social distancing should be practiced by all persons. On June 10, 2020, the COVID-19 Team issued a "*Stay Safer at Home*" declaration which lessened the restrictions of the "*Safer at Home Declaration, Amendment, Open for Business*" while still providing guidance and some restrictions. Then on July 17, 2020, the "*Safe Re-opening Governmental Offices*" declaration was issued which provides guidance on how buildings will be safely re-opened to the public.

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 the caucus while allowing individuals to be placed on the ballot through the submission of an application, in conjunction with the elimination to obtain at least ten (10) signatures from qualified voters, will eliminate any unnecessary contact between individuals which could spread the COVID-19 virus, while also ensuring that the July 2021 Special Election can occur without interruption.

Additionally, the resolution provides that observance of the requirements under the LPA for adoption of this amendment would be contrary to public interest. The caucus is scheduled to be held on May 8, 2021. The Law currently requires that the caucus occur at least forty-five (45) days before a special election. The 2021 Special Election is scheduled to be held on July 10, 2021. Therefore, the process and requirements of the Legislative Procedures Act cannot be completed in time to ensure that the 2021 Special Election could occur uninterrupted without violating the caucus procedures currently contained in the Law.

The emergency amendments to the Law will take effect immediately upon adoption by the Oneida Business Committee and will remain effective for six (6) months. 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.



Onayote'a'ká Tho Ni Yót Tsi? Ayethiyataláko Tsi? Kayanláhsla  
People of the Standing Stone how it is we will appoint them the kind of laws we have

## EMERGENCY AMENDMENTS TO ELECTION LAW LEGISLATIVE ANALYSIS

### SECTION 1. EXECUTIVE SUMMARY

Analysis by the Legislative Reference Office	
Intent of the Proposed Amendments	<ul style="list-style-type: none"> <li>Eliminate the caucus from the election process;</li> <li>Require an individual to submit an application in order to have his or her name placed on a ballot for an election;</li> <li>Eliminate 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;</li> <li>Require that all applications be submitted to the Business Committee Support Office by the application deadline established by the Election Board;</li> <li>Reduces the number of Oneida Election Board members who are required to sign the election totals on machine counted ballots from six (6) to three (3);</li> <li>Clarify that elections shall be held at an Oneida Nation facility instead of just in an Oneida Nation facility; and</li> <li>Eliminate the requirement that referendum questions be submitted in writing at the caucus, and instead allow for referendum questions to be submitted in writing to the Business Committee Support Office by the deadline established by the Election Board.</li> </ul>
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 Land Claims Commission, Oneida Land Commission, Oneida Nation Commission on Aging, Oneida Nation School Board, Oneida Trust Enrollment Committee, Oneida Legal Resource Center.
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 by the General Tribal Council on April 23, 2017. The Law governs the procedures for the conduct of orderly elections of the Nation. [1 O.C. 102.1-1].

- 5 **B. 2021 Special Election.** The caucus for the 2021 Special Election is scheduled to be held on May 8,  
6 2021, with the Special Election occurring on July 10, 2021. The 2021 Special Election ballot would  
7 include the following positions:
- 8     ▪ Oneida Election Board.
    - 9         ▪ Three (3) vacancies – three (3) year term.
  - 10    ▪ Oneida Land Claims Commission.
    - 11         ▪ Two (2) vacancies for terms ending 2023 – three (3) year term.
    - 12         ▪ Two (2) vacancies for terms ending 2024 – three (3) year term.
  - 13    ▪ Oneida Land Commission;
    - 14         ▪ Three (3) vacancies – three (3) year term.
  - 15    ▪ Oneida Nation Commission on Aging.
    - 16         ▪ Three (3) vacancies for terms ending in 2023 – three (3) year term.
    - 17         ▪ Three (3) vacancies for terms ending in 2024 – three (3) year term
  - 18    ▪ Oneida Nation School Board.
    - 19         ▪ Two (2) vacancies for parent/guardian positions - three (3) year term.
    - 20         ▪ Two (2) vacancies for community-at-large positions - three (3) year term
  - 21    ▪ Oneida Trust Enrollment Committee.
    - 22         ▪ Three (3) vacancies – three (3) year term.
  - 23    ▪ Legal Resource Center.
    - 24         ▪ One (1) vacancy for advocate - four (4) year term.
  - 25    ▪ Oneida Judiciary Court of Appeals:
    - 26         ▪ One (1) vacancy for Appellate Court Judge term ending 2023 - six (6) year term.
- 27 **C. COVID-19 Pandemic.** The world is currently facing a pandemic of COVID-19. The COVID-19  
28 outbreak originated in Wuhan, China and has spread to many other countries throughout the world,  
29 including the United States. The COVID-19 pandemic has resulted in high rates of infection and  
30 mortality, as well as vast economic impacts including effects on the stock market and the closing of all  
31 non-essential businesses.
- 32    ▪ *Declaration of a Public Health State of Emergency.*
    - 33         ▪ On March 12, 2020, Chairman Tehassi Hill signed a “*Declaration of Public Health State*  
34         *of Emergency*” regarding COVID-19 which declared the Public Health State of Emergency  
35         for the Nation until April 12, 2020, and set into place the necessary authority should action  
36         need to be taken and allowed the Nation to seek reimbursement of emergency management  
37         actions that may result in unexpected expenses.
    - 38         ▪ The Public Health State of Emergency has since been extended until May 12, 2021, by the  
39         Oneida Business Committee through the adoption of resolutions BC-03-28-20-A, BC-05-  
40         06-20-A, BC-06-10-20-A, BC-07-08-20-A, BC-08-06-20-A, BC-09-09-20-A, BC-10-08-  
41         20-A, BC-11-10-20-A, BC-12-09-20-D, BC-01-07-21-A, BC-02-10-21-A, and BC-03-10-  
42         21-D.
  - 43    ▪ *COVID-19 Core Decision Making Team.*
    - 44         ▪ On March 17, 2020, the Oneida Business Committee adopted emergency amendments to  
45         the Emergency Management and Homeland Security law to create and delegate authority  
46         to a COVID-19 Core Decision Making Team (“COVID-19 Team”). [BC-03-17-20-E - 3  
47         O.C. 302.10].

- 48                   ▪ When a public health emergency has been declared, the COVID-19 Team has the  
49                   authority to declare exceptions to the Nation's laws, policies, procedures,  
50                   regulations, or standard operating procedures during the emergency period which  
51                   will be of immediate impact for the purposes of protecting the health, safety, and  
52                   general welfare of the Nation's community, members, and employees. [BC-03-17-  
53                   20-E - 3 O.C. 302.10-2].
- 54                   ▪ These declarations remain in effect for the duration of the Public Health State of  
55                   Emergency. [BC-03-17-20-E - 3 O.C. 302.10-3].
- 56                   ▪ On March 10, 2021, the Oneida Business Committee adopted permanent  
57                   amendments to the Emergency Management and Homeland Security law, now  
58                   known as the Emergency Management law, through the adoption of resolution BC-  
59                   03-10-21-A which incorporated an emergency core decision time with the  
60                   authority to make emergency declarations on a permanent basis/
- 61       ▪ *COVID-19 Core Decision Making Team Declarations: Safer at Home.*
  - 62                   ▪ On March 24, 2020, the Nation's COVID-19 Core Decision Making Team issued a "*Safer*  
63                   *at Home*" declaration which ordered all individuals present within the Oneida Reservation  
64                   to stay at home or at their place of residence, with certain exceptions allowed. This  
65                   declaration prohibited all public gatherings of any number of people.
  - 66                   ▪ On April 21, 2020, the COVID-19 Core Decision Making Team issued an "*Updated Safer*  
67                   *at Home*" declaration which allowed for gaming and golf operations to resume.
  - 68                   ▪ On May 19, 2020, the COVID-19 Core Decision Making Team issued a "*Safer at Home*  
69                   *Declaration, Amendment, Open for Business*" which directs that individuals within the  
70                   Oneida Reservation should continue to stay at home, businesses can re-open under certain  
71                   safer business practices, and social distancing should be practiced by all persons.
  - 72                   ▪ On June 10, 2020, the COVID-19 Core Decision Making Team issued a "*Stay Safer at*  
73                   *Home*" declaration which lessened the restrictions of the "*Safer at Home Declaration,*  
74                   *Amendment, Open for Business*" while still providing guidance and some restrictions. This  
75                   declaration prohibits all public and private gatherings of more than twenty (20) people that  
76                   are not part of a single household or living unit.
  - 77                   ▪ On July 17, 2020, the COVID-19 Team issued a "*Safe Re-Opening Governmental Offices*"  
78                   which sets minimum standards for the safe re-opening of a building or recall of employees  
79                   to work.
- 80       ▪ *COVID-19 Core Decision Making Team Declaration: Suspension of Public Meetings under the*  
81       *Legislative Procedures Act.*
  - 82                   ▪ On March 27, 2020, the Nation's COVID-19 Core Decision Making Team issued a  
83                   "*Suspension of Public Meetings under the Legislative Procedures Act*" declaration which  
84                   suspended the Legislative Procedures Act's requirement to hold a public meeting during  
85                   the public comment period, but allows members of the community to still participate in the  
86                   legislative process by submitting written comments, questions, data, or input on proposed  
87                   legislation to the Legislative Operating Committee via e-mail during the public comment  
88                   period.
- 89   D. At the March 24, 2021, Oneida Business Committee meeting the Oneida Election Board provided a  
90   memo which requested that the Oneida Business Committee make emergency amendments to the  
91   Election law due to the Nation's Public Health State of Emergency. The Oneida Election Board

provided that the 2021 Special Election caucus was scheduled for May 8, 2021, but the Nation's Public Health State of Emergency would be effective until at least May 12, 2021. Due to the Public Health State of Emergency and corresponding emergency declarations, such as the "*Stay Safer at Home*" declaration which prohibits all public and private gatherings of more than twenty (20) people that are not part of a single household or living unit, the membership is advised to stay home and social distance. In an effort to avoid large gatherings of members where COVID-19 could be easily spread, the Oneida Election Board identified that conducting a caucus or requiring applicants to obtain ten (10) signatures through the petition process would unnecessarily spread COVID-19 by encouraging contact between individuals. The Oneida Election Board is seeking emergency amendments to the Election law to address these issues in a similar fashion to emergency amendments that were made to the Election law during the 2020 General Election through the adoption of resolutions BC-03-17-20-B, BC-05-13-20-H, and BC-06-24-20-B.

### SECTION 3. CONSULTATION AND OUTREACH

- A. Representatives from the following departments or entities participated in the development of this Law and legislative analysis:
- Oneida Election Board.
- B. The following laws were reviewed in the drafting of this analysis:
- Oneida Nation Constitution and Bylaws;
  - Emergency Management law;
  - Boards, Committees, and Commissions law.

### SECTION 4. PROCESS

- A. These amendments are being considered on an emergency basis. The Oneida Business Committee may temporarily enact emergency legislation "where legislation is necessary for the immediate preservation of public health, safety, or general welfare of the Reservation population and enactment or amendment of legislation is required sooner than would be possible under this law" [1 O.C. 109.9-5].
- Emergency amendments are being pursued for the immediate preservation of the public health, safety, and general welfare of the Reservation population against the public health crisis that is the COVID-19 pandemic. Chairman Tehassi Hill declared a Public Health State of Emergency for the Nation on March 12, 2020, which has since been extended until May 12, 2021. Due to the Public Health State of Emergency and corresponding emergency declarations, such as the "*Stay Safer at Home*" declaration which prohibits all public and private gatherings of more than twenty (20) people that are not part of a single household or living unit, the membership is advised to stay home and social distance. In an effort to avoid large gatherings of members where COVID-19 could be easily spread, the Oneida Election Board identified that conducting a caucus or requiring applicants to obtain ten (10) signatures through the petition process would unnecessarily spread COVID-19 by encouraging contact between individuals.
  - Observance of the requirements under the Legislative Procedures Act for the adoption of these amendments would be contrary to public interest. The caucus is scheduled to be held on May 8, 2021. Therefore, the process and requirements of the Legislative Procedures Act cannot be completed in time to ensure that the caucus can be removed from the Law, without violating the caucus procedures contained in the Law.

- 135 B. Emergency amendments typically expire six (6) months after adoption, with one (1) opportunity for a  
136 six (6) month extension of the emergency amendments. [1 O.C. 109.9-5(b)].
- 137 C. The Legislative Procedures Act does not require a public meeting or fiscal impact statement when  
138 considering emergency legislation. [1 O.C. 109.9-5(a)]. However, a public meeting and fiscal impact  
139 statement will eventually be required if permanent adoption of these amendments is considered.
- 140 D. The Legislative Operating Committee added these emergency amendments to the Active Files List on  
141 April 7, 2021.

## 142 143 **SECTION 5. CONTENTS OF THE LEGISLATION**

144 A. *Elimination of the Caucus.* The proposed amendments eliminate the caucus from the election process.  
145 Previously, the Law required that the Election Board call a caucus at least ninety (90) days before a  
146 general election was held, or forty-five (45) days before any other election. [GTC-04-23-17-A - 1 O.C.  
147 102.6-1]. At the caucus individuals could nominate potential candidates on the floor, and those potential  
148 candidates that were present during the caucus would then accept or decline the nomination. [GTC-04-  
149 23-17-A - 1 O.C. 102.6-2]. If an individual was nominated during the caucus but not present to accept  
150 the nomination, that individual could follow the petition process to get his or her name on the ballot.  
151 Now, with the elimination of the caucus from the election process, an individual who is interested in  
152 having his or her name on the ballot has to apply to be on the ballot by submitting the designated  
153 application form to the Business Committee Support Office by the application deadline established by  
154 the Oneida Election Board. [1 O.C. 102.5-4, 102.6-1].

- 155 ■ *Effect.* The proposed emergency amendment would allow for the 2021 Special Election to occur  
156 as scheduled. The elimination of the requirement to hold the caucus while allowing individuals to  
157 be placed on the ballot through the submission of an application will eliminate any unnecessary  
158 contact between individuals which could spread the COVID-19, while also ensuring that the 2021  
159 Special Election can occur without interruption.

160 B. *Application to be Placed on the Ballot.* The proposed amendments require that an individual submit  
161 an application in order to be placed on the ballot. [1 O.C. 102.6-1]. The application form consists of  
162 information that satisfies the minimum requirements for eligible candidates as described in section  
163 102.5-2 of the Law and is required to be submitted to the Business Committee Support Office the  
164 application deadline established by the Oneida Election Board. [1 O.C. 102.6-1(b)-(c)]. Previously, if  
165 an individual was not present at the caucus to accept a nomination, or was not nominated at the caucus,  
166 the individual could file a petition to have his or her name placed on the ballot. [GTC-04-23-17-A - 1  
167 O.C. 102.6-3]. The petitioner was required to submit the petition form along with no less than ten (10)  
168 signatures of qualified voters, which would be verified by the Oneida Trust Enrollment Department,  
169 prior to the close of business at least five (5) business days after the caucus. [GTC-04-23-17-A - 1 O.C.  
170 102.6-3].

- 171 ■ *Effect.* The proposed amendment makes the application process the sole way for an individual to  
172 have his or her name placed on the ballot for an election. The requirement to obtain at least ten (10)  
173 signatures of qualified voters was eliminated in an effort to eliminate any unnecessary contact  
174 between individuals which could spread COVID-19. Because the requirement to obtain signatures  
175 was eliminated from the Law, so was the requirement that the Oneida Trust Enrollment Department  
176 verify the signatures. Since there is no caucus, the deadline to submit an application to be placed  
177 on the ballot was revised from five (5) days after the caucus to the application deadline established  
178 by the Oneida Election Board. The Oneida Election Board intends to allow applications to be

submitted to the Business Committee Support Office the week of May 10, 2021 through May 14, 2021. The combinations of these changes along with the elimination of the caucus should ensure that the 2021 Special Election can occur in July as scheduled while still protecting the health and safety of the people of the Nation.

**C. *Location of the Election.*** The proposed emergency amendment to the Election law provides that elections shall be held at an Oneida Nation facility(s) as determined by the Election Board. [1 O.C. 102.9-2]. Previously, the Election law provided that elections shall be held in an Oneida Nation facility(s) as determined by the Election Board.

- *Effect.* The proposed emergency amendment would provide additional flexibility for the Oneida Election Board to utilize outdoor space of an Oneida Nation facility if determined necessary.

**D. *Election Board Members Signature on Machine Counted Ballots.*** The proposed amendments lower the number of Oneida Election Board members that are required sign the election totals, which includes the tape signed by the members of the Nation before the polls were opened, from six (6) to three (3). [1 O.C. 102.10-2].

- *Effect.* Requiring less Oneida Election Board members to be present at the polling place to sign the election totals help reduce unnecessary contact between individuals which could spread COVID-19.

**E. *Submission of Referendum Questions.*** The proposed amendments provide that referendum questions regarding issues directing affecting the Nation or general membership are to be presented to the Nation's Secretary, or designated agent, in writing, during normal business hours, 7:00 a.m. until 4:30 p.m. Monday through Friday by the deadline established by the Election Board. [1 O.C. 102.12-9(c)]. The proposed amendments also provide that no mailed, internal Nation mail delivery, faxed or other delivery method of referendum questions shall be accepted. [1 O.C. 102.12-9(c)]. Previously, the Law provided that referendum questions were to be presented to the Nation's Secretary, in writing, at the caucus prior to election.

- *Effect.* The proposed emergency amendments to the Law will ensure that there is still a process for members of the Nation to submit referendum questions to the 2021 Special Election even though the caucus will be eliminated from the election process. Due to the cancellation of the caucus, the Oneida Election Board intends to set the referendum question deadline as May 14, 2021, and allow referendum questions to be submitted in writing to the Business Committee Support Office during the week of the week of May 10, 2021 through May 14, 2021.

## SECTION 6. EXISTING LEGISLATION

**A. *Related Legislation.*** The following laws of the Nation are related to the emergency amendments to this Law:

- *Boards, Committees, and Commissions law.* The Boards, Committees, and Commission law governs boards, committees, and commissions of the Nation, including the procedures regarding the appointment and election of persons to boards, committees and commissions, creation of bylaws, maintenance of official records, compensation, and other items related to boards, committees and commissions. [1 O.C. 105.1-1].

- The Boards, Committees, and Commissions law provides that all elected positions shall be nominated at a caucus called by the Oneida Election Board, or petition for ballot placement, in accordance with the Nation's laws and/or policies governing elections, except where an entity's bylaws allow for a vacancy to be filled by appointment. [1 O.C. 105.8-1].

- 223       ▪ The emergency amendments will eliminate the caucus from the election process, leaving  
224       application for ballot placement as the only method to be elected to an entity, except where  
225       an entity's bylaws allow for a vacancy to be filled by appointment.
- 226   ▪ *Emergency Management law.* The Emergency Management law provides for the development and  
227   execution of plans for the protection of residents, property, and the environment in an emergency  
228   or disaster; and provides for the direction of emergency management, response, and recovery on  
229   the Reservation; as well as coordination with other agencies, victims, businesses, and organizations;  
230   and establishes the use of the National Incident Management System; and designates authority and  
231   responsibilities for public health preparedness. [3 O.C. 302.1-1].
- 232       ▪ The Emergency Management law provides that the Oneida Business Committee shall be  
233       responsible for proclaiming or ratifying the existence of an emergency. [3 O.C. 302.8-1]. A  
234       public health emergency is defined as the occurrence or imminent threat of an illness or health  
235       condition which:
  - 236           (1) is a quarantinable disease, or is believed to be caused by bioterrorism or a biological  
237           agent; and
  - 238           (2) poses a high probability of any of the following:
    - 239               (A) a large number of deaths or serious or long-term disability among humans; or
    - 240               (B) widespread exposure to a biological, chemical, or radiological agent that
    - 241               creates a significant risk of substantial future harm to a large number of people.
- 242           [3 O.C. 302.3-1(p)].
- 243       ▪ No proclamation of an emergency by the Oneida Business Committee may last for longer  
244       than sixty (60) days, unless the proclamation of emergency is extended by the Oneida  
245       Business Committee. [3 O.C. 302.8-2].
- 246       ▪ Chairman Tehassi Hill's March 12, 2020, "*Declaration of Public Health State of*  
247       *Emergency*" and subsequent extensions conform with the requirements of the Emergency  
248       Management law.
- 249   ▪ *Legislative Procedures Act.* The Legislative Procedures Act was adopted by the General Tribal  
250   Council on January 7, 2013, for the purpose of providing a standard process for the adoption or  
251   amendments of laws of the Nation which includes taking into account comments from members of  
252   the Nation and input from agencies of the Nation. [1 O.C. 109.1-1, 109.1-2].
- 253       ▪ The Legislative Procedures Act provides a process for the adoption of emergency  
254       legislation when the legislation is necessary for the immediate preservation of the public  
255       health, safety, or general welfare of the Reservation population and the enactment or  
256       amendment of legislation is required sooner than would be possible under this law. [1 O.C.  
257       109.9-5].
  - 258           ▪ The Legislative Operating Committee is responsible for first reviewing the  
259           emergency legislation and for forwarding the legislation to the Oneida Business  
260           Committee for consideration. [1 O.C. 109.9-5(a)].
  - 261           ▪ The proposed emergency legislation is required to have a legislative analysis  
262           completed and attached prior to being sent to the Oneida Business Committee for  
263           consideration. [1 O.C. 109.9-5(a)].
    - 264               • A legislative analysis is a plain language analysis describing the important  
265               features of the legislation being considered and factual information to  
266               enable the Legislative Operating Committee to make informed decisions



267 regarding legislation. A legislative analysis includes a statement of the  
268 legislation's terms and substance; intent of the legislation; a description of  
269 the subject(s) involved, including any conflicts with Oneida or other law,  
270 key issues, potential impacts of the legislation and policy considerations.  
271 [1 O.C. 109.3-1(g)].

- 272     ▪ Emergency legislation does not require a fiscal impact statement to be completed  
273     or a public comment period to be held. [1 O.C. 109.9-5(a)].
- 274     ▪ Upon the determination that an emergency exists the Oneida Business Committee  
275     can adopt emergency legislation. The emergency legislation becomes effective  
276     immediately upon its approval by the Oneida Business Committee. [1 O.C. 109.9-  
277     5(b)].
- 278     ▪ Emergency legislation remains in effect for a period of up to six (6) months, with  
279     an opportunity for a one-time emergency law extension of up to six (6) months. [1  
280     O.C. 109.9-5(b)].
- 281     ▪ Emergency amendments to this Law would conform with the requirements of the  
282     Legislative Procedures Act.

## 284 **SECTION 7. OTHER CONSIDERATIONS**

285 **A. *Deadline for Permanent Adoption of Amendments.*** The emergency amendments will expire six (6)  
286 months after adoption or until the 2020 General Election is concluded, whichever is sooner. The  
287 emergency amendments may be renewed for an additional six (6) month period.

- 288     ▪ *Conclusion:* The Legislative Operating Committee will need to consider the development and  
289     adoption of permanent amendments to this Law within the next six (6) to twelve (12) months.

290 **B. *Fiscal Impact.*** A fiscal impact statement is not required for emergency legislation.

- 291     ▪ Under the Legislative Procedures Act, a fiscal impact statement is required for all legislation except  
292     emergency legislation [1 O.C. 109.6-1].

293

**Title 1. Government and Finances - Chapter 102****ELECTION****Onayote'a'ká· Tho Ni· Yót Tsi? Ayethiyataláko Tsi? Kayanl'hsila***People of the Standing Stone how it is we will appoint them the kind of laws we have*

102.1. Purpose and Policy

102.2. Adoption, Amendment, Repeal

102.3. Definitions

102.4. Election Board

102.5. Candidate Eligibility

102.6. Selection of Candidates

102.7. Notice of Polling Places

102.8. Registration of Voters

102.9. Election Process

102.10. Tabulating and Securing Ballots

102.11. Election Outcome and Ties

102.12. Elections

102.13. Oneida Nation Constitution and By-law Amendments

**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 ~~such as caucuses and nominations.~~ 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 ~~and~~ GTC-04-23-17-A, ~~and~~ **emergency amended by resolution BC- - - -**.

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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102.3-6. "Candidate" shall mean ~~a petitioner or nominee~~ an applicant for an elected position whose name is placed on the ballot by the Election Board after successful application.

102.3-7. "Clerk" shall mean the election official who identifies proper registration for the purpose of determining voter eligibility.

102.3-8. "Close of business" shall mean 4:30 p.m. Monday through Friday.

102.3-9. "Conflict of Interest" shall mean any interest, whether it be personal, financial, political or otherwise, in which a Nation elected official, employee, consultant, appointed or elected, member of any board, committee or commission, or their immediate relatives, friends or associates, or any other person with whom they have contact, that conflicts with any right of the Nation to property, information, or any other right to own and operate its enterprises, free from undisclosed competition or other violation of such rights of the Oneida Nation, or as defined in any law or policy of the Nation.

102.3-10. "Election" shall mean every primary and election.

102.3-11. "General election" shall mean the election held every three (3) years in July to elect the Chairperson, Vice-Chairperson, Secretary, Treasurer, and the five Council Members of the Business Committee and may include contests for elected boards, committees and commissions positions.

102.3-12. "Judge" shall mean the election official who informs and advises the Chairperson of discrepancies, complaints and controversy regarding voter eligibility.

102.3-13. "Judiciary" means the judicial system that was established by Oneida General Tribal Council resolution GTC-01-07-13-B to administer the judicial authorities and responsibilities of the Nation.

102.3-14. "Lot drawing" shall mean the equal chance method used to select a candidate as the winner of an elected position, in the case of a tie between two (2) or more candidates.

102.3-15. "Nation" means the Oneida Nation.

102.3-16. "Nation's newspaper" shall mean the Kalihwisaks, or any other newspaper operated by the Nation for the benefit of transmitting news to members of the Nation, which is designated by the Election Board as a source for election related news.

102.3-17. "Oneida Police Officer" shall mean an enrolled member of the Oneida Nation who is a police officer on any police force.

102.3-18. "Private property" shall mean any lot of land not owned by the Nation, a residential dwelling or a privately owned business within the boundaries of the Reservation.

102.3-19. "Prominent locations" shall mean the polling places, main doors of the Norbert Hill Center, main doors of the Oneida Community Library, Tsyunhehkwa Retail Store, the Oneida Community Health Center, the SEOTS building and all One-Stop locations.

102.3-20. "Qualified voter" shall mean an enrolled member of the Nation who is eighteen (18) years of age or older.

102.3-21. "Rejected Ballots" shall mean those ballots which are rejected by the vote tabulating machine.

102.3-22. "Spoiled Ballot" shall mean a ballot which contains a voter error or is otherwise marred and is not tabulated.

102.3-23. "Teller" shall mean the election official in charge of collecting and storing of all ballots.

## 102.4. Election Board

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*Section A. Establishment, Composition and Election*

102.4-1. An Election Board is hereby created for the purpose of carrying out the provisions of this law and Article III, Sections 2 and 3 of the Oneida Nation Constitution.

102.4-2. The Election Board shall consist of nine (9) elected members. All members shall be elected to terms of three (3) years, not to exceed two (2) consecutive terms.

102.4-3. *Recusal.* An Election Board member shall recuse himself/herself from participating as an Election Board member in any pre-election, election day, or post-election activities while he or she is ~~a petitioner~~, an applicant or candidate in any election or there is otherwise a conflict of interest.

102.4-4. *Removal.* Removal of members shall be pursuant to the Oneida Removal Law. A member who is removed from the Election Board shall be ineligible to serve on the Board for three (3) years from the time he or she is removed from the Election Board.

102.4-5. *Vacancies.* Any vacancy in an unexpired term shall be filled by appointment by the Business Committee for the balance of the unexpired term. The filling of a vacancy may be timed to correspond with the pre-election activities and the needs of the Election Board.

102.4-6. The Election Board shall identify tellers, judges and clerks in advance of an election.

102.4-7. The Business Committee may appoint or reappoint a sufficient number of alternates to the Election Board, as recommended by the Election Board, to assist with election day and pre-election activities.

102.4-8. The Election Board shall choose a Chairperson from amongst themselves as set out in the By-laws of the Election Board, to preside over the meetings. This selection shall be carried out at the first meeting of the Election Board following an election. The Chairperson shall then ask the Election Board to select a Vice-Chairperson and Secretary.

*Section B. Duties of the Election Board*

102.4-9. The Election Board shall have the following duties, along with other responsibilities listed throughout this law.

- (a) The Election Board shall be in charge of all registration and election procedures; and
- (b) Upon completion of an election, the Election Board shall make a final report on the election results as set out in this law.

*Section C. Specific Duties of Officers and Election Board Members*

102.4-10. Specific duties of the Chairperson and other Election Board members, in addition to being present at all Election Board meetings and assisting the handicapped through the voting process, are as set out herein:

- (a) Chairperson: Shall preside over meetings of the Election Board; shall select the hearing body for applicants found to be ineligible in accordance with 102.5-6 in the event of an appeal; shall oversee the conduct of the election; shall dismiss the alternates and Trust Enrollment Department personnel when their election day duties are complete; and shall post and report election results.
- (b) Vice-Chairperson: Shall preside over all meetings in the absence of the Chairperson.
- (c) Secretary: Shall keep a record of the meetings and make them available to the Nation's Secretary, other Election Board members and the public as required in the Open Records and Open Meetings Law.
- (d) Clerks: Shall implement the requirements of identifying and registering all voters and

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determining voter eligibility. Clerks shall work in conjunction with the Trust Enrollment Department personnel in the registration process, and assist the Chairperson as directed in conducting the election. Clerks cannot be currently employed by the Trust Enrollment Department.

(e) Tellers: Shall collect and keep safe all ballots, until the election is complete, as determined by this law. Shall assist the Chairperson in conducting the election.

(f) Judges: Shall inform and advise the Chairperson of all aspects of the election conducted under this law. In case of disputes among Election Board members, or between members of the Nation and Election Board members, or any controversy regarding voter eligibility, the Judge(s) shall assist the Chairperson in making a determination. The Judge(s) shall also ensure that all ballots of voters whose eligibility may be in question, remain confidential.

#### *Section D. Compensation Rates*

102.4-11. Election Board members are to be compensated at an hourly rate when conducting elections as provided for in the Election Board's bylaws as approved by the Business Committee. The Election Board shall have a budget, approved through the Nation's budgeting process.

102.4-12. The Trust Enrollment Department personnel and Oneida Police Officer(s) shall be compensated at their regular rate of pay out of their respective budgets.

### **102.5. Candidate Eligibility**

#### *Section A. Requirements*

102.5-1. In addition to any specific requirements and/or exceptions set out in duly adopted by-laws or other documents, all applicants shall meet the minimum requirements set out in this section in order to become a candidate.

102.5-2. Minimum Requirements. In order to be eligible to be a candidate, applicants shall:

- (a) be an enrolled member of the Nation, as verified by membership rolls of the Nation.
- (b) be a qualified voter on the day of the election.
- (c) provide proof of physical residency as required for the position for which they have ~~been nominated or for which they have petitioned~~ applied. Proof of residency may be through one (1) or more of the following:
  - (1) a valid Wisconsin driver's license;
  - (2) a bill or pay check stub showing name and physical address of the candidate from the prior or current month;
  - (3) another form of proof that identifies the candidate and that the candidate has physically resided at the address and identifies that address as the primary residence.

102.5-3. No applicant may have a conflict of interest with the position for which they are being considered, provided that any conflict of interest which may be eliminated within thirty (30) calendar days of being elected shall not be considered as a bar to ~~nomination or~~ election.

102.5-4. Applications ~~and petitions where the applicant was not nominated during caucus~~ shall be filed by presenting the information to the Nation's Secretary, or designated agent, during normal business hours, 8:00 a.m. to 4:30 p.m. Monday through Friday, ~~within five (5) business days~~ after by the caucus application deadline established by the Election Board. No mailed, internal Nation mail delivery, faxed or other delivery method shall be accepted.

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102.5-5. The names of the candidates and the positions sought shall be a public record and made available to the public upon the determination of eligibility by the Election Board or the Board's designated agent.

*Section B. Eligibility Review*

102.5-6. Applicants found to be ineligible shall have two (2) business days to request an appeal. At least four (4) Election Board members shall constitute a hearing body. The Chairperson shall select the hearing body. The hearing shall be held within two (2) business days of receipt of the appeal. The applicant shall be notified by phone of time and place of the hearing. The decision of the hearing body shall be sent via certified mail or hand delivery within two (2) business days of the hearing. Any appeal from a decision of the Election Board hearing body shall be to the Judiciary on an accelerated schedule.

102.5-7. The Election Board shall be responsible for reviewing the qualifications of applicants to verify eligibility. Any applicant found to be ineligible for a ~~nominated or petitioned for~~ position shall be notified by certified mail return receipt requested. The notice shall provide the following information:

- (a) Position for which they were considered
- (b) Qualification of the position and citation of the source. (Copies of source may be attached.)
- (c) A brief summary explaining why the applicant was found to be ineligible.
- (d) That the applicant has two (2) business days from notification to make an appeal. Appeals must be filed at the location designated on the notice by hand delivery. The location designated shall be on the Reservation. No mailed, internal Nation mail, faxed or other delivery method will be accepted.

*Section C. Campaign Financing*

102.5-8. Contributions:

- (a) Solicitation of Contributions by Candidates.
  - (1) Candidates shall only accept contributions from individuals who are members of the Nation or individuals related by blood or marriage to the candidate. Candidates may not accept contributions from any business, whether sole proprietorship, partnership, corporation, or other business entity.
  - (2) Candidates shall not solicit or accept contributions in any office or business/facility of the Nation.
- (b) Fines. Violation of the contribution restrictions shall result in a fine imposed by the Election Board in an amount specified in a resolution adopted by the Business Committee.

102.5-9. Campaign Signs and Campaigning:

- (a) Placement of campaign signs:
  - (1) Campaign signs shall not be posted or erected on any property of the Nation except for private property with the owner/tenant's permission.
  - (2) No campaign sign shall exceed sixteen (16) square feet in area. A maximum of seven (7) such signs may be placed on a building or on a lot.
  - (3) No campaign sign shall project beyond the property line into the public right of way.
- (b) Removal of campaign signs. All campaign signs shall be removed within five (5)



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business days after an election.

(c) Employees of the Nation shall not engage in campaigning for offices of the Nation during work hours. The Nation's employees shall be subject to disciplinary action under the personnel policies and procedures for political campaigning during work hours.

(d) Enforcement. The Zoning Administrator shall cause to be removed any campaign signs that are not in compliance with this law, in accordance with the Zoning and Shoreland Protection Law.

(e) Fines. Violation of the campaign sign restrictions shall result in a fine imposed by the Election Board in an amount specified in a resolution adopted by the Business Committee.

#### *Section D. Candidate Withdrawal*

102.5-10 Any candidate may withdraw his or her name from a ballot if submitted in writing by the candidate prior to submission of the ballot for printing to any Election Board member, excluding alternates.

102.5-11 After printing of the ballot, any candidate may withdraw his or her name from the election by submitting in writing a statement indicating they are withdrawing from the election prior to the opening of the polls to any Election Board member, excluding alternates. This statement shall be posted alongside any sample ballot printed prior to the election in the newspaper or any posting at the polling places.

102.5-12. Candidates withdrawing after opening of the polls shall request, in writing to the Election Board members in charge of the polling place, to be removed from the ballot. The written statement shall be posted next to any posted sample ballot.

102.5-13. Candidates withdrawing by any method listed herein shall be denied any position from which they have withdrawn regardless of the number of votes cast for that candidate. A written statement shall be considered the only necessary evidence of withdrawal and acceptance of denial of any position withdrawn from.

#### *102.5-14. Candidate Withdrawal After Winning an Election.*

(a) In the event a candidate declines an office after winning an election, the Election Board shall declare the next highest vote recipient the winner. This procedure shall be repeated as necessary until a winner is declared.

(b) If all vote recipients decline or are otherwise unable to be declared the winner, then a Special Election shall be held.

## **2.6. Selection of Candidates**

### *Section A. Setting of Caucus*

~~102.6-1. The Election Board shall be responsible for calling a caucus before any election is held. The caucus for the general election shall be held at least ninety (90) calendar days prior to the election date. Caucuses for other elections shall be held at least forty five (45) calendar days prior to the election date. In a general election year, caucuses shall be combined so that candidates for the Business Committee and elected boards, committees and commissions are nominated at the same caucus.~~

~~102.6-2. The procedures for the caucus shall be as follows:~~

~~(a) Candidates shall be nominated from the floor.~~

~~(b) Candidates present at the caucus will accept/decline their nomination at the caucus.~~

~~Candidates nominated at the caucus, but not present to accept the nomination, shall be~~

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~~required to follow the petition process.~~

~~(c) Nominations shall consist of the following positions: Chairperson, Vice Chairperson, Treasurer, Secretary, Council Member and other elected positions as required by by laws or creating documents of a board, committee, or commission.~~

### *Section B. Petition*

~~102.6-3.~~ Any eligible member of the Nation may ~~petition~~apply to be placed on a ballot according to the following procedures:

~~(a) Each petitioner, not nominated at caucus, shall file a petition containing endorsee's original signatures; photocopies shall not be accepted.~~

~~(b) Petitioners~~(a) Applicants shall use an official ~~petition~~ form as designated by this law which may be obtained in the Office of the Nation's Secretary ~~or from the mailing for that caucus.~~

~~(e)~~ The ~~petition~~ form shall consist of ~~each endorsee's:~~

~~(1) printed name and address;~~

~~(2) date of birth;~~

~~(3) Oneida Nation Enrollment Number; and~~

~~(4) signature.~~

~~(d) Petitioners shall obtain not less than ten (10) signatures of qualified voters as defined under information that satisfies the minimum requirements for eligible candidates, as described in section 102.5-2 of this law.~~

~~(e) Petitions~~(c) Applications shall be presented to the Nation's Secretary, or designated agent, during normal business hours, 8:00 to 4:30 Monday through Friday, but no later than prior to close of business ~~five (5) business days after on~~ the ~~caucus~~application deadline established by the Election Board. The location to drop-off ~~petitions~~applications shall be ~~identified in the mailing identifying the caucus date~~Business Committee Support Office.

~~(f)~~ The Nation's Secretary shall forward all ~~petitions~~applications to the Election Board Chairperson the next business day following the close of ~~petition~~ submissions.

~~(g) The Election Board shall have the Trust Enrollment Department verify all signatures contained on the petition.~~

~~102.6-4.~~ A person who runs for a position on the Oneida Business Committee, or a position on a judicial court or commission, shall not run for more than one (1) elective office or seat per election.

### **102.7. Notice of Polling Places**

102.7-1. The Election Board shall post a notice in the prominent locations, stating the location of the polling places and the time the polls will be open. This notice shall also be posted in an easily visible position, close to the entrance of the Nation's businesses/facilities.

102.7-2. Polling information shall be posted no less than ten (10) calendar days prior to the election, and shall remain posted until the poll closes on the day of the election.

102.7-3. Except for a Special Election, notice for the election shall be mailed to all Nation members, stating the time and place of the election and a sample of the ballot, no less than ten (10) calendar days prior to the election, through a mass mailing. The Trust Enrollment Department shall be notified, by the Election Board Chairperson, no less than twenty (20) calendar days prior



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to the requested mailing.

102.7-4. Notice of the election shall be placed in the Nation's newspaper.

## **102.8. Registration of Voters**

### *Section A. Requirements*

102.8-1. *Registration of Voters.* All enrolled members of the Nation, who are eighteen (18) years of age or over, are qualified voters of such election(s) as defined in Article III, Section 2 of the Oneida Nation Constitution.

### *Section B. Identification of Voters*

102.8-2. All voters must present one of the following picture identifications in order to be able to vote:

- (a) Oneida Nation I.D.
- (b) Drivers License.
- (c) Other I.D. with name and photo.

### *Section C. Registration Procedures*

102.8-3. Voters shall physically register, on the day of the election, at the polls.

102.8-4. Trust Enrollment Department personnel shall be responsible for verifying enrollment with the Nation. Conduct of Trust Enrollment Department personnel is governed by the Election Officials during the voting period.

102.8-5. Every person who intends to vote must sign his/her name on an official Voter Registration Form containing the voter's following information:

- (a) name and maiden name (if any);
- (b) current address;
- (c) date of birth; and
- (d) enrollment number.

### *Section D. Qualification/Verification of Voter Eligibility*

102.8-6. Should a question or dispute arise as to the eligibility of a voter being qualified to vote, the Judges of the Election Officials appointed by the Election Board Chairperson shall meet with the Trust Enrollment Department personnel who are registering voters, to decide the voting member's eligibility currently being questioned and shall make such decisions from the facts available, whether the applicant is, in fact, qualified/verifiable under the Oneida Nation Constitution, Article III Section 2, to vote in the Nation's elections.

102.8-7. Any voter denied eligibility shall be allowed to vote, provided that the ballot shall be placed in an envelope, initialed by two (2) Election Officials, sealed and numbered. The name of the voter shall be written next to a numbered list which corresponds to the numbered and sealed envelope. The voter shall be required to mail a written appeal to the Election Board at P.O. Box 413, Oneida, Wisconsin, 54155, postmarked within two (2) business days of the election if they desire to challenge the decision made by the Election Officials. The Election Board shall make a final decision, within five (5) business days of receiving the appeal and shall report this decision in the final report sent to the Oneida Business Committee.

## **102.9. Election Process**

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*Section A. Polling Places and Times*

102.9-1. In accordance with Article III, Section 5 of the Oneida Nation Constitution, elections shall be held in the month of July on a date set by the General Tribal Council. The General Tribal Council shall set the election date at the January annual meeting, or at the first GTC meeting held during a given year. Special Elections shall be set in accordance with 102.12-6.

102.9-2. Elections shall be held ~~in~~at an Oneida Nation facility(s) as determined by the Election Board.

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 to vote at 7:00 p.m. shall be allowed to vote.

(a) If a ballot counting machine is used, the ballot counting machine shall be prepared prior to 7:00 a.m. on the day of the election. The Judges shall open the polls only after four

(4) members of the Nation verify, through signature on the tape, the ballot box is empty and the ballot counting machine printer tape has a zero (0) total count.

102.9-4. At least one (1) Oneida Police Officer shall be present during the time the polls are open, and until the counting of ballots is completed, and tentative results posted.

102.9-5. The Election Board shall provide a voting area sufficiently isolated for each voter such that there is an area with at least two sides and a back enclosure.

102.9-6. No campaigning of any type shall be conducted within two hundred eighty (280) feet of the voting area, excluding private property.

102.9-7. No one causing a disturbance shall be allowed in the voting area.

102.9-8. Election Board members may restrict the voting area to qualified voters only. This restriction is in the interest of maintaining security of the ballots and voting process.

*Section B. Ballot Box*

102.9-9. All ballots being votes, shall be placed in a receptacle clearly marked "Ballot Box" and shall be locked until counting at the close of polls. Provided that, with electronic ballot counting, the ballots may be placed within the ballot counting machine as they are received.

*Section C. Spoiled Ballots*

102.9-10. If a voter spoils his/her ballot, he/she shall be given a new ballot.

102.9-11. The spoiled ballot shall be marked "VOID" and initialed by two (2) Election Officials and placed in an envelope marked as "Spoiled Ballots."

102.9-12. The Spoiled Ballot envelopes shall be retained and secured for no less than fifteen (15) calendar days following finalization of any challenge of the election, at the Records Management Department.

*Section D. Rejected Ballots*

102.9-13. Rejected Ballots are to be placed in a specially marked container and sealed.

(a) Computer rejected ballots shall be reviewed by the Election Officials to verify the authenticity of the ballot. Ballots rejected because of mutilation shall be added to the final computer total, provided that, a new ballot was not received as set out in sections 102.9-10 through 102.9-12.

(b) Ballots rejected, either during the computer process or during a manual counting, shall be reviewed by the Election Officials to verify that they are authentic. If the Election Officials determine that the ballot is not an official ballot, or that it is an illegal ballot, the

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ballot shall be designated 'void,' and placed in a sealed container marked "Void Ballots."

## **102.10. Tabulating and Securing Ballots**

### *Section A. Machine Counted Ballots*

102.10-1. When ballots are counted by machine, at the close of polls the Judges shall generate from the ballot counting machine copies of the election totals from the votes cast.

102.10-2. At least ~~six (6)~~three (3) Election Board members shall sign the election totals, which shall include the tape signed by the members of the Nation before the polls were opened per section 102.9-3(a).

### *Section B. Manually Counted Ballots*

102.10-3. When ballots are manually counted, at the close of polls the Judges shall unlock the ballot box and remove the ballots.

102.10-4. If the ballots need to be counted at a location other than the polling site, the ballots shall be secured in a sealed container for transportation to the ballot counting location. The sealed ballots shall be transported by an Oneida Police Officer with at least three (3) of the Election Officials for counting/tallying of ballots.

102.10-5. The sealed ballots shall be opened at the time of counting by the Election Officials and witnessed/monitored by an Oneida Police Officer.

102.10-6. Ballots must be counted by two different Election Officials until two final tallies are equal in back to back counting. Final tallies shall be verified by the Election Judges.

### *Section C. Securing Ballots*

102.10-7. The Judges shall place together all ballots counted and secure them together so that they cannot be untied or tampered with without breaking the seal. The secured ballots, and the election totals with the signed tape, if applicable, shall then be secured by the Judges in a sealed container in such a manner that the container cannot be opened without breaking the seals or locks, or destroying the container. The Oneida Police Officer shall then deliver, on the day of the election, the sealed container to the Records Management Department for retaining.

## **102.11. Election Outcome and Ties**

### *Section A. Election Results Announcement*

102.11-1. The tentative results of an election shall be announced and posted by the Election Board within twenty-four (24) hours after the closing of the polls. Notices of election results shall contain the following statement:

*"The election results posted here are tentative results. Final election results are forwarded by the Oneida Election Board to the Oneida Business Committee via a Final Report after time has lapsed for recount requests, or challenges or after all ~~-recounts or challenges~~ have been completed, whichever is longer"*

102.11-2. The Election Board shall post, in the prominent locations, and publish in the Nation's newspaper, the tentative results of an election.

### *Section B. Tie*

102.11-3. In the event of a tie for any office, and where the breaking of a tie is necessary to determine the outcome of an election, the Election Board shall conduct an automatic recount of

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the votes for each candidate receiving the same number of votes. Any recount conducted shall be the only recount allowed for the tied candidates.

102.11-4. For Business Committee positions, a run-off election between the candidates with the same number of votes shall be held if there remains a tie after the recount. Said run-off election shall be held within twenty-one (21) calendar days after the recount. For all other positions, if there remains a tie after the recount, the Election Board shall decide the winner of the tied positions at least two (2) business days after, but no more than five (5) business days after the recount through a lot drawing, which shall be open to the public.

(a) The Election Board shall notify each of the tied candidates and the public of the date, time, and place of the drawing at least one (1) business day before the drawing. Notice to the tied candidates shall be in writing. Notice to the public shall be posted by the Election Board in the prominent locations.

(b) On the date and at the time and place the drawing was noticed, the Election Board Chairperson shall clearly write the name of each tied candidate on separate pieces of paper in front of any witnesses present. The pieces of paper shall be the same, or approximately the same, color, size, and type. The papers shall be folded in half and placed in a container selected by the Election Board Chairperson.

(c) The Election Board Chairperson shall designate an uninterested party to draw a name from the container. The candidate whose name is drawn from the container first shall be declared the winner. An Election Board member other than the Chairperson shall remove the remaining pieces of paper from the container and show them to the witnesses present.

### *Section C. Recount Procedures*

102.11-5. A candidate may request the Election Board to complete a recount, provided the margin between the requesting candidate's vote total and vote total for the unofficial winner was within two percent (2%) of the total votes for the office being sought or twenty (20) votes, whichever is greater. A candidate requests a recount by hand delivering a written request to the office of the Nation's Secretary, or noticed designated agent, within five (5) business days after the election. Requests shall be limited to one (1) request per candidate. The Nation's Secretary shall contact the Election Board Chairperson by the next business day after the request for recounts.

102.11-6. The Election Board shall respond by the close of business on the fifth (5<sup>th</sup>) day after the request regarding the results of the recount. Provided that, no recount request need be honored where there have been two (2) recounts completed as a result of a request either as a recount of the whole election results, or of that sub-section.

102.11-7. All recounts shall be conducted manually with, if possible, the original Election Officials and Oneida Police Officer present, regardless of the original type of counting process. Manual recounts may, at the discretion of the Election Officials, be of the total election results, or of the challenged sub-section of the election results.

102.11-8. The Oneida Police Officer shall be responsible for picking up the locked, sealed container with the ballots from the Records Management Department and transporting it to the ballot recounting location.

102.11-9. A recount shall be conducted by a quorum of the Election Board, including at least three (3) of the original Election Officials. The locked, sealed ballots shall be opened by the Election Board Chairperson and an Oneida Police Officer shall witness the recount.

102.11-10. Recounting of ballots may be performed manually or by computer. All ballots shall be

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counted until two (2) final tallies are equal in back to back counting and the total count of ballots reconciles with the total count from the ballot counting machine. Sub-sections of candidates may be recounted in lieu of a full recount.

(a) Manually counted ballots shall be recounted by the Election Board. Ballots shall be counted twice by different persons and certified by the Judges.

(b) Computer counted ballots shall be recounted twice and certified by the Judges. Prior to using an electronic ballot counting device, it shall be certified as correct either by the maker, lessor of the machine, or Election Board.

*Section D. Challenges and Declaration of Results*

102.11-11. *Challenges.* Any qualified voter may challenge the results of an election by filing a complaint with the Judiciary within ten (10) calendar days after the election. The Judiciary shall hear and decide a challenge to any election within two (2) business days after the challenge is filed. Any appeal to the appellate body of the Judiciary shall be filed within one (1) business day after the issuance of the lower body's decision and decided within two (2) business days after the appeal is filed.

(a) The person challenging the election results shall prove by clear and convincing evidence that the Election Law was violated or an unfair election was conducted, and that the outcome of the election would have been different but for the violation.

(b) If the Judiciary invalidates the election results, a Special Election shall be ordered by the Judiciary for the office(s) affected to be held on a date set by the Judiciary for as soon as the Election Law allows for a Special Election.

102.11-12. *The Final Report.* The Election Board shall forward a Final Report to the Nation's Secretary after time has lapsed for recount requests, or challenges or after all recounts or challenges have been completed, whichever is longer. The Final Report shall consist of the following information:

(a) Total number of persons voting.

(b) Total votes cast for each candidate by subsection of the ballot.

(c) List of any ties and final results of those ties, including the method of resolution.

(d) List of candidates elected and position elected to.

(e) Number of spoiled ballots.

(f) Cost of the election, including the compensation paid to each Election Board member.

102.11-13. *Declaration of Results.* The Business Committee shall declare the official results of the election and send notices regarding when the swearing in of newly elected officials shall take place within ten (10) business days after receipt of the Final Report.

102.11-14. Candidates elected to the Business Committee shall resign from any salaried position effective prior to taking a Business Committee oath of office

102.11-15. Except in the event of an emergency, as determined by the Business Committee, newly elected officials shall be sworn into office no later than thirty (30) calendar days after the official results of an election are declared by the Business Committee.

(a) If a newly elected official is not sworn in within thirty (30) calendar days, the seat shall be considered vacant and the Election Board shall declare the next highest vote recipient the winner. This procedure shall be repeated as necessary until a winner is declared.

(b) If all vote recipients decline or are otherwise unable to be declared the winner, then a Special Election shall be held.

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102.11-16. The Election Board shall send notice to the Records Management Department to destroy the ballots thirty (30) calendar days after the election or after the final declaration of official election results occurs, whichever is longer.

**102.12. Elections***Section A. Primary Elections; Business Committee*

102.12-1. When a primary is required under 102.12-2, it shall be held on a Saturday at least sixty (60) calendar days prior to the election.

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.

102.12-3. The Election Board shall cancel the primary election if the Business Committee positions did not draw the requisite number of candidates for a primary ~~by the petitioning deadline set for the primary.~~

102.12-4. In the event a candidate withdraws or is unable to run for office after being declared a winner in the primary, the Election Board shall declare the next highest primary vote recipient the primary winner. This procedure shall be repeated as necessary until the ballot is full or until there are no available candidates. If the ballot has already been printed, the procedures for notifying the Oneida public in section 102.5-11 and 102.5-12 shall be followed, including the requirement to print a notice in the Nation's newspaper if ~~time lines~~ timelines allow.

*Section B. Special Elections*

102.12-5. Matters subject to a Special Election, i.e., referendum, vacancies, petitions, etc., as defined in this law, may be placed on the same ballot as the subject matter of an election.

102.12-6. Dates of all Special Elections shall be set, as provided for in this law, by the Business Committee as recommended by the Election Board or as ordered by the Judiciary in connection with an election challenge.

102.12-7. Notice of said Special Election shall be posted by the Election Board in the prominent locations, and placed in the Nation's newspaper not less than ten (10) calendar days prior to the Special Election.

102.12-8. In the event of an emergency, the Election Board may reschedule the election, provided that no less than twenty-four (24) hours notice of the rescheduled election date is given to the voters, by posting notices in the prominent locations.

*Section C. Referendums*

102.12-9. Registered voters may indicate opinions on any development, law or resolution, proposed, enacted, or directed by the Business Committee, or General Tribal Council, in a special referendum election.

(a) Referendum elections in which a majority of the qualified voters who cast votes shall



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be binding on the Business Committee to present the issue for action/decision at General Tribal Council.

(b) Referendum requests may appear on the next called for election.

(c) Referendum questions ~~are to be presented to the Nation's Secretary, in writing, at the caucus prior to election,~~ regarding issues directly affecting the Nation or general membership are to be presented to the Nation's Secretary, or designated agent, in writing, during normal business hours, 8:00 a.m. until 4:30 p.m. Monday through Friday by the deadline established by the Election Board. No mailed, internal Nation mail delivery, faxed or other delivery method shall be accepted.

#### *Section D. Initiation of Special Elections*

102.12-10. Special Elections may be initiated by a request or directive of the General Tribal Council or the Oneida Business Committee.

102.12-11. Special Election may be requested by a member of the Nation to the Business Committee or General Tribal Council.

102.12-12. All Special Elections shall follow rules established for all other elections. This includes positions for all Boards, Committees and Commissions.

#### **102.13. Oneida Nation Constitution and By-law Amendments**

102.13-1. Pursuant to Article VI of the Oneida Nation Constitution, amendments to the Oneida Nation Constitution and By-laws may be initiated by the Oneida Business Committee or a petition of qualified voters. The requirements for the Oneida Business Committee's initiation of Constitutional amendments are as provided in the Constitution and as further detailed in the supporting standard operating procedures which the Oneida Business Committee shall adopt. Qualified voters may petition to amend the Oneida Nation Constitution and By-laws by submitting a petition to the Office of the Nation's Secretary which includes the full text of the proposed amendments and signatures that are equal in number to at least ten percent (10%) of all members qualified to vote.

(a) Qualified voters may request a petition form from the Office of the Nation's Secretary.

(b) When a petition form is requested, the Nation's Secretary, or his or her designee, shall direct the Trust Enrollment Department to calculate the number of signatures currently required for a petition submittal, which shall be ten percent (10%) of all members qualified to vote on the date the petition form is requested from the Office of the Nation's Secretary. When the Nation's Secretary receives the calculation from the Trust Enrollment Department, the Nation's Secretary shall provide the requester with the petition form and the number of signatures that are currently required.

(c) Such petitions shall be circulated with all supporting materials and submitted a minimum of ninety (90) days prior to the election at which the proposed amendment is to be voted upon. If a petition includes supporting materials in addition to the petition form, each qualified voter signing the petition shall also acknowledge that the supporting materials were available for review at the time he or she signed the petition by initialing where required on the petition form.

(d) The Nation's Secretary shall forward submitted petitions to the Trust Enrollment Department for verification of signatures and to the Election Board to provide notice that the petition may need to be placed on an upcoming ballot.

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(e) If the petition is verified by the Trust Enrollment Department to contain signatures from at least ten percent (10%) of all qualified voters, the Election Board shall make an official announcement of the proposed amendments to the Oneida Nation Constitution at least sixty (60) days prior to the election at which the proposed amendments are to be voted on.

102.13-2. The Election Board shall place any proposed amendments to the Oneida Nation Constitution that meet the requirements contained in 102.13-1 on the ballot at the next general election. Provided that, the Oneida Business Committee or General Tribal Council may order a special election be held to consider the proposed amendments. In such circumstances, the Election Board shall place any proposed amendments to the Oneida Nation Constitution on the ballot at the next special election.

102.13-3. The Election Board shall publish any proposed amendments by publishing a sample ballot no less than ten (10) calendar days prior to the election, through a mass mailing. The Trust Enrollment Department shall be notified, by the Election Board Chairperson, no less than twenty (20) calendar days prior to the requested mailing. Copies of such publications shall be prominently posted in each polling place and at administrative offices of the Nation and shall also be published in official Oneida media outlets, which the Oneida Business Committee shall identify by resolution. For the purposes of this section, Oneida administrative offices means the location where the Oneida Business Committee conducts business.

102.13-4. The Election Board shall ensure that the ballot contains a statement of the purpose of the proposed amendments prepared by the Oneida Law Office. The Oneida Law Office shall ensure that the statement of purpose is one hundred (100) words or less exclusive of caption, is a true and impartial statement and is written in such a manner that does not create prejudice for or against the proposed amendment.

102.13-5. Pursuant to Article VI, Section 3 of the Oneida Nation Constitution, proposed amendments that are approved by sixty-five percent (65%) of the qualified voters that vote on that amendment shall become part of the Constitution and By-laws, and shall abrogate or amend existing provisions of the Constitution and By-laws at the end of thirty (30) days after submission of the final election report.

102.13-6. If two (2) or more amendments approved by the voters at the same election conflict, the amendment receiving the highest affirmation vote prevails.

*End.*

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Adopted - June 19, 1993

Amended - June 28, 1995 (Adopted by BC on Behalf of GTC, Completion of Agenda)

Presented for Adoption of 1997 Revisions - GTC-7-6-98-A

Amended- October 11, 2008 (General Tribal Council Meeting)

Amended-GTC-01-04-10-A

Amended – BC-02-25-15-C

Amended – GTC-04-23-17-A

Emergency Amended – BC-03-17-20-B

Emergency Amended – BC-05-13-20-H

Emergency Amended – BC-06-24-20-B (Expired at Conclusion of 2020 General Election)

Emergency Amended – BC- - - -



## Title 1. Government and Finances - Chapter 102

### ELECTION

#### Onayote'a'ká· Tho Ni· Yót Tsi? Ayethiyataláko Tsi? Kayanl'hsila

*People of the Standing Stone how it is we will appoint them the kind of laws we have*

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	

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#### **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, and emergency amended by resolution BC-\_\_-\_\_-\_\_-\_\_.

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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102.3-6. "Candidate" shall mean an applicant for an elected position whose name is placed on the ballot by the Election Board after successful application.

102.3-7. "Clerk" shall mean the election official who identifies proper registration for the purpose of determining voter eligibility.

102.3-8. "Close of business" shall mean 4:30 p.m. Monday through Friday.

102.3-9. "Conflict of Interest" shall mean any interest, whether it be personal, financial, political or otherwise, in which a Nation elected official, employee, consultant, appointed or elected, member of any board, committee or commission, or their immediate relatives, friends or associates, or any other person with whom they have contact, that conflicts with any right of the Nation to property, information, or any other right to own and operate its enterprises, free from undisclosed competition or other violation of such rights of the Oneida Nation, or as defined in any law or policy of the Nation.

102.3-10. "Election" shall mean every primary and election.

102.3-11. "General election" shall mean the election held every three (3) years in July to elect the Chairperson, Vice-Chairperson, Secretary, Treasurer, and the five Council Members of the Business Committee and may include contests for elected boards, committees and commissions positions.

102.3-12. "Judge" shall mean the election official who informs and advises the Chairperson of discrepancies, complaints and controversy regarding voter eligibility.

102.3-13. "Judiciary" means the judicial system that was established by Oneida General Tribal Council resolution GTC-01-07-13-B to administer the judicial authorities and responsibilities of the Nation.

102.3-14. "Lot drawing" shall mean the equal chance method used to select a candidate as the winner of an elected position, in the case of a tie between two (2) or more candidates.

102.3-15. "Nation" means the Oneida Nation.

102.3-16. "Nation's newspaper" shall mean the Kalihwisaks, or any other newspaper operated by the Nation for the benefit of transmitting news to members of the Nation, which is designated by the Election Board as a source for election related news.

102.3-17. "Oneida Police Officer" shall mean an enrolled member of the Oneida Nation who is a police officer on any police force.

102.3-18. "Private property" shall mean any lot of land not owned by the Nation, a residential dwelling or a privately owned business within the boundaries of the Reservation.

102.3-19. "Prominent locations" shall mean the polling places, main doors of the Norbert Hill Center, main doors of the Oneida Community Library, Tsyunhehkwa Retail Store, the Oneida Community Health Center, the SEOTS building and all One-Stop locations.

102.3-20. "Qualified voter" shall mean an enrolled member of the Nation who is eighteen (18) years of age or older.

102.3-21. "Rejected Ballots" shall mean those ballots which are rejected by the vote tabulating machine.

102.3-22. "Spoiled Ballot" shall mean a ballot which contains a voter error or is otherwise marred and is not tabulated.

102.3-23. "Teller" shall mean the election official in charge of collecting and storing of all ballots.

## 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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Department personnel in the registration process, and assist the Chairperson as directed in conducting the election. Clerks cannot be currently employed by the Trust Enrollment Department.

(e) Tellers: Shall collect and keep safe all ballots, until the election is complete, as determined by this law. Shall assist the Chairperson in conducting the election.

(f) Judges: Shall inform and advise the Chairperson of all aspects of the election conducted under this law. In case of disputes among Election Board members, or between members of the Nation and Election Board members, or any controversy regarding voter eligibility, the Judge(s) shall assist the Chairperson in making a determination. The Judge(s) shall also ensure that all ballots of voters whose eligibility may be in question, remain confidential.

#### *Section D. Compensation Rates*

102.4-11. Election Board members are to be compensated at an hourly rate when conducting elections as provided for in the Election Board's bylaws as approved by the Business Committee. The Election Board shall have a budget, approved through the Nation's budgeting process.

102.4-12. The Trust Enrollment Department personnel and Oneida Police Officer(s) shall be compensated at their regular rate of pay out of their respective budgets.

### **102.5. Candidate Eligibility**

#### *Section A. Requirements*

102.5-1. In addition to any specific requirements and/or exceptions set out in duly adopted by-laws or other documents, all applicants shall meet the minimum requirements set out in this section in order to become a candidate.

102.5-2. Minimum Requirements. In order to be eligible to be a candidate, applicants shall:

- (a) be an enrolled member of the Nation, as verified by membership rolls of the Nation.
- (b) be a qualified voter on the day of the election.
- (c) provide proof of physical residency as required for the position for which they have applied. Proof of residency may be through one (1) or more of the following:
  - (1) a valid Wisconsin driver's license;
  - (2) a bill or pay check stub showing name and physical address of the candidate from the prior or current month;
  - (3) another form of proof that identifies the candidate and that the candidate has physically resided at the address and identifies that address as the primary residence.

102.5-3. No applicant may have a conflict of interest with the position for which they are being considered, provided that any conflict of interest which may be eliminated within thirty (30) calendar days of being elected shall not be considered as a bar to election.

102.5-4. Applications shall be filed by presenting the information to the Nation's Secretary, or designated agent, during normal business hours, 8:00 a.m. to 4:30 p.m. Monday through Friday, by the application deadline established by the Election Board. No mailed, internal Nation mail delivery, faxed or other delivery method shall be accepted.

102.5-5. The names of the candidates and the positions sought shall be a public record and made available to the public upon the determination of eligibility by the Election Board or the Board's designated agent.

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*Section B. Eligibility Review*

102.5-6. Applicants found to be ineligible shall have two (2) business days to request an appeal. At least four (4) Election Board members shall constitute a hearing body. The Chairperson shall select the hearing body. The hearing shall be held within two (2) business days of receipt of the appeal. The applicant shall be notified by phone of time and place of the hearing. The decision of the hearing body shall be sent via certified mail or hand delivery within two (2) business days of the hearing. Any appeal from a decision of the Election Board hearing body shall be to the Judiciary on an accelerated schedule.

102.5-7. The Election Board shall be responsible for reviewing the qualifications of applicants to verify eligibility. Any applicant found to be ineligible for a position shall be notified by certified mail return receipt requested. The notice shall provide the following information:

- (a) Position for which they were considered
- (b) Qualification of the position and citation of the source. (Copies of source may be attached.)
- (c) A brief summary explaining why the applicant was found to be ineligible.
- (d) That the applicant has two (2) business days from notification to make an appeal. Appeals must be filed at the location designated on the notice by hand delivery. The location designated shall be on the Reservation. No mailed, internal Nation mail, faxed or other delivery method will be accepted.

*Section C. Campaign Financing*

102.5-8. Contributions:

- (a) Solicitation of Contributions by Candidates.
  - (1) Candidates shall only accept contributions from individuals who are members of the Nation or individuals related by blood or marriage to the candidate. Candidates may not accept contributions from any business, whether sole proprietorship, partnership, corporation, or other business entity.
  - (2) Candidates shall not solicit or accept contributions in any office or business/facility of the Nation.
- (b) Fines. Violation of the contribution restrictions shall result in a fine imposed by the Election Board in an amount specified in a resolution adopted by the Business Committee.

102.5-9. Campaign Signs and Campaigning:

- (a) Placement of campaign signs:
  - (1) Campaign signs shall not be posted or erected on any property of the Nation except for private property with the owner/tenant's permission.
  - (2) No campaign sign shall exceed sixteen (16) square feet in area. A maximum of seven (7) such signs may be placed on a building or on a lot.
  - (3) No campaign sign shall project beyond the property line into the public right of way.
- (b) Removal of campaign signs. All campaign signs shall be removed within five (5) business days after an election.
- (c) Employees of the Nation shall not engage in campaigning for offices of the Nation during work hours. The Nation's employees shall be subject to disciplinary action under the personnel policies and procedures for political campaigning during work hours.

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(d) Enforcement. The Zoning Administrator shall cause to be removed any campaign signs that are not in compliance with this law, in accordance with the Zoning and Shoreland Protection Law.

(e) Fines. Violation of the campaign sign restrictions shall result in a fine imposed by the Election Board in an amount specified in a resolution adopted by the Business Committee.

*Section D. Candidate Withdrawal*

102.5-10 Any candidate may withdraw his or her name from a ballot if submitted in writing by the candidate prior to submission of the ballot for printing to any Election Board member, excluding alternates.

102.5-11 After printing of the ballot, any candidate may withdraw his or her name from the election by submitting in writing a statement indicating they are withdrawing from the election prior to the opening of the polls to any Election Board member, excluding alternates. This statement shall be posted alongside any sample ballot printed prior to the election in the newspaper or any posting at the polling places.

102.5-12. Candidates withdrawing after opening of the polls shall request, in writing to the Election Board members in charge of the polling place, to be removed from the ballot. The written statement shall be posted next to any posted sample ballot.

102.5-13. Candidates withdrawing by any method listed herein shall be denied any position from which they have withdrawn regardless of the number of votes cast for that candidate. A written statement shall be considered the only necessary evidence of withdrawal and acceptance of denial of any position withdrawn from.

102.5-14. *Candidate Withdrawal After Winning an Election.*

(a) In the event a candidate declines an office after winning an election, the Election Board shall declare the next highest vote recipient the winner. This procedure shall be repeated as necessary until a winner is declared.

(b) If all vote recipients decline or are otherwise unable to be declared the winner, then a Special Election shall be held.

**2.6. Selection of Candidates**

102.6-1. Any eligible member of the Nation may apply to be placed on a ballot according to the following procedures:

(a) Applicants shall use an official form as designated by this law which may be obtained in the Office of the Nation's Secretary.

(b) The form shall consist of information that satisfies the minimum requirements for eligible candidates, as described in section 102.5-2 of this law.

(c) Applications shall be presented to the Nation's Secretary, or designated agent, during normal business hours, 8:00 to 4:30 Monday through Friday, but no later than prior to close of business on the application deadline established by the Election Board. The location to drop-off applications shall be the Business Committee Support Office.

(d) The Nation's Secretary shall forward all applications to the Election Board Chairperson the next business day following the close of submissions.

102.6-2. A person who runs for a position on the Oneida Business Committee, or a position on a judicial court or commission, shall not run for more than one (1) elective office or seat per election.

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**102.7. Notice of Polling Places**

102.7-1. The Election Board shall post a notice in the prominent locations, stating the location of the polling places and the time the polls will be open. This notice shall also be posted in an easily visible position, close to the entrance of the Nation's businesses/facilities.

102.7-2. Polling information shall be posted no less than ten (10) calendar days prior to the election, and shall remain posted until the poll closes on the day of the election.

102.7-3. Except for a Special Election, notice for the election shall be mailed to all Nation members, stating the time and place of the election and a sample of the ballot, no less than ten (10) calendar days prior to the election, through a mass mailing. The Trust Enrollment Department shall be notified, by the Election Board Chairperson, no less than twenty (20) calendar days prior to the requested mailing.

102.7-4. Notice of the election shall be placed in the Nation's newspaper.

**102.8. Registration of Voters**

*Section A. Requirements*

102.8-1. *Registration of Voters.* All enrolled members of the Nation, who are eighteen (18) years of age or over, are qualified voters of such election(s) as defined in Article III, Section 2 of the Oneida Nation Constitution.

*Section B. Identification of Voters*

102.8-2. All voters must present one of the following picture identifications in order to be able to vote:

- (a) Oneida Nation I.D.
- (b) Drivers License.
- (c) Other I.D. with name and photo.

*Section C. Registration Procedures*

102.8-3. Voters shall physically register, on the day of the election, at the polls.

102.8-4. Trust Enrollment Department personnel shall be responsible for verifying enrollment with the Nation. Conduct of Trust Enrollment Department personnel is governed by the Election Officials during the voting period.

102.8-5. Every person who intends to vote must sign his/her name on an official Voter Registration Form containing the voter's following information:

- (a) name and maiden name (if any);
- (b) current address;
- (c) date of birth; and
- (d) enrollment number.

*Section D. Qualification/Verification of Voter Eligibility*

102.8-6. Should a question or dispute arise as to the eligibility of a voter being qualified to vote, the Judges of the Election Officials appointed by the Election Board Chairperson shall meet with the Trust Enrollment Department personnel who are registering voters, to decide the voting member's eligibility currently being questioned and shall make such decisions from the facts available, whether the applicant is, in fact, qualified/verifiable under the Oneida Nation Constitution, Article III Section 2, to vote in the Nation's elections.

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102.8-7. Any voter denied eligibility shall be allowed to vote, provided that the ballot shall be placed in an envelope, initialed by two (2) Election Officials, sealed and numbered. The name of the voter shall be written next to a numbered list which corresponds to the numbered and sealed envelope. The voter shall be required to mail a written appeal to the Election Board at P.O. Box 413, Oneida, Wisconsin, 54155, postmarked within two (2) business days of the election if they desire to challenge the decision made by the Election Officials. The Election Board shall make a final decision, within five (5) business days of receiving the appeal and shall report this decision in the final report sent to the Oneida Business Committee.

**102.9. Election Process***Section A. Polling Places and Times*

102.9-1. In accordance with Article III, Section 5 of the Oneida Nation Constitution, elections shall be held in the month of July on a date set by the General Tribal Council. The General Tribal Council shall set the election date at the January annual meeting, or at the first GTC meeting held during a given year. Special Elections shall be set in accordance with 102.12-6.

102.9-2. Elections shall be held at an Oneida Nation facility(s) as determined by the Election Board.

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 to vote at 7:00 p.m. shall be allowed to vote.

(a) If a ballot counting machine is used, the ballot counting machine shall be prepared prior to 7:00 a.m. on the day of the election. The Judges shall open the polls only after four

(4) members of the Nation verify, through signature on the tape, the ballot box is empty and the ballot counting machine printer tape has a zero (0) total count.

102.9-4. At least one (1) Oneida Police Officer shall be present during the time the polls are open, and until the counting of ballots is completed, and tentative results posted.

102.9-5. The Election Board shall provide a voting area sufficiently isolated for each voter such that there is an area with at least two sides and a back enclosure.

102.9-6. No campaigning of any type shall be conducted within two hundred eighty (280) feet of the voting area, excluding private property.

102.9-7. No one causing a disturbance shall be allowed in the voting area.

102.9-8. Election Board members may restrict the voting area to qualified voters only. This restriction is in the interest of maintaining security of the ballots and voting process.

*Section B. Ballot Box*

102.9-9. All ballots being votes, shall be placed in a receptacle clearly marked "Ballot Box" and shall be locked until counting at the close of polls. Provided that, with electronic ballot counting, the ballots may be placed within the ballot counting machine as they are received.

*Section C. Spoiled Ballots*

102.9-10. If a voter spoils his/her ballot, he/she shall be given a new ballot.

102.9-11. The spoiled ballot shall be marked "VOID" and initialed by two (2) Election Officials and placed in an envelope marked as "Spoiled Ballots."

102.9-12. The Spoiled Ballot envelopes shall be retained and secured for no less than fifteen (15) calendar days following finalization of any challenge of the election, at the Records Management Department.



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*Section D. Rejected Ballots*

102.9-13. Rejected Ballots are to be placed in a specially marked container and sealed.

(a) Computer rejected ballots shall be reviewed by the Election Officials to verify the authenticity of the ballot. Ballots rejected because of mutilation shall be added to the final computer total, provided that, a new ballot was not received as set out in sections 102.9-10 through 102.9-12.

(b) Ballots rejected, either during the computer process or during a manual counting, shall be reviewed by the Election Officials to verify that they are authentic. If the Election Officials determine that the ballot is not an official ballot, or that it is an illegal ballot, the ballot shall be designated 'void,' and placed in a sealed container marked "Void Ballots."

**102.10. Tabulating and Securing Ballots**

*Section A. Machine Counted Ballots*

102.10-1. When ballots are counted by machine, at the close of polls the Judges shall generate from the ballot counting machine copies of the election totals from the votes cast.

102.10-2. At least three (3) Election Board members shall sign the election totals, which shall include the tape signed by the members of the Nation before the polls were opened per section 102.9-3(a).

*Section B. Manually Counted Ballots*

102.10-3. When ballots are manually counted, at the close of polls the Judges shall unlock the ballot box and remove the ballots.

102.10-4. If the ballots need to be counted at a location other than the polling site, the ballots shall be secured in a sealed container for transportation to the ballot counting location. The sealed ballots shall be transported by an Oneida Police Officer with at least three (3) of the Election Officials for counting/tallying of ballots.

102.10-5. The sealed ballots shall be opened at the time of counting by the Election Officials and witnessed/monitored by an Oneida Police Officer.

102.10-6. Ballots must be counted by two different Election Officials until two final tallies are equal in back to back counting. Final tallies shall be verified by the Election Judges.

*Section C. Securing Ballots*

102.10-7. The Judges shall place together all ballots counted and secure them together so that they cannot be untied or tampered with without breaking the seal. The secured ballots, and the election totals with the signed tape, if applicable, shall then be secured by the Judges in a sealed container in such a manner that the container cannot be opened without breaking the seals or locks, or destroying the container. The Oneida Police Officer shall then deliver, on the day of the election, the sealed container to the Records Management Department for retaining.

**102.11. Election Outcome and Ties**

*Section A. Election Results Announcement*

102.11-1. The tentative results of an election shall be announced and posted by the Election Board within twenty-four (24) hours after the closing of the polls. Notices of election results shall contain the following statement:

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*"The election results posted here are tentative results. Final election results are forwarded by the Oneida Election Board to the Oneida Business Committee via a Final Report after time has lapsed for recount requests, or challenges or after all recounts or challenges have been completed, whichever is longer"*

102.11-2. The Election Board shall post, in the prominent locations, and publish in the Nation's newspaper, the tentative results of an election.

*Section B. Tie*

102.11-3. In the event of a tie for any office, and where the breaking of a tie is necessary to determine the outcome of an election, the Election Board shall conduct an automatic recount of the votes for each candidate receiving the same number of votes. Any recount conducted shall be the only recount allowed for the tied candidates.

102.11-4. For Business Committee positions, a run-off election between the candidates with the same number of votes shall be held if there remains a tie after the recount. Said run-off election shall be held within twenty-one (21) calendar days after the recount. For all other positions, if there remains a tie after the recount, the Election Board shall decide the winner of the tied positions at least two (2) business days after, but no more than five (5) business days after the recount through a lot drawing, which shall be open to the public.

(a) The Election Board shall notify each of the tied candidates and the public of the date, time, and place of the drawing at least one (1) business day before the drawing. Notice to the tied candidates shall be in writing. Notice to the public shall be posted by the Election Board in the prominent locations.

(b) On the date and at the time and place the drawing was noticed, the Election Board Chairperson shall clearly write the name of each tied candidate on separate pieces of paper in front of any witnesses present. The pieces of paper shall be the same, or approximately the same, color, size, and type. The papers shall be folded in half and placed in a container selected by the Election Board Chairperson.

(c) The Election Board Chairperson shall designate an uninterested party to draw a name from the container. The candidate whose name is drawn from the container first shall be declared the winner. An Election Board member other than the Chairperson shall remove the remaining pieces of paper from the container and show them to the witnesses present.

*Section C. Recount Procedures*

102.11-5. A candidate may request the Election Board to complete a recount, provided the margin between the requesting candidate's vote total and vote total for the unofficial winner was within two percent (2%) of the total votes for the office being sought or twenty (20) votes, whichever is greater. A candidate requests a recount by hand delivering a written request to the office of the Nation's Secretary, or noticed designated agent, within five (5) business days after the election. Requests shall be limited to one (1) request per candidate. The Nation's Secretary shall contact the Election Board Chairperson by the next business day after the request for recounts.

102.11-6. The Election Board shall respond by the close of business on the fifth (5<sup>th</sup>) day after the request regarding the results of the recount. Provided that, no recount request need be honored where there have been two (2) recounts completed as a result of a request either as a recount of the whole election results, or of that sub-section.

102.11-7. All recounts shall be conducted manually with, if possible, the original Election

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Officials and Oneida Police Officer present, regardless of the original type of counting process. Manual recounts may, at the discretion of the Election Officials, be of the total election results, or of the challenged sub-section of the election results.

102.11-8. The Oneida Police Officer shall be responsible for picking up the locked, sealed container with the ballots from the Records Management Department and transporting it to the ballot recounting location.

102.11-9. A recount shall be conducted by a quorum of the Election Board, including at least three (3) of the original Election Officials. The locked, sealed ballots shall be opened by the Election Board Chairperson and an Oneida Police Officer shall witness the recount.

102.11-10. Recounting of ballots may be performed manually or by computer. All ballots shall be counted until two (2) final tallies are equal in back to back counting and the total count of ballots reconciles with the total count from the ballot counting machine. Sub-sections of candidates may be recounted in lieu of a full recount.

(a) Manually counted ballots shall be recounted by the Election Board. Ballots shall be counted twice by different persons and certified by the Judges.

(b) Computer counted ballots shall be recounted twice and certified by the Judges. Prior to using an electronic ballot counting device, it shall be certified as correct either by the maker, lessor of the machine, or Election Board.

*Section D. Challenges and Declaration of Results*

102.11-11. *Challenges.* Any qualified voter may challenge the results of an election by filing a complaint with the Judiciary within ten (10) calendar days after the election. The Judiciary shall hear and decide a challenge to any election within two (2) business days after the challenge is filed. Any appeal to the appellate body of the Judiciary shall be filed within one (1) business day after the issuance of the lower body's decision and decided within two (2) business days after the appeal is filed.

(a) The person challenging the election results shall prove by clear and convincing evidence that the Election Law was violated or an unfair election was conducted, and that the outcome of the election would have been different but for the violation.

(b) If the Judiciary invalidates the election results, a Special Election shall be ordered by the Judiciary for the office(s) affected to be held on a date set by the Judiciary for as soon as the Election Law allows for a Special Election.

102.11-12. *The Final Report.* The Election Board shall forward a Final Report to the Nation's Secretary after time has lapsed for recount requests, or challenges or after all recounts or challenges have been completed, whichever is longer. The Final Report shall consist of the following information:

(a) Total number of persons voting.

(b) Total votes cast for each candidate by subsection of the ballot.

(c) List of any ties and final results of those ties, including the method of resolution.

(d) List of candidates elected and position elected to.

(e) Number of spoiled ballots.

(f) Cost of the election, including the compensation paid to each Election Board member.

102.11-13. *Declaration of Results.* The Business Committee shall declare the official results of the election and send notices regarding when the swearing in of newly elected officials shall take place within ten (10) business days after receipt of the Final Report.

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102.11-14. Candidates elected to the Business Committee shall resign from any salaried position effective prior to taking a Business Committee oath of office

102.11-15. Except in the event of an emergency, as determined by the Business Committee, newly elected officials shall be sworn into office no later than thirty (30) calendar days after the official results of an election are declared by the Business Committee.

(a) If a newly elected official is not sworn in within thirty (30) calendar days, the seat shall be considered vacant and the Election Board shall declare the next highest vote recipient the winner. This procedure shall be repeated as necessary until a winner is declared.

(b) If all vote recipients decline or are otherwise unable to be declared the winner, then a Special Election shall be held.

102.11-16. The Election Board shall send notice to the Records Management Department to destroy the ballots thirty (30) calendar days after the election or after the final declaration of official election results occurs, whichever is longer.

## **102.12. Elections**

### *Section A. Primary Elections; Business Committee*

102.12-1. When a primary is required under 102.12-2, it shall be held on a Saturday at least sixty (60) calendar days prior to the election.

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.

102.12-3. The Election Board shall cancel the primary election if the Business Committee positions did not draw the requisite number of candidates for a primary.

102.12-4. In the event a candidate withdraws or is unable to run for office after being declared a winner in the primary, the Election Board shall declare the next highest primary vote recipient the primary winner. This procedure shall be repeated as necessary until the ballot is full or until there are no available candidates. If the ballot has already been printed, the procedures for notifying the Oneida public in section 102.5-11 and 102.5-12 shall be followed, including the requirement to print a notice in the Nation's newspaper if timelines allow.

### *Section B. Special Elections*

102.12-5. Matters subject to a Special Election, i.e., referendum, vacancies, petitions, etc., as defined in this law, may be placed on the same ballot as the subject matter of an election.

102.12-6. Dates of all Special Elections shall be set, as provided for in this law, by the Business Committee as recommended by the Election Board or as ordered by the Judiciary in connection with an election challenge.

102.12-7. Notice of said Special Election shall be posted by the Election Board in the prominent locations, and placed in the Nation's newspaper not less than ten (10) calendar days prior to the Special Election.

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102.12-8. In the event of an emergency, the Election Board may reschedule the election, provided that no less than twenty-four (24) hours notice of the rescheduled election date is given to the voters, by posting notices in the prominent locations.

*Section C. Referendums*

102.12-9. Registered voters may indicate opinions on any development, law or resolution, proposed, enacted, or directed by the Business Committee, or General Tribal Council, in a special referendum election.

(a) Referendum elections in which a majority of the qualified voters who cast votes shall be binding on the Business Committee to present the issue for action/decision at General Tribal Council.

(b) Referendum requests may appear on the next called for election.

(c) Referendum questions regarding issues directly affecting the Nation or general membership are to be presented to the Nation's Secretary, or designated agent, in writing, during normal business hours, 8:00 a.m. until 4:30 p.m. Monday through Friday by the deadline established by the Election Board. No mailed, internal Nation mail delivery, faxed or other delivery method shall be accepted.

*Section D. Initiation of Special Elections*

102.12-10. Special Elections may be initiated by a request or directive of the General Tribal Council or the Oneida Business Committee.

102.12-11. Special Election may be requested by a member of the Nation to the Business Committee or General Tribal Council.

102.12-12. All Special Elections shall follow rules established for all other elections. This includes positions for all Boards, Committees and Commissions.

**102.13. Oneida Nation Constitution and By-law Amendments**

102.13-1. Pursuant to Article VI of the Oneida Nation Constitution, amendments to the Oneida Nation Constitution and By-laws may be initiated by the Oneida Business Committee or a petition of qualified voters. The requirements for the Oneida Business Committee's initiation of Constitutional amendments are as provided in the Constitution and as further detailed in the supporting standard operating procedures which the Oneida Business Committee shall adopt. Qualified voters may petition to amend the Oneida Nation Constitution and By-laws by submitting a petition to the Office of the Nation's Secretary which includes the full text of the proposed amendments and signatures that are equal in number to at least ten percent (10%) of all members qualified to vote.

(a) Qualified voters may request a petition form from the Office of the Nation's Secretary.

(b) When a petition form is requested, the Nation's Secretary, or his or her designee, shall direct the Trust Enrollment Department to calculate the number of signatures currently required for a petition submittal, which shall be ten percent (10%) of all members qualified to vote on the date the petition form is requested from the Office of the Nation's Secretary. When the Nation's Secretary receives the calculation from the Trust Enrollment Department, the Nation's Secretary shall provide the requester with the petition form and the number of signatures that are currently required.

(c) Such petitions shall be circulated with all supporting materials and submitted a

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minimum of ninety (90) days prior to the election at which the proposed amendment is to be voted upon. If a petition includes supporting materials in addition to the petition form, each qualified voter signing the petition shall also acknowledge that the supporting materials were available for review at the time he or she signed the petition by initialing where required on the petition form.

(d) The Nation's Secretary shall forward submitted petitions to the Trust Enrollment Department for verification of signatures and to the Election Board to provide notice that the petition may need to be placed on an upcoming ballot.

(e) If the petition is verified by the Trust Enrollment Department to contain signatures from at least ten percent (10%) of all qualified voters, the Election Board shall make an official announcement of the proposed amendments to the Oneida Nation Constitution at least sixty

(60) days prior to the election at which the proposed amendments are to be voted on.

102.13-2. The Election Board shall place any proposed amendments to the Oneida Nation Constitution that meet the requirements contained in 102.13-1 on the ballot at the next general election. Provided that, the Oneida Business Committee or General Tribal Council may order a special election be held to consider the proposed amendments. In such circumstances, the Election Board shall place any proposed amendments to the Oneida Nation Constitution on the ballot at the next special election.

102.13-3. The Election Board shall publish any proposed amendments by publishing a sample ballot no less than ten (10) calendar days prior to the election, through a mass mailing. The Trust Enrollment Department shall be notified, by the Election Board Chairperson, no less than twenty (20) calendar days prior to the requested mailing. Copies of such publications shall be prominently posted in each polling place and at administrative offices of the Nation and shall also be published in official Oneida media outlets, which the Oneida Business Committee shall identify by resolution. For the purposes of this section, Oneida administrative offices means the location where the Oneida Business Committee conducts business.

102.13-4. The Election Board shall ensure that the ballot contains a statement of the purpose of the proposed amendments prepared by the Oneida Law Office. The Oneida Law Office shall ensure that the statement of purpose is one hundred (100) words or less exclusive of caption, is a true and impartial statement and is written in such a manner that does not create prejudice for or against the proposed amendment.

102.13-5. Pursuant to Article VI, Section 3 of the Oneida Nation Constitution, proposed amendments that are approved by sixty-five percent (65%) of the qualified voters that vote on that amendment shall become part of the Constitution and By-laws, and shall abrogate or amend existing provisions of the Constitution and By-laws at the end of thirty (30) days after submission of the final election report.

102.13-6. If two (2) or more amendments approved by the voters at the same election conflict, the amendment receiving the highest affirmation vote prevails.

*End.*

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Adopted - June 19, 1993

Amended - June 28, 1995 (Adopted by BC on Behalf of GTC, Completion of Agenda)

Presented for Adoption of 1997 Revisions - GTC-7-6-98-A

Amended- October 11, 2008 (General Tribal Council Meeting)

Amended-GTC-01-04-10-A

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626 Amended – BC-02-25-15-C  
627 Amended – GTC-04-23-17-A  
628 Emergency Amended – BC-03-17-20-B  
629 Emergency Amended – BC-05-13-20-H  
630 Emergency Amended – BC-06-24-20-B (Expired at Conclusion of 2020 General Election)  
631 Emergency Amended – BC-\_\_-\_\_-\_\_-\_\_  
632



Legislative Operating Committee  
April 21, 2021

## Public Peace Law

<b>Submission Date:</b> 12/7/16	<b>Public Meeting:</b> n/a
<b>LOC Sponsor:</b> Jennifer Webster	<b>Emergency Enacted:</b> n/a

**Summary:** *The item was carried over from the last two terms. On October 26, 2016, the Oneida Police Commission, in its quarterly report to the Oneida Business Committee, made a recommendation to develop a Public Peace law in an effort to exercise the Nation's sovereignty and jurisdiction. This recommendation was made based on input received during a community meeting held in Site 2 by the Oneida Police Department and Oneida Housing Authority due to a homicide investigation. The Oneida Business Committee then forwarded this request to the LOC who placed this item on the Active Files List in December 2016. The purpose of developing a Public Peace law would be to address trespassing, damage to property, noise nuisances, loitering, etc.*

**10/7/20 LOC:** Motion by Jennifer Webster to add the Public Peace Law to the Active Files List with Jennifer Webster as the sponsor; seconded by Marie Summers. Motion carried unanimously.

**12/16/20:** *Work Meeting.* Present: David P. Jordan, Kirby Metoxen, Daniel Guzman King, Marie Summers, Clorissa N. Santiago, Joel Maxam, Renita Hernandez, Scott Denny, Brandon Yellowbird Stevens, Rhiannon Metoxen. This was a work meeting held through Microsoft Teams. The purpose of this work meeting was to begin discussing issues that are currently affecting neighborhoods in the Nation so that they can be addressed in the Public Peace law.

**1/15/21:** *Work Meeting.* Present: David P. Jordan, Kirby Metoxen, Jennifer Webster, Daniel Guzman King, Marie Summers, Clorissa N. Santiago, Eric Boulanger, Joel Maxam, Renita Hernandez, Leslie Doxtator, Brandon Yellowbird Stevens, Krystal John, Michelle Hill, Lisa Rauschenbach, Jennifer Garcia, James Petitjean, Rhiannon Metoxen. This was a work meeting held through Microsoft Teams. The purpose of this work meeting was to discuss the potential relationship between the enforcement of the Public Peace law and the enforcement of leases.

**1/28/21:** *Work Meeting.* Present: David P. Jordan, Jennifer Webster, Marie Summers, Daniel Guzman King, Clorissa N. Santiago, Kristal Hill, Rhiannon Metoxen. This was a work meeting held through Microsoft Teams. The purpose of this work meeting was to discuss a plan for moving this item forward through the legislative process.

**2/11/21:** *Work Meeting.* Present: David P. Jordan, Kirby Metoxen, Jennifer Webster, Marie Summers, Daniel Guzman King, Clorissa N. Santiago, Kristal Hill, Rhiannon Metoxen, Kristen Hooker. This was a work meeting held through Microsoft Teams. The purpose of this work meeting was to review and discuss the first draft of the Public Peace law.

**3/17/21:** *Work Meeting.* Present: David P. Jordan, Kirby Metoxen, Jennifer Webster, Daniel Guzman King, Clorissa N. Santiago, Eric Boulanger, Joel Maxam, Renita Hernandez, Brandon Yellowbird Stevens, Kelly McAndrews, Krystal John, Michelle Hill, Kristal Hill, Rhiannon Metoxen. This was a work meeting held through Microsoft Teams. The purpose of this work



meeting was to review and discuss the first draft of the Public Peace law with the larger work team.

**4/7/21:**

*Work Meeting.* Present: David P. Jordan, Kirby Metoxen, Jennifer Webster, Daniel Guzman King, Marie Summers Clorissa N. Santiago, Eric Boulanger, Joel Maxam, Renita Hernandez, Leslie Doxtator, Brandon Yellowbird Stevens, Kelly McAndrews, Michelle Hill, Kristal Hill, Rhiannon Metoxen. This was a work meeting held through Microsoft Teams. The purpose of this work meeting was to review and discuss the updated draft of the Public Peace law with the larger work team so that the law can move forward for a legislative analysis to be completed.

**Next Steps:**

- Approve the Public Peace law draft and legislative analysis.

### **Title 3. Health & Public Safety - Chapter 309**

#### **PUBLIC PEACE**

309.1. Purpose and Policy  
309.2. Adoption, Amendment, Repeal  
309.3. Definitions  
309.4. Jurisdiction and Authority  
309.5. Civil Infractions Against Property  
309.6. Civil Infractions Against the Peace

309.7. Civil Infractions Against Government  
309.8. Civil Infractions Against the Person  
309.9. Civil Infractions Involving Alcohol, Tobacco, and Drugs  
309.10. Civil Infractions Affecting Health and Safety  
309.11. Enforcement and Penalties

#### **309.1. Purpose and Policy**

309.1-1. *Purpose.* The purpose of this law is to set forth community standards and expectations which preserve the peace, harmony, safety, health, and general welfare of individuals who live within the boundaries of the Reservation.

309.1-2. *Policy.* It is the policy of the Nation to promote peace and order within the boundaries of the Reservation while also providing an orderly process for addressing civil infractions that occur.

#### **309.2. Adoption, Amendment, Repeal**

309.2-1. This law was adopted by the Oneida Business Committee by resolution BC-\_\_-\_\_-\_\_-\_\_.

309.2-2. 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.

309.2-3. 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.

309.2-4. 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.

309.2-5. This law is adopted under authority of the Constitution of the Oneida Nation.

#### **309.3. Definitions**

309.3-1. 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) “Adult at risk” means any adult who has a physical or mental condition that substantially impairs his or her ability to care for his or her needs and who has experienced, is currently experiencing, or is at risk of experiencing abuse, neglect, self-neglect, or financial exploitation.

(b) “Alcohol beverage” means a fermented malt beverage and any intoxicating liquor.

(c) “Bodily harm” means physical pain or injury, illness, or any impairment of physical condition.

(d) “Child” means a person who has not attained the age of eighteen (18) years.

(e) “Cigarette” means any roll for smoking made wholly or in part of tobacco, irrespective of size, shape and irrespective of the tobacco being flavored, adulterated, or mixed with any other ingredient, where such roll has a wrapper or cover made of paper or any material, except where such wrapper is wholly or in the greater part made of natural leaf tobacco in its natural state.

(f) “Drug paraphernalia” means any equipment, product, object or container used or intended for use to cultivate, plant, maintain, manufacture, package or store a prohibited

drug or inject, ingest, inhale or otherwise introduce an prohibited drug into the human body, regardless of the material composition of the instrument used for such purposes.

(g) “Elder at risk” means any person age fifty-five (55) or older who has experienced, is currently experiencing, or is at risk of experiencing abuse, neglect, self-neglect, or financial exploitation.

(h) “Electronic cigarette” means device that enables a person to ingest nicotine, or other chemicals or substances, by inhaling a vaporized liquid and shall include the cartridges and other products used to refill the device. “Electronic cigarette” shall not include any device that is prescribed by a healthcare professional.

(i) “Fleet vehicle” means a vehicle owned or leased by the Nation.

(j) “Gang” means an association of three (3) or more individuals whose members collectively identify themselves by adopting a group identity which they use to create an atmosphere of fear or intimidation frequently by employing one (1) or more of the following: a common name, slogan, identifying sign, symbol, tattoo, or other physical marking, style or color of clothing, hairstyle, hand sign or graffiti.

(k) “Intoxication” means not having the normal use of mental or physical faculties by reason of the introduction of an alcohol beverage or a prohibited drug, or any other substance into the body.

(l) “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, and then later authorized to administer the judicial authorities and responsibilities of the Nation by Oneida General Tribal Council resolution GTC-03-19-17-A.

(m) “Liter” means all rubbish, waste materials refuse, garbage, trash debris, or other foreign substances, solid, liquid, or every form, size, and kind.

(n) “Merchant” means a person who deals in goods of the kind or otherwise by his or her occupation holds himself or herself out as having knowledge or skill peculiar to the practices or goods involved in the transaction or to whom such knowledge or skill may be attributed by his or her employment of an agent or broker or other intermediary who by his or her occupation holds himself or herself out as having such knowledge or skill.

(o) “Nation” means the Oneida Nation.

(p) “Official” means any person who is elected or appointed to serve a position for the Nation, including, but not limited to, a position on a board, committee, commission, or office of the Nation, including the Oneida Business Committee and Judiciary.

(q) “Pecuniary loss” means a loss of money, or of something by which money or of value may be acquired.

(r) “Prohibited drug” means marijuana, cocaine, opiates, amphetamines, phencyclidine (PCP), hallucinogens, methaqualone, barbiturates, narcotics, and any other substance included in Schedules I through V, as defined by Section 812 of Title 21 of the United States Code. Prohibited drugs also includes prescription medication or over-the-counter medicine used in an unauthorized or unlawful manner.

(s) “Recklessly” mean a person acts recklessly, or is reckless, with respect to circumstance surrounding his or her conduct, or the result of his or her conduct when he or she is aware of, but consciously disregards a substantial and unjustifiable risk that the circumstances exist or the result will occur. The risk must be of such a nature and degree that its disregard constitutes a gross deviation from the standard of care that an ordinary person would exercise under all the circumstances as viewed from the person’s standpoint.

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

(u) "Sexual harassment" means unwelcome sexual advances, requests for sexual favors, or other verbal or physical conduct of a sexual nature, submission to which is made a term or condition of a person's exercise or enjoyment of any right, privilege, power, or immunity, either explicitly or implicitly.

(v) "Theft detection device" means any tag or other device that is used to prevent or detect theft and that is attached to merchandise held for resale by a merchant or to property of a merchant.

(w) "Theft detection device remover" means any tool or device used, designed for use or primarily intended for use in removing a theft detection device from merchandise held for resale by a merchant or property of a merchant.

(x) "Theft detection shielding device" means any laminated or coated bag or device designed to shield merchandise held for resale by a merchant or property of a merchant from being detected by an electronic or magnetic theft alarm sensor.

(y) "Tobacco products" means cigars; cheroots; stogies; periques; granulated, plug cut, crimp cut, ready-rubbed and other smoking tobacco; snuff, including moist snuff; snuff flour; cavendish; plug and twist tobacco; fine cut and other chewing tobaccos; shorts; refuse scraps, clippings, cuttings and sweepings of tobacco and other kinds and forms of tobacco prepared in such manner as to be suitable for chewing or smoking in a pipe or otherwise, or both for chewing and smoking.

(z) "Trial Court" means the Trial Court of the Oneida Nation Judiciary.

(aa) "Weapon" means guns, switchblade knives, knives with blades longer than three (3) inches that are not being used for food preparation, electric weapons, billy clubs, and any other similar instrument or device.

#### **309.4. Jurisdiction and Authority**

309.4-1. *Jurisdiction of the Court.* The Trial Court shall have jurisdiction over any action brought under this law.

309.4-2. *Standard of Proof.* All matters to be decided by the Trial Court shall be proven by clear and convincing evidence.

309.4-3. *Authority of the Oneida Police Department.* The Oneida Police Department shall have the authority to:

(a) investigate complaints involving civil infractions under this law; and

(b) issue citations for violations of this law.

309.4-4. *General Prohibition of Civil Infractions.* No person shall commit a civil infraction under this law.

#### **309.5. Civil Infractions Against Property**

309.5-1. *Damage to Property.* A person commits the civil infraction of damage to property if he or she, without the consent of the owner:

(a) damages or destroys the property of the owner;

(b) tampers with property of the owner and causes pecuniary loss or substantial inconvenience to the owner or a third person;

(c) makes markings, including inscriptions, slogans, drawings, or paintings on the property of the owner; and/or

- 131 (d) alters, defaces, or damages in any way property owned by the Nation.
- 132 309.5-2. *Reckless Damage or Destruction*. A person commits the civil infraction of reckless
- 133 damage or destruction if without the consent of the owner he or she recklessly damages or destroys
- 134 the property of the owner.
- 135 309.5-3. *Trespass*. A person commits the civil infraction of trespass if he or she:
- 136 (a) enters or remains on private property or property of the Nation without consent and he
- 137 or she:
- 138 (1) had notice that the entry was forbidden; or
- 139 (2) received notice or order to depart but failed to do so.
- 140 (b) *Notice*. Notice or an order to depart may be given by:
- 141 (1) written or verbal communication given to the intruder by an Oneida Police
- 142 Department officer, the owner of the property, or a person authorized to act on
- 143 behalf of the owner;
- 144 (2) written notice posted on or about the property in a manner reasonably likely to
- 145 come to the attention of potential intruders; or
- 146 (3) fences, barricades, or other devices manifestly designed to enclose the property
- 147 and to exclude potential intruders.
- 148 309.5-4. *Theft*. A person commits the civil infraction of theft is he or she:
- 149 (a) obtains, exercises control over, or conceals anything of value of another without the
- 150 consent of the owner; or
- 151 (b) having lawfully obtained possession for temporary use of the property, deliberately
- 152 and without consent, fails to return or reveal the whereabouts of said property to the owner,
- 153 his or her representative or the person from which he or she has received it with the intent
- 154 to permanently deprive the owner of its use and benefit.
- 155 309.5-5. *Retail Theft*. A person commits the civil infraction of retail theft if he or she without the
- 156 merchant's consent and with intent to deprive the merchant permanently of possession or the full
- 157 purchase price of the merchandise or property:
- 158 (a) intentionally alters indicia of price or value of merchandise held for resale by a
- 159 merchant or property of a merchant;
- 160 (b) intentionally takes and carries away merchandise held for resale by a merchant or
- 161 property of a merchant;
- 162 (c) intentionally transfers merchandise held for resale by a merchant or property of a
- 163 merchant;
- 164 (d) intentionally conceals merchandise held for resale by a merchant or property of a
- 165 merchant;
- 166 (e) intentionally retains possession of merchandise held for resale by a merchant or
- 167 property of a merchant;
- 168 (f) while anywhere in the merchant's premises, intentionally removes a theft detection
- 169 device from merchandise held for resale by a merchant or property of a merchant;
- 170 (g) uses, or possesses with intent to use, a theft detection shielding device to shield
- 171 merchandise held for resale by a merchant or property of merchant from being detected by
- 172 an electronic or magnetic theft alarm sensor; and/or
- 173 (h) uses, or possesses with intent to use, a theft detection device remover to remove a theft
- 174 detection device from merchandise held for resale by a merchant or property of a merchant.
- 175 309.5-6. *Loitering*. A person commits the civil infraction of loitering if he or she loiters or prowls
- 176 in a place, at a time, or in a manner not usual for law-abiding individuals under circumstances that
- 177 warrant alarm for the safety of persons or property in the vicinity.

(a) Among the circumstances which may be considered in determining whether such alarm is warranted is the fact that the person:

- (1) takes flight upon appearance of an Oneida Police Department Officer;
- (2) refuses to identify himself or herself or manifestly endeavors to conceal himself or herself or any object; or
- (3) refuses to leave the premises after being requested to move by an Oneida Police Department officer or by any person in authority at such place.

309.5-7. *Fraud*. A person commits the civil infraction of fraud if, to obtain property, money, gain, advantage, interest, asset, or services for himself or herself or another he or she:

- (a) makes a materially false or misleading statement which he or she knows to be untrue or makes a remark with reckless disregard to the accuracy of the statement;
- (b) withholds information by misrepresentation or deceit; or
- (c) with intent to defraud or harm another, he or she destroys, removes, conceals, alters, substitutes or otherwise impairs the verity, legibility, or availability of a writing.

309.5-8. *Negligent Handling of Burning Material*. A person commits the civil infraction of negligent handling of burning material if he or she handles burning material in a highly negligent manner in which the person should realize that a substantial and unreasonable risk of serious damage to another person or another's property is created.

### **309.6. Civil Infractions Against the Peace**

309.6-1. *Disorderly Conduct*. A person commits the civil infraction of disorderly conduct if he or she engages in violent, abusive, indecent, profane, boisterous, unreasonably loud, or otherwise disorderly conduct under circumstances in which the conduct tends to cause or provoke a disturbance. A civil infraction of disorderly conduct may include, but is not limited to, the following behaviors:

- (a) fights with another person within the boundaries of the Reservation;
- (b) discharges a firearm and/or air gun that are prohibited;
- (c) makes or causes to be made any loud, disturbing or unnecessary sounds or noises which may annoy or disturb a person of ordinary sensibilities;
- (d) abuses or threatens a person on property of the Nation in an obviously offensive manner;
- (e) lies or sleeps on any street, alley or sidewalk, or in any other property of the Nation, or upon private property that he or she has no right to occupy; or
- (f) uses abusive, indecent, profane, or vulgar language in property of the Nation, and the language by its very utterance tends to incite an immediate breach of the peace.

309.6-2. *Carrying a Prohibited Weapon*. A person commits the civil infraction of carrying a prohibited weapon if he or she bears or carries on or about his or her person, whether in the open or concealed, a weapon on any public property of the Nation, including any buildings, gaming or retail business, facility, construction site, fleet vehicle, or at any event sponsored by the Nation.

- (a) *Exceptions*. An individual shall not be considered to have committed the civil infraction of carrying a prohibited weapon if he or she is actively engaged in:
  - (1) the performance of the duties of his or her employment which requires a weapon to be carried, including sworn law enforcement officers or vendors who transport and/or distribute cash;
  - (2) hunting, fishing, or trapping in accordance with the Nation's laws and rules governing hunting, fishing, and trapping; or
  - (3) cultural activities or ceremonies.

309.6-3. *Gang Related Activity*. A person commits the civil infraction of gang activity if he or she participates in any activity with a gang which:

- (a) creates an atmosphere of fear and intimidation in the community;
- (b) engages in acts injurious to the public health, safety, or morals of the Nation; and/or
- (c) engages in gang-focused illegal activity either individually or collectively.

309.6-4. *Throwing or Shooting Projectiles*. A person commits the civil infraction of throwing or shooting projectiles if he or she throws or shoots any object, stone, snowball, or other projectile by hand or by any other means, at any person, or at or into any building, street, sidewalk, alley, highway, park, playground or other public place.

309.6-5. *Obstructing Streets and Sidewalks*. A person commits the civil infraction of obstructing streets and sidewalks if he or she stands, sits, loafs, loiters, engages in any sport of exercise, or uses or maintains a motor vehicle on any public street, sidewalk, bridge, or public ground within the Reservation in such manner as to:

- (a) prevent or obstruct the free passage of pedestrian or vehicular traffic;
- (b) prevent or hinder free ingress to or egress from any place of business or amusement or any church, public building or meeting place; or
- (c) prevent the Nation from utilizing a snowplow or other maintenance equipment or vehicles.

309.6-6. *Nuisance*. A person commits the civil infraction of nuisance whenever he or she engages in a thing, act, occupation, condition or use of property which shall continue for such length of time as to:

- (a) substantially annoy, injure or endanger the comfort, health, repose or safety of the public;
- (b) in any way render the public insecure in life or in the use of property; and/or
- (c) greatly offend the public morals or decency.

309.6-7. *Maintaining a Chronic Nuisance House*. A person commits the civil infraction of maintaining a chronic nuisance house if he or she has three (3) or more police contacts occurring during a twelve (12) month period at the premises that he or she owns or occupies through a lease or rental agreement.

309.6-8. *Interfering with Lawful Arrest or Resisting Arrest*. A person commits the civil infraction of interfering with lawful arrest or resisting arrest if by force, violence or other means, he or she:

- (a) interferes, hinders or resists any Oneida Police Department officer in the performance of his or her official duties;
- (b) flees from any Oneida Police Department officer who is attempting to lawfully arrest or detain him or her; or
- (c) assists another to avoid a lawful arrest or harbors a fugitive.

### **309.7. Civil Infractions Against Government**

309.7-1. *Disrupting a Meeting or Government Function*. A person commits the civil infraction of disrupting a meeting or government function if he or she:

- (a) conducts himself or herself in a manner intended to prevent or disrupt a lawful meeting held in any property owned or controlled by the Nation;
- (b) refuses or fails to leave any property of the Nation upon being requested to do so by any official charged with maintaining order in such property of the Nation;
- (c) willfully denies any official, employee or member of the Nation the lawful right of such person to enter, to use the facilities, or to leave any property of the Nation;

(d) at or in any property of the Nation willingly impedes any official or employee in the lawful performance of his or her duties or activities through the use of restraint, coercion, intimidation or by force and violence or threat thereof; and/or

(e) at any meeting or session conducted by any official of the Nation, held in any property of the Nation; through the use of restraint, coercion, intimidation or by force and violence or threat thereof; willfully impedes, disrupts, or hinders the normal proceedings of such a meeting or session by any act of intrusion into the chamber or other areas designated for the use of the body or official to conduct such a meeting.

309.7-2. *Breach of Confidentiality.* A person commits the civil infraction of breach of confidentiality if he or she;

(a) makes or disseminates any unauthorized audio or video recording within the designated meeting area of a General Tribal Council meeting, or executive session portion of a meeting of the Oneida Business Committee or any other board, committee, or commission of the Nation; or

(b) disseminates any confidential meeting materials of the General Tribal Council, Oneida Business Committee, or any other board, committee, or commission of the Nation, including but not limited to, meeting packets and meeting minutes, to any individual not authorized to access the materials.

309.7-3. *Threatening an Official.* A person commits the civil infraction of threatening an official if he or she threatens to inflict serious injury against an official, a member of the official's family, or the official's property as a result of any action taken by the official in the course of his or her duties.

### **309.8. Civil Infractions Against the Person**

309.8-1. *Assault.* A person commits the civil infraction of assault if he or she:

(a) causes bodily harm to another;

(b) threatens another with imminent bodily harm;

(c) causes physical contact with another when the person knows or should reasonably believe that the other person will regard the contact as offensive or provocative;

(d) uses or exhibits a weapon during the commission of the assault; or

(e) forcibly assaults or intimidates any authorized law enforcement official lawfully discharging an official duty.

309.8-2. *Harassment.* A person commits the civil infraction of harassment if, with intent to harass, alarm, abuse, or torment another he or she:

(a) initiates communication in person, by telephone, in writing, or through any means of electronic communication and in the course of the communication makes a comment, request, suggestion or proposal that is obscene or false;

(b) threatens, in person, by telephone, in writing, or through any means of electronic communication in a manner reasonably likely to alarm the person receiving the threat, to inflict serious injury against the person, a member of his or her family, or his or her property;

(c) conveys, in a manner reasonably likely to alarm the person receiving the report, a false report, which is known by the conveyer to be false, that another person has suffered death or serious bodily harm;

(d) causes the telephone of another to ring repeatedly or makes repeated telephone communications anonymously or in a manner reasonably likely to harass, alarm, abuse, torment, or offend another;



- (e) knowingly permits a telephone or electronic device under his or her control to be used by a person to commit an infraction under this section; or
- (f) intentionally subjects another to sexual harassment.

309.8-3. *Abuse of Individuals at Risk.* A person commits the civil infraction of abuse of individuals at risk if he or she subjects an adult at risk or elder at risk to any of the following:

- (a) physical abuse;
- (b) emotional abuse;
- (c) sexual abuse;
- (d) unreasonable confinement or restraint;
- (e) financial exploitation; and/or
- (f) deprivation of a basic need for food, shelter, clothing, or personal or health care, including deprivation resulting from the failure to provide or arrange for a basic need by a person who has assumed responsibility for meeting the need voluntarily or by contract, agreement, or court order.

309.8-4. *Truancy.* A person commits the civil infraction of truancy if he or she fails without good cause to ensure that a child he or she is responsible for the care of attends school in accordance with the rules of the school district in which the child is enrolled.

### **309.9. Civil Infractions Involving Alcohol, Tobacco, and Drugs**

309.9-1. *Public Intoxication.* A person commits the civil infraction of public intoxication if he or she appears intoxicated by alcohol beverages and/or prohibited drugs on public property of the Nation to the degree that the person may endanger himself or herself, or another person.

309.9-2. *Unauthorized Alcohol Beverage.* A person commits the civil infraction of unauthorized alcohol beverage if he or she consumes or possesses any open or unsealed container containing an alcohol beverage on any public way, in any parking lot held for public use, or on or within the premises of a public place or on or in any motor vehicle on a public way or in parking lot held out for public use, unless such person is on the premises of an establishment holding a valid license for the on premises consumption of alcoholic beverages. No person may possess or consume an alcohol beverage on school premises or while participating in a school-sponsored activity.

309.9-3. *Underage Possession of Alcohol.* A person commits the civil infraction of underage possession of alcohol if he or she purchases, attempts to purchase, possesses, or consumes an alcohol beverage prior to reaching the age of twenty-one (21) years unless accompanied by his or her parent, guardian, or spouse who has attained the legal drinking age.

309.9-4. *Furnishing Alcohol Beverages to Minors.* A person commits the civil infraction of furnishing alcohol beverages to minors if he or she procures for, sells, dispenses or gives away any alcohol beverages to any person under the age of twenty-one (21) years who is not accompanied by his or her parent, guardian, or spouse who has attained the legal drinking age.

309.9-5. *Underage Possession of Tobacco.* A person commits the civil infraction of underage possession of tobacco if he or she purchases, attempts to purchase, possesses, or consumes a cigarette, electronic cigarette, or other tobacco product prior to reaching the age of twenty-one (21) years.

309.9-6. *Furnishing Tobacco to Minors.* A person commits the civil infraction of furnishing tobacco to minors if he or she procures for, sells, dispenses or gives away a cigarette, electronic cigarette, or other tobacco product to any person under the age of twenty-one (21) years.

309.9-7. *Misrepresentation of Identification Card.* A person commits the civil infraction of misrepresentation of identification card if he or she:

(a) intentionally carries an official identification card not legally issued to him or her, an official identification card obtained under false pretenses or an official identification card which has been altered or duplicated to convey false information;

(b) makes, alters or duplicates an official identification card purporting to show that he or she has attained the legal age to purchase and consume alcohol beverages or cigarettes, electronic cigarettes, or other tobacco products;

(c) presents false information to an issuing officer in applying for an official identification card; and/or

(d) intentionally carries an official identification card or other documentation showing that the person has attained the legal age to purchase and consume alcohol beverages or cigarettes, electronic cigarettes, or other tobacco products, with knowledge that the official identification card or documentation is false.

309.9-8. *Possession of Prohibited Drugs.* A person commits the civil infraction of possession of prohibited drugs if he or she possesses or consumes a prohibited drug or is in possession of any drug paraphernalia.

309.9-9. *Manufacturing Prohibited Drugs.* A person commits the civil infraction of manufacturing prohibited drugs if he or she manufactures, sells, or distributes any prohibited drug or drug paraphernalia.

309.9-10. *Maintaining a Drug House.* A person commits the civil infraction of maintaining a drug house if he or she owns or occupies any premise that is used to facilitate the use, delivery, distribution or manufacture of a prohibited drug.

309.9-11. *Determination of Prohibited Drugs.* An Oneida Police Department officer shall make the determination as to whether a substance is a prohibited drug using standard law enforcement field testing practices.

### **309.10. Civil Infractions Affecting Health and Safety**

309.10-1. *Littering.* A person commits the civil infraction of littering if he or she deposits, throws, dumps, discards, abandons, leaves any litter on any private property or property of the Nation.

309.10-2. *Unsanitary Areas.* A person commits the civil infraction of unsightly areas if he or she allows any scrap, refuse, junk, salvage, rubbish or property within the exterior boundaries of the Reservation that creates unsightly areas and/or contributes to health and safety hazards.

309.10-3. *Depositing Human Waste.* A person commits the civil infraction of depositing human waste if he or she urinates or defecates upon any public or private property other than into a toilet or other device designed and intended to be used to ultimately deposit such human waste products into a septic or sanitary sewer system.

309.10-4. *Exposure of a Communicable or Infectious Disease.* A person commits the civil infraction of exposure of a communicable or infectious disease if he or she is knowingly infected with a communicable or infectious disease and willfully exposes himself or herself to another person, which puts that person in danger of contracting the communicable or infectious disease.

### **309.11. Enforcement and Penalties**

309.11-1. *Issuance of a Citation.* An individual who violates a provision of this law may be subject to the issuance of a citation by an Oneida Police Department officer.

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

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

(c) *Notice to the Comprehensive Housing Division.* An Oneida Police Department officer shall provide notice to the Oneida Law Office attorney assigned to the Comprehensive Housing Division of any citation issued to an individual located at a property rented or leased through the Comprehensive Housing Division. Any information or reports shared by the Oneida Police Department officer with the Oneida Law Office attorney shall remain confidential as agreed upon between the Oneida Law Office and the Oneida Police Department Chief of Police.

(1) Notwithstanding constraints imposed by any rules promulgated under any laws of the Nation governing leases, eviction, and/or termination, the Oneida Law Office attorney is vested with the discretion to resolve any housing related enforcement occurring in accordance with this law to the mutual benefit of all involved parties.

309.11-2. *Penalties.* Upon a finding by the Trial Court that a violation of this law has occurred, the individual may be subject to the following penalties:

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

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

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

(A) The ninety (90) day deadline for payment of fines may be extended if an alternative payment plan is negotiated by the Oneida Law Office and approved by the Trial Court.

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

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

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

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

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

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

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

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

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

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

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

(c) *Counseling and/or other Programs.* An individual may be ordered to participate in counseling and/or any other program relevant and available to the Nation.

- (d) *Restitution*. An individual may be ordered to pay restitution, which may include the repayment of any improperly received benefit, or any other payment which is intended to make another whole after suffering losses as a result of the actions of the individual.
- (e) Any other penalty as deemed appropriate by the Trial Court.

*End.*

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Adopted – BC-\_\_-\_\_-\_\_-\_\_



## PUBLIC PEACE LAW LEGISLATIVE ANALYSIS

### SECTION 1. EXECUTIVE SUMMARY

<i>Analysis by the Legislative Reference Office</i>	
<b>Intent of the Proposed Law</b>	<ul style="list-style-type: none"> <li>▪ Delegate jurisdiction to the Trial Court for any action brought under this law [3 O.C. 309.4-1];</li> <li>▪ Delegate authority to the Oneida Police Department to investigate complaints involving civil infraction under this law and issue citations for violations of this law [3 O.C. 309.4-3];</li> <li>▪ Prohibit a person from committing a civil infraction under this law [3 O.C. 309.4-4];</li> <li>▪ Provide the various civil infractions including: <ul style="list-style-type: none"> <li>▪ Civil infractions against property [3 O.C. 309.5];</li> <li>▪ Civil infractions against the peace [3 O.C. 309.6];</li> <li>▪ Civil infractions against government [3 O.C. 309.7];</li> <li>▪ Civil infractions against the person [3 O.C. 309.8];</li> <li>▪ Civil infractions involving alcohol, tobacco, and drugs [3 O.C. 309.9]; and</li> <li>▪ Civil Infractions affecting health and safety [3 O.C. 309.10];</li> </ul> </li> <li>▪ Provide that citation for a violation of this law shall be processed in accordance with the procedure contained in the Nation's laws and policies governing citations [3 O.C. 309.11-1(b)];</li> <li>▪ Require that an Oneida Police Department officer provide notice to the Oneida Law Office attorney assigned to the Comprehensive Housing Division of any citation issued to an individual located at a property rented or leased through the Comprehensive Housing Division, and that the Oneida Law Office attorney is then vested with the discretion to resolve any housing related enforcement occurring in accordance with this law to the mutual benefit of all involved parties, notwithstanding constraints imposed by any rules promulgated under any laws of the Nation governing leasing, eviction, and/or termination [3 O.C. 309.11-1(c)]; and</li> <li>▪ Provide various penalties to be utilized by the Trial Court upon a finding that a violation of this law has occurred, including: <ul style="list-style-type: none"> <li>▪ Fines [3 O.C. 309.11-2(a)];</li> <li>▪ Community service [3 O.C. 309.11-2(b)];</li> <li>▪ Counseling and/or other programs [3 O.C. 309.11-2(c)];</li> <li>▪ Restitution [3 O.C. 309.11-2(d)]; and/or</li> <li>▪ Any other penalty as deemed appropriate by the Trial Court. [3 O.C. 309.11-2(e)].</li> </ul> </li> </ul>
<b>Purpose</b>	To set forth community standards and expectations which preserve the peace, harmony, safety, health, and general welfare of individuals who live within the boundaries of the Reservation. [1 O.C. 309.1-1]
<b>Affected Entities</b>	Oneida Nation Judiciary, Oneida Police Department, Oneida Law Office, Comprehensive Housing Division.
<b>Related Legislation</b>	Citations law, Per Capita law, Garnishment law, Eviction and Termination law, Leasing law
<b>Public Meeting</b>	A public meeting has not yet been held.
<b>Fiscal Impact</b>	A fiscal impact statement has not yet been requested.

## SECTION 2. LEGISLATIVE DEVELOPMENT

- A. **Background.** The request for the Legislative Operating Committee to develop and adopt a Public Peace law (“the Law”) was originally submitted on December 7, 2016. On October 26, 2016, the Oneida Police Commission, in its quarterly report to the Oneida Business Committee, made a recommendation to develop a Public Peace law in an effort to exercise the Nation’s sovereignty and jurisdiction. This recommendation was made based on input received during a community meeting held in Site 2 by the Oneida Police Department and Oneida Housing Authority due to a homicide investigation. The Oneida Business Committee then forwarded this request to the LOC who originally placed this item on the Active Files List in December 2016. The purpose of developing a Public Peace law would be to address community issues such as trespassing, damage to property, noise nuisances, and loitering.
- B. On October 7, 2020, the Legislative Operating Committee added the Public Peace law to its Active Files List with Jennifer Webster as the sponsor. This item had been carried over from the last two (2) Legislative Operating Committee terms. Since that time, a work group of representatives from the Oneida Police Department, Oneida Law Office, Tribal Action Plan (TAP), Comprehensive Housing Division, and the Oneida Business Committee has met to work on the development of the Law.
- C. On November 13, 2020, the LOC received a request from Vice Chairman Brandon Stevens to develop a Nuisance law on an emergency basis. Vice Chairman Stevens provided that he would like a Nuisance law developed on an emergency basis to preserve the welfare of the community from homes that are suspected drug houses. He also provided that currently the Comprehensive Housing Division and the Oneida Police Department have little authority over some homes on the Reservation, especially conveyed homes, and he would like to see that changed. The Legislative Operating Committee denied the request to develop a Nuisance law because the Legislative Operating Committee already had the development of a Public Peace law on its Active Files List, and the Public Peace law would address the social issues the request for a Nuisance law identified.

## SECTION 3. CONSULTATION AND OUTREACH

- A. Representatives from the following departments of the Nation participated in the development of this Law and legislative analysis:
- Oneida Business Committee;
  - Oneida Law Office;
  - Oneida Police Department;
  - Strategic Planner;
  - Tribal Action Plan (TAP); and
  - Comprehensive Housing Division.
- B. The following laws of the Nation were reviewed in the drafting of this analysis:
- Citations law;
  - Per Capita law;
  - Garnishment law;
  - Oneida Judiciary Rules of Civil Procedure;
  - Real Property law;
  - Leasing law;
  - Eviction and Termination law.
- C. The following laws and ordinances from other States, municipalities, and Tribes were reviewed in the drafting of this law and analysis:

- Ysleta del Sur Pueblo Peace Code;
- Stockbridge-Munsee Public Peace and Good Order Ordinance;
- Saginaw Chippewa Public Nuisance Order;
- Rincon Band of Luiseno Mission Indians Peace and Security Ordinance;
- Ho-Chunk Nation Public Nuisance Act;
- Village of Hobart Peace and Good Order Law;
- Green Bay Public Peace and Good Order Ordinance;
- Green Bay Public Nuisance Ordinance;
- Brown County Offenses Against Public Peace and Safety; and
- Relevant State of Wisconsin statutes.

**D. COVID-19 Pandemic's Effect on the Legislative Process.** The world is currently facing a pandemic of COVID-19. The COVID-19 outbreak originated in Wuhan, China and has 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. A public meeting for this proposed Law will not be held due to the COVID-19 pandemic, but the submission of written comments will still be permitted.

▪ *Declaration of a Public Health State of Emergency.*

- On March 12, 2020, Chairman Tehassi Hill signed a “*Declaration of Public Health State of Emergency*” regarding the COVID-19 pandemic 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.
- The Public Health State of Emergency has since been extended until May 12, 2021, by the Oneida Business Committee through the adoption of resolutions BC-03-28-20-A, BC-05-06-20-A, BC-06-10-20-A, BC-07-08-20-A, BC-08-06-20-A, BC-09-09-20-A, BC-10-08-20-A, BC-11-10-20-A, BC-12-09-20-D, BC-01-07-21-A, BC-02-10-21-A, and BC-03-10-21-D.

▪ *COVID-19 Core Decision Making Team Declarations: Safer at Home.*

- On March 24, 2020, the Nation’s COVID-19 Core Decision Making Team issued a “*Safer at Home*” declaration which ordered all individuals present within the Oneida Reservation to stay at home or at their place of residence, with certain exceptions allowed. This declaration prohibited all public gatherings of any number of people.
- On April 21, 2020, the COVID-19 Core Decision Making Team issued an “*Updated Safer at Home*” declaration which allowed for gaming and golf operations to resume.
- On May 19, 2020, the COVID-19 Core Decision Making Team issued a “*Safer at Home Declaration, Amendment, Open for Business*” which directs that individuals within the Oneida Reservation should continue to stay at home, businesses can re-open under certain safer business practices, and social distancing should be practiced by all persons.
- On June 10, 2020, the COVID-19 Core Decision Making Team issued a “*Stay Safer at Home*” declaration which lessened the restrictions of the “*Safer at Home Declaration, Amendment, Open for Business*” while still providing guidance and some restrictions. This declaration prohibits all public and private gatherings of more than twenty (20) people that are not part of a single household or living unit.

- On July 17, 2020, the COVID-19 Team issued a “*Safe Re-Opening Governmental Offices*” which sets minimum standards for the safe re-opening of a building or recall of employees to work.
- *COVID-19 Core Decision Making Team Declaration: Suspension of Public Meetings under the Legislative Procedures Act.*
  - 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.
  - Although a public meeting will not be held on the proposed Law, a public comment period will still be held open in accordance with the Legislative Procedures Act and the COVID-19 Core Decision Making Team’s “*Suspension of Public Meetings under the Legislative Procedures Act*” declaration.

## SECTION 4. PROCESS

- A. This Law has followed the process set forth in the Legislative Procedures Act (LPA).
  - On October 7, 2020, the Legislative Operating Committee added the Public Peace law to its Active Files List.
  - On April 21, 2021, the Legislative Operating Committee will consider the approval of the draft and legislative analysis for this Law.
- B. At the time this legislative analysis was developed the following work meetings had been held regarding the development of this Law:
  - December 16, 2020: LOC work meeting held with representatives from the Oneida Police Department, TAP, Comprehensive Housing Division, and Oneida Business Committee.
  - January 15, 2021: LOC work meeting held with representatives from the Oneida Police Department, TAP, Comprehensive Housing Division, Oneida Law Office, Oneida Business Committee, and Strategic Planner.
  - January 28, 2021: LOC work meeting.
  - February 11, 2021: LOC work meeting.
  - March 17, 2021: LOC work meeting held with representatives from the Oneida Police Department, TAP, Comprehensive Housing Division, Oneida Law Office, and Oneida Business Committee.
  - April 7, 2021: LOC work meeting held with representatives from the Oneida Police Department, TAP, Comprehensive Housing Division, Oneida Law Office, and Oneida Business Committee.

## SECTION 5. CONTENTS OF THE LEGISLATION

- A. *Intent of the Law.* The purpose of this law is to set forth community standards and expectations which preserve the peace, harmony, safety, health, and general welfare of individuals who live within the boundaries of the Reservation. [3 O.C. 309.1-1]. It is the policy of the Nation to promote peace and order within the boundaries of the Reservation while also providing an orderly process for addressing



civil infractions that occur. [3 O.C. 309.1-2]. The Legislative Operating Committee was motivated to develop this Law after hearing concerns from fellow Oneida Business Committee councilmembers and members of the community regarding issues and problems occurring in neighborhoods throughout the Reservation.

**B. *Prohibition of Civil Infractions.*** This Law prohibits a person from committing a civil infraction. [3 O.C. 309.4-4]. The Law then goes on to provide details on what constitutes various civil infractions and organizes each civil infraction into different categories. The following constitutes the organization of the civil infractions:

▪ *Civil Infractions Against Property [3 O.C. 309.5].*

- Damage to Property;
- Reckless Damage or Destruction;
- Trespass;
- Theft;
- Retail Theft;
- Loitering;
- Fraud; and
- Negligent Handling of Burning Material.

▪ *Civil Infractions Against the Peace [3 O.C. 309.6].*

- Disorderly Conduct;
- Carrying a Prohibited Weapon;
- Gang Related Activity;
- Throwing or Shooting Projectiles;
- Obstructing Streets and Sidewalks;
- Nuisance;
- Maintaining a Chronic Nuisance House; and
- Interfering with Lawful Arrest or Resisting Arrest.

▪ *Civil Infractions Against Government [3 O.C. 309.7].*

- Disrupting a Meeting or Government Function;
- Breach of Confidentiality; and
- Threatening an Official.

▪ *Civil Infractions Against the Person [3 O.C. 309.8].*

- Assault;
- Harassment;
- Abuse of Individuals at Risk; and
- Truancy.

▪ *Civil Infractions Involving Alcohol, Tobacco, and Drugs [3 O.C. 309.9].*

- Public Intoxication;
- Unauthorized Alcohol Beverage;
- Underage Possession of Alcohol;
- Furnishing Alcohol Beverages to Minors;
- Underage Possession of Tobacco;
- Furnishing Tobacco to Minors;
- Misrepresentation of Identification Card;
- Possession of Prohibited Drugs;

- Manufacturing Prohibited Drugs;
- Maintaining a Drug House; and
- Determination of a Prohibited Drug.
- *Civil Infractions Affecting Health and Safety [3 O.C. 309.10].*
  - Littering;
  - Unsightly Areas;
  - Depositing Human Waste; and
  - Exposure of a Communicable or Infectious Disease.

**C. *Enforcement.*** The Oneida Police Department is delegated the authority to investigate complaints involving civil infractions under this Law, and to issue citations for violations of this Law. [3 O.C. 309.4-3(a)-(b), 309.11-1]. A citation issued for a violation of this Law is required to be processed in accordance with the process and procedure contained in the Nation's Citations law. [3 O.C. 309.11-1(b)]. Once an Oneida Police Department Officer issues a citation, the Trial Court then has jurisdiction over any action brought under this law. [3 O.C. 309.4-1]. A citation for a violation of this Law and/or any orders issued pursuant to this Law may include fines and other penalties, as well as conditional orders made by the Trial Court. [3 O.C. 309.11-1(a)]. All matters decided by the Trial Court shall be proven by clear and convincing evidence. [3 O.C. 309.4-2]. The Citations law requires that this standard of proof be used. [8 O.C. 807.6-2(a)]. Clear and convincing evidence means that the person filing the complaint must provide evidence indicating that the allegation to be proved is highly probable or reasonably certain. This is a greater burden than "preponderance of the evidence" standard, which is the standard used in most civil trials, but a lesser burden than "beyond a reasonable doubt" standard, which is used for criminal trials. The Trial Court is then responsible for determining that a violation of this Law has occurred, and if so, imposing a penalty on the individual. [3 O.C. 309.11-2].

**D. *Penalties.*** Upon a finding by the Trial Court that a violation of this law has occurred, an individual may be subject to the following penalties:

- *Fines.* An individual may be ordered to pay a fine as a result of a violation of this law. The Oneida Business Committee is given the responsibility to adopt through resolution a citation schedule which sets forth specific fine amounts for violations of this law. [3 O.C. 309.11-2(a)]. The Law then goes on to provide details as to who fines should be paid to, and the deadline for paying a fine. [3 O.C. 309.11-2(a)(1)-(2)]. If an individual does not pay his or her fine within the required timeframe, the Trial Court may seek to collect the money owed through the Nation's garnishment and/or per capita attachment process or any other collection process available to the Trial Court. [3 O.C. 309.11-2(a)(3)].
- *Community Service.* An individual may be ordered to perform community service, which can be used in lieu of, or in addition to, a fine. [3 O.C. 309.11-2(b)]. The Law then goes on to provide how community service assignments will be approved, what information the community service order is required to contain, and how the community service assignment will be monitored. [3 O.C. 309.11-2(b)(1)-(3)].
- *Counseling and/or other programs.* An individual may be ordered to participate in counseling and/or any other program relevant and available to the Nation. [3 O.C. 309.11-2(c)].
- *Restitution.* An individual may be ordered to pay restitution, which may include the repayment of any improperly received benefit, or any other payment which is intended to make another whole after suffering losses as a result of the actions of the individual. [3 O.C. 309.11-2(d)].

- *Any other penalty as deemed appropriate by the Trial Court.* The Trial Court is given discretion and flexibility to utilize any other penalty that may be deemed appropriate based on the facts and details of each specific case. [3 O.C. 309.11-2(e)].

**E. *Interaction with the Comprehensive Housing Division.*** An Oneida Police Department officer is required to provide notice of a citation to the Oneida Law Office attorney assigned to the Comprehensive Housing Division if the citation was issued to an individual located at a property rented or leased through the Comprehensive Housing Division. [3 O.C. 309.11-1(c)]. Any information or reports shared by the Oneida Police Department officer with the Oneida Law Office attorney shall remain confidential as agreed upon between the Oneida Law Office and the Oneida Police Department Chief of Police. *Id.* Notwithstanding constraints imposed by any rules promulgated under any laws of the Nation governing leases, eviction, and/or termination, the Oneida Law Office attorney is vested with the discretion to resolve any housing related enforcement occurring in accordance with this law to the mutual benefit of all involved parties. [3 O.C. 309.11-1(c)(1)]. The purpose of this provision is to promote communication between the Oneida Police Department and the Comprehensive Housing Division, and recognize that the Comprehensive Housing Division has its own enforcement mechanisms, that although separate from the process and procedures contained in this Law, may be triggered when an individual who they hold lease or rental agreement with violates this Law and receives a citation. Discretion is given to the Comprehensive Housing Division's attorney to resolve housing related enforcement occurring in accordance with this Law despite the confines of any rules promulgated under relevant housing related laws in an effort to provide more flexibility to the Comprehensive Housing Division to resolve an issue to the mutual benefit of all parties involved.

## **SECTION 6. EXISTING LEGISLATION**

**A. *Related Legislation.*** The following laws of the Nation are related to this Law:

- *Citations law.* The Citations law provides a consistent process for handling citations of the Nation in order to ensure equal and fair treatment to all persons who come before the Judiciary to have their citations resolved. [8 O.C. 807.1-2]. The Citations law provides how a citation action is started – such as who has the authority to issue a citation, the requirements of the form of the citation, and how a citation is served and filed; stipulations for the settlement of a citation; and the citation hearing procedures. [8 O.C. 807].
  - This Law provides that a citation for a violation of this Law shall be processed in accordance with the procedure contained in the Nation's laws and policies governing citations. [3 O.C. 302.10-2]. The Citations law is the Nation's law governing citations.
  - Any citations issued by the Oneida Police Department for a violation of this Law must comply with the requirements and procedures of the Citations law. [3 O.C. 309.11-1(b)].
- *Garnishment Law.* The Garnishment law allows the Nation to exercise its authority to provide an effective mechanism for creditors to access an employee's income for reduction of personal debt. [2 O.C. 204.1-1]. Garnishment of an individual's income to collect debt owed to an entity of the Nation is allowed under the Garnishment law. [2 O.C. 204.6].
  - If an official is ordered to pay a fine in accordance with this Law and does not pay according to the deadline, the Trial Court may seek to collect that fine through the Nation's garnishment process. [3 O.C. 309.11-2(a)(3)].

- 262     ▪ *Per Capita Law.* The Per Capita law specifies the procedure to be followed in the event that per  
263     capita payments are distributed by the Nation and states the responsibilities of the various Oneida  
264     entities in the distribution or maintenance of any such per capita payments. [1 O.C. 123.1-1]. The  
265     Per Capita law allows per capita payments to be subject to attachment prior to distribution for debt  
266     owed to an Oneida entity. [1 O.C. 123.4-9, 123.4-9(a)(2)].
  - 267         ▪ If an official is ordered to pay a fine in accordance with this Law and does not pay  
268         according to the deadline, the Trial Court may seek to collect that fine through the  
269         Nation's per capita attachment process. [3 O.C. 309.11-2(a)(3)].
- 270     ▪ *Leasing Law.* The Leasing law sets out the Nation's authority to issue, review, approve and enforce  
271     leases. [6 O.C. 602.1-1]. The Leasing law delegates all powers necessary and proper to the  
272     Comprehensive Housing Division to enforce the lease terms, the Leasing law and any rules  
273     developed pursuant to the Leasing law. [6 O.C. 602.11-1]. If a lessee or other party causes or  
274     threatens to cause immediate and significant harm to the premises, or undertakes criminal activity  
275     thereon, the Comprehensive Housing Division may take appropriate emergency action, which may  
276     include cancelling the lease and/or securing judicial relief. [6 O.C. 602.11-2].
  - 277         ▪ If a person commits a civil infraction under this Law, his or her violations of this Law  
278         may be used as a basis of lease enforcement action by the Comprehensive Housing  
279         Division.
- 280     ▪ *Eviction and Termination Law.* The Eviction and Termination law provides consistent procedures  
281     relating to the Nation's rental and leasing programs for terminating a contract and/or evicting an  
282     occupant which affords the applicant due process and protects all parties involved. [6 O.C. 610.1-  
283     1]. The Eviction and Termination law provides that an owner may terminate the contract prior to  
284     the contract term and evict the occupant if the occupant is alleged to have violated any applicable  
285     law or rule of the Nation, or is alleged to have committed one or more nuisance activities. [6 O.C.  
286     610.5-1(b)-(c)].
  - 287         ▪ If a person commits a civil infraction under this Law, his or her violations of this Law  
288         may be used as a basis of eviction or termination of a contract action by the  
289         Comprehensive Housing Division.

## 291     **SECTION 7. EFFECTS ON EXISTING RIGHTS, PRIVILEGES, OR OBLIGATIONS**

- 292     **A. *Effect on Existing Rights.*** An individual who is issued a citation for a violation of this law has due  
293     process protections under the Citations law. The Citations law protects due process rights by:
- 294         ▪ Requiring that all citations be properly noticed and served on the defendant, including a notice of  
295         the defendant's rights and privileges, hearing dates and information [8 O.C. 807.4-3, 807.4-4];
  - 296         ▪ Ensuring that defendants have the right to contest their citations in the Nation's Judiciary [8 O.C.  
297         807.6-1];
  - 298         ▪ Establishing a formal process for stipulations that require defendants to acknowledge that they are  
299         waiving their rights to contest the citation in court and sign a statement that they enter into the  
300         agreement free of duress and coercion [8 O.C. 807.5]; and
  - 301         ▪ Providing an opportunity for a defendant to appeal the Trial Court or Family Court's decision to  
302         the Nation's Court of Appeals in accordance with the Rules of Appellate Procedure. [8 O.C. 807.6-  
303         3].

## SECTION 8. ENFORCEMENT AND ACCOUNTABILITY

- A. **Enforcement.** The Oneida Police Department is delegated enforcement authority under this Law.
- The Oneida Police Department has the authority to investigate complaints involving civil infractions under this Law, and to issue citations for violations of this Law. [3 O.C. 309.4-3(a)-(b), 309.11-1].
- B. **Citation Schedule Resolution.** The Oneida Business Committee is delegated the authority to adopt through resolution a citation schedule which sets forth specific fine amounts for violations of this Law. [3 O.C. 30309.11-2(a)].

## SECTION 9. OTHER CONSIDERATIONS

- A. **Public Peace Law Citation Schedule.** This Law provides that the Oneida Business Committee shall hereby be delegated the authority to adopt through resolution a citation schedule which sets forth specific fine amounts for violations of this Law. [3 O.C. 309.11-2(a)]. A citation schedule will need to be developed and adopted.
- **Conclusion.** The Legislative Operating Committee will need to work with the affected entities to develop a citation schedule resolution that can be presented to the Oneida Business Committee for consideration at the time the adoption of this Law is considered.
- B. **Fiscal Impact.** Under the Legislative Procedures Act, a fiscal impact statement is required for all legislation except emergency legislation [1 O.C. 109.6-1]. Oneida Business Committee resolution BC-10-28-20-A titled, “*Further Interpretation of ‘Fiscal Impact Statement’ in the Legislative Procedures Act*,” provides further clarification on who the Legislative Operating Committee may direct complete a fiscal impact statement at various stages of the legislative process, as well as timeframes for completing the fiscal impact statement.
- **Conclusion.** The Legislative Operating Committee will need to direct that a fiscal impact statement be completed for the proposed Law.



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



## AGENDA REQUEST FORM

- 1) Request Date: April 14, 2021
- 2) Contact Person(s): Attorney Kristen Hooker  
 Dept: Legislative Reference Office  
 Phone Number: 920-869-4411 Email: khooker@oneidanation.org
- 3) Agenda Title: Emergency Amendments to the Pardon and Forgiveness Law
- 4) Detailed description of the item and the reason/justification it is being brought before the LOC:  
On 4.14.21, the OBC adopted a motion for the LOC to develop  
emergency amendments to 126.8 of the Pardon & Forgiveness law to  
allow a virtual hearing to be scheduled as soon as possible regarding the  
existing applications to avoid further delay for the 4.28.21 OBC meeting.

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

- 1) Adoption Packet
- 2) \_\_\_\_\_
- 3) \_\_\_\_\_
- 4) \_\_\_\_\_
- 5) Please list any laws, policies or resolutions that might be affected:  
 \_\_\_\_\_
- 6) Please list all other departments or person(s) you have brought your concern to:  
 \_\_\_\_\_
- 7) Do you consider this request urgent? ☒ Yes ☐ No

If yes, please indicate why:

Per the directive of the OBC, this item is supposed to come back to the April 28, 2021 OBC meeting.

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

Signature of Requester:

Kristen Hooker

*Please send this form and all supporting materials to:*

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



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: April 28, 2021  
RE: Pardon and Forgiveness Law Emergency Amendments

Please find the following attached backup documentation for your consideration of the Pardon and Forgiveness Law Emergency Amendments:

1. Resolution: Emergency Amendments to the Pardon and Forgiveness Law
2. Statement of Effect: Emergency Amendments to the Pardon and Forgiveness Law
3. Pardon and Forgiveness Law Emergency Amendments Legislative Analysis
4. Pardon and Forgiveness Law (Redline)
5. Pardon and Forgiveness Law (Clean)

#### Overview

Emergency amendments to the Pardon and Forgiveness law ("Law") are being sought to address the impact that the COVID-19 pandemic has had on the ability of the Pardon and Forgiveness Screening Committee ("PFSC") to process, as well as conduct hearings, on applications for a pardon or forgiveness in a fair and efficient manner as is required under the Law. Currently, the Law only allows for hearings on an application for a pardon or forgiveness to be conducted in-person, at a location to be determined by the PFSC. [1 O.C. 126.8-1]. The emergency amendments to the Law will add an option for the PFSC to conduct its hearings virtually when it deems necessary. [1 O.C. 126.8-1(a)].

On March 12, 2020, Chairman Tehassi Hill signed a "*Declaration of Public Health State of Emergency*" due to the COVID-19 pandemic which sets into place the necessary authority should action need to be taken, and allows the Oneida Nation to seek reimbursement of emergency management actions that may result in unexpected expenses. [3 O.C. 302.8-1]. The Oneida Business Committee has extended this Public Health State of Emergency until May 12, 2021, through the adoption of the following resolutions: BC-03-26-20-A, BC-05-06-20-A, BC-06-10-20-A, BC-07-08-20-A, BC-08-06-20-A, BC-09-09-20-A, BC-10-08-20-A, BC-11-10-20-A, BC-12-09-20-D, BC-01-07-21-A, BC-02-10-21-A, and BC-03-10-21-D. [3 O.C. 302.8-2].

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. By allowing the PFSC to hold hearings on applications for a pardon or forgiveness virtually, instead of just in-person as is currently the only option, it will eliminate any unnecessary contact between individuals which could spread the COVID-19, while still affording individuals the fair and efficient process guaranteed under the Law to seek a pardon or forgiveness from the Nation.

Additionally, observance of the requirements under the Legislative Procedures Act for the adoption of these amendments would be contrary to public interest. The PFSC was just recently placed back into active status through adoption of resolution BC-11-24-20-C and is trying to fill several vacancies that were not allowed to be posted during the period in which the PFSC was under temporary closure. While in temporary closure status, the PFSC received three (3) applications for a pardon or forgiveness that have yet to be processed or set for hearing. Since the Nation's Public Health State of Emergency does not expire until May 12, 2021, and with applications for a pardon or forgiveness already pending, as well as more submissions likely, the process and requirements of the Legislative Procedures Act cannot be completed in time to ensure applicants receive the fair and efficient avenue required under the Law to seek a pardon or forgiveness without unnecessarily exposing them, and possibly the public, to the risks associated with the COVID-19 virus.

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. 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**

Adopt the Resolution: Emergency Amendments to the Pardon and Forgiveness Law.



# Oneida Nation

Post Office Box 365

Phone: (920)869-2214



Oneida, WI 54155

## BC Resolution # Emergency Amendments to the Pardon and Forgiveness 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 Pardon and Forgiveness law ("Law") was adopted and subsequently amended by the
- 10 Oneida Business Committee through resolutions BC-05-25-11-A and BC-01-22-14-B,
- 11 respectively; and
- 12
- 13 **WHEREAS,** the purpose of the Law is to provide a fair, efficient and formal process by which: (1) a
- 14 member of the Nation may receive a pardon for the conviction of a crime; (2) a member of
- 15 the Nation may receive forgiveness for acts that render him or her ineligible for housing or
- 16 other benefits through the Nation; and (3) a member or non-member of the Nation may
- 17 receive forgiveness for acts that render him or her ineligible to be employed with the Nation,
- 18 receive a Nation-issued occupational license, certification or permit, and/or obtain housing
- 19 or other benefits through the Nation; and
- 20
- 21 **WHEREAS,** Section 126.4-1 of the Law establishes a Pardon and Forgiveness Screening Committee
- 22 ("PFSC") to carry out various responsibilities that include, but are not limited to: processing
- 23 applications for a pardon or forgiveness; conducting, as well as presiding over, hearings
- 24 on the applications; and providing formal, written recommendations to the Oneida Business
- 25 Committee on whether to approve or deny requests for a pardon or forgiveness; and
- 26
- 27 **WHEREAS,** on March 12, 2020, Chairman Tehassi Hill signed a "*Declaration of Public Health State of*
- 28 *Emergency*" in response to the COVID-19 outbreak, which declared a Public Health State
- 29 of Emergency for the Nation until April 12, 2020 and set into place the necessary authority
- 30 for the Nation to take action, as well as seek reimbursement of emergency management
- 31 actions that may result in unexpected expenses; and
- 32
- 33 **WHEREAS,** the Nation's Public Health State of Emergency has since been extended until May 12,
- 34 2021, through the adoption of the following resolutions: BC-03-26-20-A, BC-05-06-20-A,
- 35 BC-06-10-20-A, BC-07-08-20-A, BC-08-06-20-A, BC-09-09-20-A, BC-10-08-20-A, BC-11-
- 36 10-20-A, BC-12-09-20-D, BC-01-07-21-A, BC-02-10-21-A, and BC-03-10-21-D; and
- 37
- 38 **WHEREAS,** on March 24, 2020, the Nation's COVID-19 Core Decision Making Team ("COVID-19
- 39 Team") issued a "*Safer at Home*" declaration which prohibits all public gatherings of any
- 40 number of people and orders all individuals present within the Oneida Reservation to stay
- 41 at home or at their place of residence, with certain exceptions allowed; and
- 42
- 43 **WHEREAS,** on April 8, 2020, the Oneida Business Committee adopted resolution BC-04-08-20-B,
- 44 placing certain of the Nation's boards, committees and commissions, including the PFSC,

in temporary closure status for the remainder of Fiscal Year 2020 and during any continuing resolution for Fiscal Year 2021; and

**WHEREAS,** the April 8, 2020 resolution further directed that the posting of vacancies for those boards, committees and commissions placed in temporary closure status shall be discontinued for the remainder of Fiscal Year 2020 and during any continuing resolution for Fiscal Year 2021; and

**WHEREAS,** thereafter, the COVID-19 Team modified its March 24, 2020 "*Safer at Home*" declaration through the issuance of its April 21, 2020 "*Updated Safer at Home*" declaration; May 19, 2020 "*Safer at Home Declaration, Amendment, Open for Business*" declaration; June 10, 2020 "*Stay Safer at Home*" declaration; and July 17, 2020 "*Safe Re-Opening Governmental Offices*" declaration; and

**WHEREAS,** on August 12, 2020 the Oneida Business Committee adopted resolution BC-08-12-20-J titled, *Continuing Resolution for Fiscal Year 2021*, which, per resolution BC-04-08-20-B, meant that, like the other listed boards, committees and commissions, the PFSC, was to remain in temporary closure status pending the adoption of a Fiscal Year 2021 budget; and

**WHEREAS,** through adoption of resolution BC-11-24-20-C titled, *Continuation of Temporary Closure of Listed Boards, Committees and Commissions for Fiscal Year 2021*, the Oneida Business Committee decided to continue the temporary closure of those boards, committees and commissions, regardless of budget adoption, for the entirety of 2021; and

**WHEREAS,** the Oneida Business Committee expressly exempted the PFSC from resolution BC-11-24-20-C's application and the PFSC was soon placed back into active status, with vacancies for the community-at-large positions being posted shortly thereafter; and

**WHEREAS,** while in temporary closure status, three (3) applications for a pardon or forgiveness have been submitted to the PFSC; however, hearings on those applications have yet to be conducted; and

**WHEREAS,** the Supervisor of the Boards, Committees and Commissions has requested emergency amendments to the Pardon and Forgiveness law to address the impact COVID-19 has had on the PFSC's ability to process applications and conduct hearings on those applications in a fair, efficient and safe manner; and

**WHEREAS,** the proposed emergency amendments to the Law will add an option, along with a process, for the PFSC to conduct hearings on applications for a pardon or forgiveness virtually, instead of just in-person as is currently the only option allowed for under the Law; and

**WHEREAS,** the Legislative Procedures Act authorizes the Oneida Business Committee to enact legislation on an emergency basis, to be in effect for a period of six (6) months, renewable for an additional six (6) months; and

**WHEREAS,** emergency adoption of legislation is allowed 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; and

**WHEREAS,** the emergency adoption of the amendments to the Law are necessary for the preservation of the public health, safety and general welfare of the Reservation population to protect the Reservation population against the public health crisis that is the COVID-19 pandemic by providing a virtual option that will eliminate unnecessary contact between individuals who may have been exposed to or could spread the virus, while still affording individuals a fair

and efficient process to seek a pardon or forgiveness that may make them a more fulfilled and productive member of society; and

**WHEREAS,** observance of the requirements under the Legislative Procedures Act for adoption of this amendment would be contrary to public interest since the Nation's Public Health State of Emergency does not expire until May 12, 2021 and, with applications pending and more submissions likely, the process and requirements of the Legislative Procedures Act cannot be completed in time to ensure applicants receive the fair and efficient procedure required under the Law without unnecessarily exposing them, as well as the public, to the risks associated with the COVID-19 virus; and

**WHEREAS,** the Legislative Procedures Act does not require a public meeting or fiscal impact statement when considering emergency legislation; and

**NOW THEREFORE BE IT RESOLVED,** the Oneida Business Committee hereby adopts emergency amendments to the Pardon and Forgiveness law effective immediately.



## **Statement of Effect**

### *Emergency Amendments to the Pardon and Forgiveness Law*

#### **Summary**

This resolution adopts emergency amendments to the Pardon and Forgiveness law (“Law”) to address the effect that the COVID-19 pandemic has had on the Pardon and Forgiveness Screening Committee’s ability to process applications and conduct hearings for a pardon or forgiveness in accordance with the Law.

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

*Date: April 15, 2021*

#### **Analysis by the Legislative Reference Office**

This resolution adopts emergency amendments to the Pardon and Forgiveness law (“Law”). The purpose of the Law is to provide a fair, efficient and formal process by which: (1) a member of the Nation may receive a pardon for the conviction of a crime; (2) a member of the Nation may receive forgiveness for acts that render him or her ineligible for housing or other benefits through the Nation; (3) a member or non-member of the Nation may receive forgiveness for acts that render him or her ineligible to be employed with the Nation, receive a Nation-issued occupational license, certification or permit, and/or obtain housing or other benefits through the Nation. [1 O.C. 126.1-1].

The Nation’s Pardon and Forgiveness Screening Committee (“PFSC”) was established in accordance with the Law to carry out certain of the responsibilities set forth therein, including that the PFSC process the applications for a pardon or forgiveness in an orderly and expeditious manner, as well as conduct and preside over the hearings on said applications. [1 O.C. 126.4-1 and 126.4-2(b) & (d)]. Currently, the Law only allows for hearings on an application for a pardon or forgiveness to be conducted in-person, at a location to be determined by the PFSC. [1 O.C. 126.8-1]. The emergency amendments to the Law will add an option for the PFSC to conduct its hearings virtually when it deems necessary. [1 O.C. 126.8-1(a)].

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].

In early 2020, the world began experiencing the effects of the COVID-19 pandemic. In response to the pandemic, on March 12, 2020, Chairman Tehassi Hill signed a “*Declaration of Public Health State of Emergency*,” per the Emergency Management law, to set into place the necessary authority for the Nation to take action, if necessary, and to seek reimbursement of emergency management actions that may result in unexpected expenses. [3 O.C. 302.8-1]. The Nation’s Public Health State of Emergency has since been extended until May 12, 2021, through adoption

of the following resolutions: BC-03-26-20-A, BC-05-06-20-A, BC-06-10-20-A, BC-07-08-20-A, BC-08-06-20-A, BC-09-09-20-A, BC-10-08-20-A, BC-11-10-20-A, BC-12-09-20-D, BC-01-07-21-A, BC-02-10-21-A and BC-03-10-21-D. [3 O.C. 302.8-2].

On March 24, 2020, the Nation's COVID-19 Core Decision Making Team ("COVID-19 Team") issued a "*Safer at Home*" declaration, prohibiting all public gatherings of any number of people and ordering all individuals present within the Oneida Reservation to stay at home or at their place of residence, with certain exceptions allowed.

On April 8, 2020, the Oneida Business Committee adopted resolution BC-04-08-20-B, which placed certain of the Nation's boards, committees and commissions, including the PFSC, in temporary closure status for the remainder of Fiscal Year 2020 and during any continuing resolution for Fiscal Year 2021. The resolution further directed that the posting of any vacancies for those boards, committees and commissions be discontinued until their temporary closure status is lifted.

Soon thereafter, the COVID-19 Team modified its March 24, 2020 "*Safer at Home*" declaration through the issuance of its April 21, 2020 "*Updated Safer at Home*" declaration; May 19, 2020 "*Safer at Home Declaration, Amendment, Open for Business*" declaration; June 10, 2020 "*Stay Safer at Home*" declaration; and July 17, 2020 "*Safe Re-opening Governmental Offices*" declaration. And, on August 12, 2020, the Oneida Business Committee adopted resolution BC-08-12-20-J titled, *Continuing Resolution for Fiscal Year 2021*, meaning that, per resolution BC-04-08-20-B, the boards, committees and commissions listed therein, which included the PFSC, were to remain in temporary closure status pending the adoption of a Fiscal Year 2021 budget.

On November 24, 2020, however, the Oneida Business Committee adopted resolution BC-11-24-20-C titled, *Continuation of Temporary Closure of Listed Boards, Committees and Commissions for Fiscal Year 2021*, which continued the temporary closure of those listed boards, committees and commissions, regardless of budget adoption, for the entirety of 2021. The PFSC was expressly exempted from this resolution, and thus, placed back into active status, with vacancies for the community-at-large positions being posted shortly thereafter.

While in temporary closure status, the PFSC received three (3) applications for a pardon or forgiveness that have yet to be processed or set for hearing. The Boards, Committees and Commissions Supervisor has requested emergency amendments to the Law to address the impact COVID-19 has had on the PFSC's ability to process applications and conduct hearings on those applications in a fair, efficient and safe manner.

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. By allowing the PFSC to conduct hearings on applications for a pardon or forgiveness virtually, instead of in-person, it will eliminate unnecessary contact between individuals who may have been exposed to the COVID-19 virus, while still affording individuals a fair and efficient process to seek a pardon or forgiveness.

Additionally, the resolution provides that observance of the requirements under the LPA for adoption of this amendment would be contrary to public interest since the Nation's Public Health State of Emergency does not expire until May 12, 2021 and, with applications pending, as well as more submissions likely, the process and requirements of the LPA cannot be completed in time to ensure applicants receive the fair and efficient procedure required under the Law for seeking a pardon or forgiveness without unnecessarily exposing them, and possibly the public, to the risks associated with the COVID-19 virus.

The emergency amendments to the Law will take effect immediately upon adoption by the Oneida Business Committee and will remain effective for six (6) months. 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 PARDON AND FORGIVENESS LAW LEGISLATIVE ANALYSIS

## SECTION 1. EXECUTIVE SUMMARY

<i>Analysis by the Legislative Reference Office</i>	
<b>Intent of the Proposed Amendments</b>	To provide the Pardon and Forgiveness Screening Committee (“PFSC”) with the authority to conduct hearings on applications for a pardon or forgiveness virtually, as opposed to just in-person as is currently the only option afforded to the PFSC under the Pardon and Forgiveness law.
<b>Purpose</b>	To provide a fair, efficient and formal process by which: <ul style="list-style-type: none"> <li>▪ a member of the Nation may receive a pardon for the conviction of a crime;</li> <li>▪ a member of the Nation may receive forgiveness for acts that render him or her ineligible for housing or other benefits through the Nation; and</li> <li>▪ a member or non-member of the Nation may receive forgiveness for acts that render him or her ineligible to be employed with the Nation, receive a Nation-issued occupational license, certification or permit, and/or obtain housing or other benefits through the Nation [1 O.C. 126.1-1].</li> </ul>
<b>Affected Entities</b>	Pardon and Forgiveness Screening Committee; Business Committee Support Office; Applicants seeking a pardon or forgiveness from the Nation.
<b>Related Legislation</b>	Legislative Procedures Act; Boards, Committees and Commissions law; Emergency Management law.
<b>Public Meeting</b>	A public meeting is not required for emergency legislation [1 O.C. 109.8-1(b) and 109.9-5(a)].
<b>Fiscal Impact</b>	A fiscal impact statement is not required for emergency legislation [1 O.C. 109.9-5(a)].
<b>Expiration of Emergency Amendments</b>	Emergency amendments expire six (6) months after adoption and may be renewed for one additional six (6) month period. [1 O.C. 109.9-5(b)].

## SECTION 2. LEGISLATIVE DEVELOPMENT

- A. Background.** The Pardon and Forgiveness law (“Law”) was first adopted in 2011, through resolution BC-05-25-11-A, and subsequently amended in 2014, through adoption of resolution BC-01-22-14-B. [1 O.C. 126.2-1]. The purpose of the 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;
  - A member of the Nation may receive forgiveness for acts that render him or her ineligible for housing or other benefits through the Nation; and
  - A member or non-member of the Nation may receive forgiveness for acts that render him or her ineligible to:
    - Be employed with the Nation;
    - Receive a Nation-issued occupational license, certification or permit; and/or
    - Obtain housing or other benefits through the Nation [1 O.C. 126.1-1(a)].

13 **B. *Pardon and Forgiveness Screening Committee.*** In accordance with the Law, the PFSC was established  
14 to carry out various responsibilities, including, but not limited to, processing applications for a pardon  
15 or forgiveness; conducting, as well as presiding over, hearings on the applications; and providing  
16 formal, written recommendations to the Oneida Business Committee on whether to approve or deny  
17 requests for a pardon or forgiveness. [1 O.C. 126.4-1].

18 **C. *COVID-19 Pandemic.*** The world is currently facing a pandemic of COVID-19. The COVID-19  
19 outbreak originated in Wuhan, China and has spread to many other countries throughout the world,  
20 including the United States. The COVID-19 pandemic has resulted in high rates of infection and  
21 mortality, as well as vast economic impacts including effects on the stock market and the closing of all  
22 non-essential businesses.

23     ▪ *Declaration of a Public Health State of Emergency.*

24         ▪ On March 12, 2020, Chairman Tehassi Hill signed a “*Declaration of Public Health State*  
25 *of Emergency*” regarding COVID-19 which declared the Public Health State of Emergency  
26 for the Nation until April 12, 2020, and set into place the necessary authority should action  
27 need to be taken and allowed the Nation to seek reimbursement of emergency management  
28 actions that may result in unexpected expenses.

29         ▪ The Public Health State of Emergency has since been extended until May 12, 2021, by the  
30 Oneida Business Committee through the adoption of resolutions BC-03-28-20-A, BC-05-  
31 06-20-A, BC-06-10-20-A, BC-07-08-20-A, BC-08-06-20-A, BC-09-09-20-A, BC-10-08-  
32 20-A, BC-11-10-20-A, BC-12-09-20-D, BC-01-07-21-A, BC-02-10-21-A and BC-03-10-  
33 21-D.

34     ▪ *COVID-19 Core Decision Making Team.*

35         ▪ On March 17, 2020, the Oneida Business Committee adopted emergency amendments to  
36 the Emergency Management and Homeland Security law to create and delegate authority  
37 to a COVID-19 Core Decision Making Team (“COVID-19 Team”). [BC-03-17-20-E and  
38 3 O.C. 302.10].

39         ▪ When a public health emergency has been declared, the COVID-19 Team has the  
40 authority to declare exceptions to the Nation’s laws, policies, procedures,  
41 regulations, or standard operating procedures during the emergency period which  
42 will be of immediate impact for the purposes of protecting the health, safety, and  
43 general welfare of the Nation’s community, members, and employees. [BC-03-17-  
44 20-E and 3 O.C. 302.10-2].

45         ▪ These declarations remain in effect for the duration of the Public Health State of  
46 Emergency. [BC-03-17-20-E and 3 O.C. 302.10-3].

47         ▪ On March 10, 2021, the Oneida Business Committee adopted permanent  
48 amendments to the Emergency Management and Homeland Security law, now  
49 known as the Emergency Management law, through the adoption of resolution BC-  
50 03-10-21-A which incorporated an emergency core decision time with the  
51 authority to make emergency declarations on a permanent basis.

52     ▪ *COVID-19 Core Decision Making Team Declarations: Safer at Home.*

53         ▪ On March 24, 2020, the Nation’s COVID-19 Team issued a “*Safer at Home*” declaration  
54 which ordered all individuals present within the Oneida Reservation to stay at home or at  
55 their place of residence, with certain exceptions allowed. This declaration prohibited all  
56 public gatherings of any number of people.



- 57       ▪ On April 21, 2020, the COVID-19 Team issued an “*Updated Safer at Home*” declaration  
58       which allowed for gaming and golf operations to resume.
- 59       ▪ On May 19, 2020, the COVID-19 Team issued a “*Safer at Home Declaration, Amendment,*  
60       *Open for Business*” which directs that individuals within the Oneida Reservation should  
61       continue to stay at home, businesses can re-open under certain safer business practices, and  
62       social distancing should be practiced by all persons.
- 63       ▪ On June 10, 2020, the COVID-19 Team issued a “*Stay Safer at Home*” declaration which  
64       lessened the restrictions of the “*Safer at Home Declaration, Amendment, Open for*  
65       *Business*” while still providing guidance and some restrictions. This declaration prohibits  
66       all public and private gatherings of more than twenty (20) people that are not part of a  
67       single household or living unit.
- 68       ▪ On July 17, 2020, the COVID-19 Team issued a “*Safe Re-Opening Governmental Offices*”  
69       which sets minimum standards for the safe re-opening of a building or recall of employees  
70       to work.
- 71       ▪ *COVID-19 Core Decision Making Team Declaration: Suspension of Public Meetings under the*  
72       *Legislative Procedures Act.*
  - 73       ▪ On March 27, 2020, the Nation’s COVID-19 Team issued a “*Suspension of Public*  
74       *Meetings under the Legislative Procedures Act*” declaration which suspended the  
75       Legislative Procedures Act’s requirement to hold a public meeting during the public  
76       comment period, but allows members of the community to still participate in the legislative  
77       process by submitting written comments, questions, data, or input on proposed legislation  
78       to the Legislative Operating Committee via e-mail during the public comment period.
- 79       ▪ *Temporary Closure of the Nation’s Boards, Committees and Commissions.*
  - 80       ▪ On April 8, 2020, the Oneida Business Committee adopted resolution BC-04-08-20-B,  
81       which placed certain of the Nation’s boards, committees and commissions, including the  
82       PFSC, in temporary closure status for the remainder of Fiscal Year 2020 and during and  
83       continuing resolution for Fiscal Year 2021.
  - 84       ▪ On August 12, 2020, the Oneida Business Committee adopted resolution BC-08-12-20-J  
85       titled, *Continuing Resolution for Fiscal Year 2021.*
    - 86       • Per resolution BC-04-08-20-B, the adoption of resolution BC-08-12-20-J meant  
87       that, along with the other listed boards, committees and commissions, the PFSC  
88       was to remain temporarily closed until adoption of the Fiscal Year 2021 budget.
  - 89       ▪ On November 24, 2020, the Oneida Business Committee adopted resolution BC-11-24-20-  
90       C titled, *Continuation of Temporary Closure of Listed Boards, Committees and*  
91       *Commissions for Fiscal Year 2021*, which continued the temporary closure of those boards,  
92       committees and commission listed in resolution BC-04-08-20-B, regardless of budget  
93       adoption, for the entirety of 2021.
    - 94       • Resolution BC-11-24-20-C expressly exempted the PFSC from its application and  
95       the PFSC was soon placed back into active status, with vacancies for the  
96       community-at-large positions being posted shortly thereafter.
  - 97       ▪ While in temporary closure status, three (3) applications for a pardon or forgiveness have  
98       been submitted to the PFSC; however, hearings on those applications have yet to be  
99       conducted.

- D. At the April 14, 2021, Oneida Business Committee meeting, the Boards, Committees and Commissions Supervisor submitted a memo which requested that the Oneida Business Committee make emergency amendments to the Pardon and Forgiveness law, as well as the PFSC's bylaws, to address the impact that COVID-19 has had on the PFSC's ability to process applications and conduct hearings on those applications in a fair, efficient and safe manner. The Supervisor is seeking emergency amendments that will allow the PFSC to conduct hearings on applications for a pardon or forgiveness virtually, instead of in-person as is currently the only option allowed under the Law, so that individuals are afforded the fair and efficient process for seeking a pardon or forgiveness without being unnecessarily exposed to the COVID-19 virus.

### SECTION 3. CONSULTATION AND OUTREACH

- A. Representatives from the following departments or entities participated in the development of this Law and legislative analysis:
- Oneida Law Office; and
  - Business Committee Support Office.
- B. The following laws and bylaws were reviewed in the drafting of this analysis:
- Oneida Nation Constitution and Bylaws;
  - Legislative Procedures Act;
  - Boards, Committees and Commissions law;
  - Emergency Management law.

### SECTION 4. PROCESS

- A. These amendments are being considered on an emergency basis. The Oneida Business Committee may temporarily enact emergency legislation "where legislation is necessary for the immediate preservation of public health, safety, or general welfare of the Reservation population and enactment or amendment of legislation is required sooner than would be possible under this law" [1 O.C. 109.9-5].
- Emergency amendments are being pursued for the immediate preservation of the public health, safety, and general welfare of the Reservation population against the public health crisis that is the COVID-19 pandemic. Chairman Tehassi Hill declared a Public Health State of Emergency for the Nation on March 12, 2020, which has since been extended until May 12, 2021. Due to the Public Health State of Emergency and corresponding emergency declarations, such as the "*Stay Safer at Home*" declaration which prohibits all public and private gatherings of more than twenty (20) people that are not part of a single household or living unit, the membership is advised to stay home and social distance. In an effort to avoid gatherings of members where COVID-19 could be easily spread, the Oneida Business Committee is being asked to adopt emergency amendments to the Law that will allow the PFSC to conduct its hearings on applications for a pardon or forgiveness virtually, as opposed to in-person.
  - Observance of the requirements under the Legislative Procedures Act for the adoption of these amendments would be contrary to public interest. The PFSC already has three (3) applications pending that have yet to go to a hearing and will likely receive more submissions now that it is back in active status. With the Nation's Public Health State of Emergency extended until May 12, 2021, the process and requirements of the Legislative Procedures Act cannot be completed in time to ensure applicants receive the fair and efficient procedure required under the Law without

unnecessarily exposing them, as well as the public, to the risks associated with the COVID-19 virus.

- B. Emergency amendments typically expire six (6) months after adoption, with one (1) opportunity for a six (6) month extension of the emergency amendments. [1 O.C. 109.9-5(b)].
- C. The Legislative Procedures Act does not require a public meeting or fiscal impact statement when considering emergency legislation. [1 O.C. 109.9-5(a)]. However, a public meeting and fiscal impact statement will eventually be required if permanent adoption of these amendments is considered.

## SECTION 5. CONTENTS OF THE LEGISLATION

- A. *Option for Conducting Virtual Hearings.* The proposed emergency amendments allow for the PFSC to conduct hearings on applications for a pardon or forgiveness virtually, instead of in-person as is currently the only option authorized under the Law; provided, the PFSC gives the requisite notice, which includes an indication of whether the hearing will be held in-person or virtually and, if virtually, instructions on how to access the virtual platform for purposes of attending the hearing . [1 O.C. 126.8-2].
  - *Effect.* The proposed emergency amendments will allow applications for a pardon or forgiveness to be processed in the efficient manner required under the Law but without unnecessarily exposing individuals, as well as the general public, to the risks associated with coming into contact with the COVID-19 virus because the PFSC would be authorized to conduct the hearings virtually, instead of in-person.

## SECTION 6. EXISTING LEGISLATION

- A. *Related Legislation.* The following laws of the Nation are related to the emergency amendments to this Law:
  - *Boards, Committees and Commissions law.* The Boards, Committees and Commissions law governs the boards, committees and commissions of the Nation, including the procedures regarding the appointment and election of persons to boards, committees and commissions; creation of bylaws; maintenance of official records; compensation; and other items related to boards, committees and commissions. [1 O.C. 105.1-1].
    - The PFSC is a committee of the Nation that was established in accordance with the Law and is governed by the Boards, Committees and Commissions law. Section 105.10 of the Boards, Committees and Commissions law, states that all entities of the Nation shall have bylaws that conform to its requirements. [1 O.C. 105.10-1.]. Currently, the PFSC's bylaws state that hearings of the PFSC shall be held in accordance with the Pardon and Forgiveness law. [PFSC Bylaws 3-4]. Thus, the proposed amendments to this Law would not conflict with the express language of the PFSC's bylaws or the minimal requirements of the Boards, Committees and Commissions law.
  - *Legislative Procedures Act.* The Legislative Procedures Act was adopted by the General Tribal Council on January 7, 2013, for the purpose of providing a standard process for the adoption of laws of the Nation which includes taking into account comments from members of the Nation and input from agencies of the Nation. [1 O.C. 109.1-1, 109.1-2].
    - The Legislative Procedures Act provides a process for the adoption of emergency legislation when the legislation is necessary for the immediate preservation of the public health, safety, or general welfare of the Reservation population and the enactment or

amendment of legislation is required sooner than would be possible under this law. [1 O.C. 109.9-5].

- The Legislative Operating Committee is responsible for first reviewing the emergency legislation and for forwarding the legislation to the Oneida Business Committee for consideration. [1 O.C. 109.9-5(a)].
- The proposed emergency legislation is required to have a legislative analysis completed and attached prior to being sent to the Oneida Business Committee for consideration. [1 O.C. 109.9-5(a)].
  - A legislative analysis is a plain language analysis describing the important features of the legislation being considered and factual information to enable the Legislative Operating Committee to make informed decisions regarding legislation. A legislative analysis includes a statement of the legislation's terms and substance; intent of the legislation; a description of the subject(s) involved, including any conflicts with Oneida or other law, key issues, potential impacts of the legislation and policy considerations. [1 O.C. 109.3-1(g)].
- Emergency legislation does not require a fiscal impact statement to be completed or a public comment period to be held. [1 O.C. 109.9-5(a)].
- Upon the determination that an emergency exists, the Oneida Business Committee can adopt emergency legislation. The emergency legislation becomes effective immediately upon its approval by the Oneida Business Committee. [1 O.C. 109.9-5(b)].
- Emergency legislation remains in effect for a period of up to six (6) months, with an opportunity for a one-time emergency law extension of up to six (6) months. [1 O.C. 109.9-5(b)].

- Adoption of these proposed emergency amendments would conform with the requirements of the Legislative Procedures Act.

- *Emergency Management law.* The Emergency Management law provides for the development and execution of plans for the protection of residents, property, and the environment in an emergency or disaster; and provides for the direction of emergency management, response, and recovery on the Reservation; as well as coordination with other agencies, victims, businesses, and organizations; and establishes the use of the National Incident Management System; and designates authority and responsibilities for public health preparedness. [3 O.C. 302.1-1].

- The Emergency Management law provides that the Oneida Business Committee shall be responsible for proclaiming or ratifying the existence of an emergency. [3 O.C. 302.8-1]. A public health emergency is defined as the occurrence or imminent threat of an illness or health condition which:

(1) is a quarantinable disease, or is believed to be caused by bioterrorism or a biological agent; and

(2) poses a high probability of any of the following:

- (A) a large number of deaths or serious or long-term disability among humans; or
- (B) widespread exposure to a biological, chemical, or radiological agent that creates a significant risk of substantial future harm to a large number of people.

[3 O.C. 302.3-1(p)].

- No proclamation of an emergency by the Oneida Business Committee may last for longer than sixty (60) days, unless the proclamation of emergency is extended by the Oneida Business Committee. [3 O.C. 302.8-2].
- Chairman Tehassi Hill's March 12, 2020, "*Declaration of Public Health State of Emergency*" and subsequent extensions conform with the requirements of the Emergency Management law.

## SECTION 7. OTHER CONSIDERATIONS

- A. *Deadline for Permanent Adoption of Amendments.*** The emergency amendments will expire six (6) months after adoption, with one (1) opportunity for an extension of an additional six (6) month period.
- *Conclusion:* The Legislative Operating Committee will need to consider the development and adoption of permanent amendments to this Law within the next six (6) to twelve (12) months.
- B. *Fiscal Impact.*** A fiscal impact statement is not required for emergency legislation.
- Under the Legislative Procedures Act, a fiscal impact statement is required for all legislation except emergency legislation. [1 O.C. 109.6-1].
- C. *PFSC Bylaws.*** Although the emergency amendments to this Law would not directly conflict with the bylaws of the PFSC, the PFSC may want to consider amending its bylaws to clarify the fact that its hearings on applications for a pardon or forgiveness may be held virtually, instead of in-person, as determined by the PFSC.

## **Title 1. Government and Finances - Chapter 126**

### **PARDON AND FORGIVENESS**

#### **Tsiʔnáhte ʌhutawani·yóne Olihwá·ke**

*of what they will be free of matter*

126.1. Purpose and Policy  
126.2. Adoption, Amendment, Conflicts  
126.3. Definitions  
126.4. Pardon and Forgiveness Screening Committee  
Responsibilities  
126.5. Tribal Secretary's Office Responsibilities

126.6. Pardon and Forgiveness Eligibility and Application  
126.7. Fees  
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126.9. Conditions and Restrictions  
126.10. Oneida Business Committee

#### **126.1. Purpose and Policy**

##### **126.1-1. Purpose.**

(a) The purpose of this Law is to provide a fair, efficient and formal process by which:

(1) a Tribal member may receive a pardon for the conviction of a crime(s); or

(2) a Tribal member may receive forgiveness for acts that render him or her ineligible for housing with the Tribe or other Tribal benefits.

(3) a Tribal member or non-Tribal member may receive forgiveness for acts that render him or her ineligible for Tribal employment; an occupational license, certification or permit issued by the Tribe; housing through the Tribe; or other Tribal benefit.

(b) This Law defines the duties and responsibilities of the Oneida Pardon and Forgiveness Screening Committee, Oneida Business Committee, Oneida Tribal Secretary's Office, and other persons involved in the granting or denial of pardons and forgiveness.

126.1-2. *Policy.* It is the policy of the Oneida Tribe of Indians of Wisconsin to grant pardons or forgiveness to individuals upon demonstration of full rehabilitation, trustworthiness and/or commitment to lawful behavior. Nothing contained herein shall be construed as permitting the employment of individuals who are otherwise disqualified for employment from certain occupations under Tribal, State or Federal Law. Receipt of a pardon or forgiveness does not affect obligations imposed as part of a sentence or conviction in another jurisdiction.

#### **126.2. Adoption, Amendment, Conflicts**

126.2-1. This Law was adopted by the Oneida Business Committee by ~~Resolution~~ resolution BC-05-25-11-A ~~and~~, amended by ~~Resolution~~ resolution BC-01-22-14-B., and emergency amended by resolution BC- - - - .

126.2-2. This Law may be amended pursuant to the procedures set out in Tribal law by the Oneida Business Committee or the Oneida General Tribal Council.

126.2-3. 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.

126.2-4. In the event of a conflict between a provision of this Law and a provision of another law, ordinance, policy, regulation, rule, resolution, or motion, the provisions of this Law shall control. Provided that, this Law repeals Resolution BC-7-31-02-A: Resolution Adopting a New Oneida Pardon Ordinance.

126.2-5. This Law is adopted under authority of the Constitution of the Oneida Tribe of Indians of Wisconsin.

#### **126.3. Definitions**

126.3-1. 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) “Applicant” shall mean an individual who is applying for a pardon or forgiveness from the Tribe.

(b) “Certified mail” shall mean mail sent through either the United States Postal Service or the Tribal Inter-Office Certified system that provides proof of delivery and receipt.

(c) “Committee” shall mean the Pardon and Forgiveness Screening Committee.

(d) “Conditions” shall mean a requirement or prerequisite event or activity.

(e) “Conflict of interest” shall mean a conflict between the private interests and the official responsibilities of the committee member.

(f) “Conviction” shall mean an individual was either found guilty or entered a plea of guilty or no contest to charges of a crime in any court of competent jurisdiction.

(g) “Court of competent jurisdiction” shall mean any court or forum that has the power and authority to properly exercise jurisdiction over a dispute or interpret and/or enforce laws.

(h) “Crime” shall mean any act, default, or conduct punishable as a felony or a misdemeanor.

(i) “Forgiveness” shall mean the formal and public act of acknowledging or excusing an individual’s actions or behavior that makes him or her ineligible for Tribal employment, an occupational license, certification or permit issued by the Tribe, housing through the Tribe or other Tribal benefit

(j) —“Hearing” shall mean a ~~public~~publicly noticed hearing, ~~a noticed public forum~~conducted either in-person or virtually, in which an applicant ~~has~~is afforded an opportunity to present a case for obtaining a pardon or forgiveness from the ~~Tribe~~Nation.

(k) “Individual” shall mean a Tribal member seeking a pardon for a conviction of a crime, a Tribal member seeking forgiveness for an act(s) that makes him or her ineligible for housing with the Tribe or other Tribal benefit(s) or anyone seeking forgiveness for an act(s) that renders him or her ineligible for employment, an occupational license, certification or permit issued by the Tribe.

(l) “Family member” shall mean a spouse, child sibling, parent, grandparent, grandchild, step-parent, step-child, in-law or legal guardian.

(m) “Pardon” shall mean the formal and public act of acknowledging or excusing a Tribal member’s criminal conviction that makes him or her ineligible for Tribal employment, an occupational license, a certification or permit issued by the Tribe, housing through the Tribe, or other Tribal benefit.

(n) “Prominent locations” shall include, but not be limited to, the following: the Tribal newspaper; at least one (1) local newspaper with regular distribution within the Reservation boundaries; one (1) regional Indian newspaper; and the Tribe’s official website.

(o) “Restriction” shall mean a limitation or constraint imposed.

(p) “Tribal”~~—or~~, “Tribe” and/or “Nation” shall mean the Oneida ~~Tribe of Indians of Wisconsin~~Nation.

(q) “Victim” shall mean a person or entity against whom an offense, either civil or criminal, has been committed.

#### 126.4. Pardon and Forgiveness Screening Committee Responsibilities

126.4-1. A Committee is hereby created for the purpose of carrying out the provisions of this Law.

126.4-2. *Authority.* The Committee shall:

(a) promulgate internal standard operating procedures necessary to govern its proceedings;

- (b) ~~—~~ review and process applications for a pardon or forgiveness in an orderly and expeditious manner;
- (c) ~~—~~ review an applicant's background investigation report received from the Oneida Human Resources Department;
- (d) ~~—~~ conduct and preside over hearings;
- (e) ~~—~~ provide formal, written recommendations to the Oneida Business Committee to approve or deny a pardon or forgiveness application; and
- (f) ~~—~~ take other actions reasonably related to the purpose of the Committee.

#### **126.5. Tribal Secretary's Office Responsibilities**

126.5-1. The Tribal Secretary's Office shall assist the Committee with carrying out the provisions of this Law and assist individuals in applying for a pardon or forgiveness. The Tribal Secretary's Office shall:

- (a) ~~—~~ create and implement procedures necessary to process pardon and forgiveness applications.
- (b) ~~—~~ accept pardon and forgiveness applications.
- (c) ~~—~~ submit and track requests for a background investigation.
- (d) ~~—~~ forward pardon and forgiveness applications to the Committee when the background investigations are complete.
- (e) ~~—~~ maintain a record of all pardon and forgiveness applications filed, every pardon and forgiveness request granted or denied, and the reasons for each action.
- (f) ~~—~~ maintain a complete and accurate record of all proceedings, including all correspondence, transcripts, documents, evidence, and appearances made in connection with the applications.
- (g) ~~—~~ perform other duties in connection with matters under this Law as may be requested by the Committee.

#### **126.6. Pardon and Forgiveness Eligibility and Application**

126.6-1. *Eligibility.* A Tribal member may receive a pardon for any criminal conviction(s), or a forgiveness for an act(s) that renders the Tribal member ineligible for housing with the Tribe or other Tribal benefit(s); and any individual may receive forgiveness for an act(s) that renders the individual ineligible for Tribal employment, an occupational license, certification or permit issued by the Tribe.

- (a) Upon completion of incarceration, parole, probation and/or deferred prosecution, Tribal members shall be eligible to apply for a pardon.
- (b) One (1) year after an act is committed, or affirmed through the conclusion of any appeal process, an individual shall be eligible to apply for pardon or forgiveness.

126.6-2. *Ineligibility.* An individual is ineligible for a pardon or forgiveness if he or she is:

- (a) being investigated for an act and if found to have committed such act, would be ineligible for the benefit he or she is seeking; or
- (b) appealing a termination and the termination makes him or her ineligible for the benefit he or she is seeking; or
- (c) currently incarcerated, on parole, probation, and/or under a deferred prosecution agreement; or
- (d) has any outstanding penalties or fines.

126.6-3. *Initiating an Application.* Applications for a pardon or forgiveness may be obtained from the Tribal Secretary's Office or on the Tribal website. Completed applications shall be filed with the Tribal Secretary's Office in person, during normal Tribal business hours, or sent by certified



mail to the Tribal Secretary at P.O. Box 365, Oneida, WI 54155.

126.6-4. *Required Application Information.* Each applicant is responsible for submitting all required materials and authorizations.

(a) A completed pardon application shall include the following:

- (1) a copy of the applicant's Tribal enrollment card.
- (2) a copy or copies of any discharge papers from incarceration or jail.
- (3) official verification of any successful completion date of the probation, parole or deferred prosecution.
- (4) any necessary releases for investigations and/or background checks.
- (5) any authorizations from a probation officer to release information.
- (6) the required non-refundable fee as specified under 126.6.
- (7) a personal written statement, including the reason(s) for requesting a pardon and a description and documentation of the applicant's efforts towards self-improvement.
- (8) information regarding the conviction(s) for which the applicant is seeking a pardon, including:
  - (A) date(s) upon which the crime(s) occurred;
  - (B) location(s) where the crime(s) occurred;
  - (C) date(s) of conviction(s); and
  - (D) jurisdiction(s) which imposed the sentence(s).
- (9) verification of attendance or successful completion of any counseling, therapy, or rehabilitative programs such as anger management or coping skills classes.
- (10) letters of reference or support from people well-regarded in the community. Such letters shall detail the applicant's accomplishments or contributions to the community or attest to the applicant's rehabilitation and trustworthiness. These may include, but are not limited to:
  - (A) clergy or other spiritual leaders.
  - (B) employers and/or community members.
  - (C) teachers.
  - (D) organizers of support groups the applicant attends or has attended.
- (11) any other information relevant to the applicant's conviction(s) or rehabilitation efforts.
- (12) proof of payment of all penalties and fines.

(b) A completed forgiveness application shall include the following:

- (1) a copy of the applicant's Tribal enrollment card, if applicable.
- (2) the applicant's employment record prior to the act, if applicable.
- (3) the applicant's background records.
- (4) the act that triggered the applicant's ineligibility.
- (5) the impact of the act on the Tribe.
- (6) the length of time since the act.
- (7) a written statement from the applicant demonstrating remorse for the violation.
- (8) two (2) letters of recommendation, with no more than one (1) recommendation coming from a person who is a family member of the applicant.
- (9) the required non-refundable fee as specified under 126.6.
- (10) any additional credible and relevant information.
- (11) proof of payment of all penalties and fines.

126.6-5. Failure of the applicant to provide a complete application, or any of the required information -and/or materials may result in:

- (a) the application being returned with a request for more information; or
- (b) the application being removed from consideration; or
- (c) denial of a pardon or forgiveness.

126.6-6. *Applicant Misrepresentations.* Any applicant who misrepresents, omits, or falsifies any information on the application or during the pardon process shall be denied a pardon. If a pardon is granted and it is later determined that there is misrepresented or false information, or pertinent information was purposefully omitted, the Oneida Business Committee shall have the right to rescind the pardon.

## 126.7. Fees

126.7-1. Each application shall be accompanied by a non-refundable fee as set by the Oneida Business Committee in a resolution. Said payment shall be made payable to the Oneida Tribe in the form of a:

- (a) money order; or
- (b) cashier's check; or
- (c) intra-tribal purchase document, if a Tribal department or program, such as Social Services, will be providing the funds for the application fee.

## 126.8. Hearings

126.8-1. ~~Notice of the~~ Hearing. -The Committee shall conduct quarterly hearings ~~and on applications for a pardon or forgiveness from the Nation in accordance with this law.~~

- (a) Hearings may be conducted in person or virtually as determined by the Committee.
- (b) Hearings shall take place at a regularly scheduled time and location or virtual platform, as determined by the Committee, and shall be open to the public to the extent permitted by governing laws of the Nation.

126.8-2. Hearing Notice. The Committee shall provide hearing notice as follows:

(a) Applicant. At least thirty (30) calendar days prior to the hearing, the Committee shall provide official hearing notice to the applicant by certified mail, ~~including the notice of which shall include:~~

- (1) The date;
- (2) The time;
- (3) Whether the hearing will be conducted in-person or virtually; and
- (4) The location of the hearing, at least thirty (30) calendar days prior to or virtual platform for the hearing. Notice and, if virtual, instructions on how to access the platform.

(b) Public. The Committee shall ~~also be posted~~ provide public notice of hearings as follows:

(1) By posting the notice in prominent locations at least thirty (30) ~~calendar~~ days prior to the hearing:

(A) If alternate arrangements have been made under section 126.8-2 of this law, notice shall be posted in prominent locations with as much advance notice as possible and as time permits.

(a) Notice2) By posting notice of the hearings scheduled for the year ~~shall be posted~~ on the ~~Tribal~~ Nation's website and periodically in the ~~Tribal~~ Nation's newspaper.

~~(b) Hearings shall take place at a regularly scheduled time and location to be determined by the Committee and shall be open to the public.~~

126.8-23. *Alternate Hearing Arrangements.* Applicants who reside out of the State of Wisconsin who are unable to attend a hearing may submit a written request by certified mail to the Tribal

Secretary's Office for alternate arrangements to appear by video conference and/or to reschedule the hearing date. If alternate arrangements are unavailable, the applicant may withdraw the application up to three (3) business days prior to the hearing without penalty, and may re-apply for a pardon at any time.

~~126.8-34. Failure of Applicant to Attend Hearing.~~ -Failure of the applicant to ~~appear at~~attend the hearing may result in the Committee postponing making a determination on the application or recommending the Oneida Business Committee deny the application.

(a)- Applicants with a legitimate reason for failing to ~~appear for~~attend a hearing shall have ten (10) calendar days from the date of the missed hearing to provide documentation to the Committee. ~~-Such documentation may include, but is not limited to:~~a Doctor's excuse, accident/police report, or funeral notice.

~~126.8-45. Testimony and Notarized Statements.~~ The Committee shall obtain oral testimony ~~at~~during the hearing from the applicant, and any victims, witnesses, or other persons supporting or opposing the pardon or forgiveness.

(a) Victims, witnesses, and other persons unavailable for a scheduled hearing may submit a notarized statement for consideration.

(b) The Committee may institute recesses and postponements as they see fit.

(c) The Committee may ask questions at any time during the hearing.

(d) The Committee may require the applicant to provide further documentation.

(1) Within five (5) business days of the hearing, the Committee shall send a written request by certified mail to the applicant for the additional documentation.

(2) The applicant shall submit the documentation to the Tribal Secretary's Office within thirty (30) calendar days after receiving the request for the documentation.

Failure of the applicant to provide any of the required documentation may result in:

(A) the application being removed from consideration; or

(B) denial of the application.

~~126.8-56. Deliberations and Recommendation.~~ After the hearing, the Committee shall go into executive session for deliberations.

(a)- The Committee shall consider all information gathered from the hearing, the application, the background investigation, and any testimony or notarized statements when determining whether to recommend that the application be approved or denied.

(1)- The Committee shall be responsible for weighing the appropriateness of granting a pardon or forgiveness.

(b) *Recommendation.* -After considering the factors provided, the Committee shall make a decision and compose a formal, written recommendation for each application, including reasons to approve or deny the application within sixty (60) days after the pardon or forgiveness hearing. ~~-The recommendation, including any dissenting opinions issued by the Committee,~~ shall be forwarded to the Oneida Business Committee within thirty (30) calendar days after making a decision, along with the following materials for review:

(1) All information from the application and the background investigation;

(2) Any notarized statements submitted;

(3) A proposed draft resolution; and

(4)- An audio recording of the hearing, upon request by an Oneida Business Committee member.

## **126.9. Conditions and Restrictions**

126.9-1. *Pardons.* Certain convictions may affect a Tribal member's rights under state or federal law, or result in restrictions being placed on a Tribal member, regardless of whether a Tribal pardon

has been granted.

(a) *Civil Rights*. A pardon by the Tribe does not guarantee the restoration of all civil rights, and each recipient of a Tribal pardon is responsible for determining whether the pardon affects any non-Tribal restrictions or limitations that may be applicable pursuant to the conviction.

(b) *Employment*. Individuals convicted of a crime that is “substantially related” to the care of another person or animal may be subject to extended or permanent restrictions on licensing or professional credentials in fields relating to such caretaking. A Tribal pardon shall not affect these restrictions.

(c) *Sex Offender Registry*. Receipt of a Tribal pardon shall in no way affect registration, tracking or other restrictions or obligations imposed upon sex offenders.

(d) *Voting Rights*. Each state, and the federal government are empowered to determine whether felons may vote in elections, caucuses, referendums or any other venue dependent on the votes of citizenry. The granting of a Tribal pardon shall not supersede the rights of these jurisdictions to determine the eligibility of voters.

126.9-2. *Other Restrictions*. The Committee’s written recommendation to the Oneida Business Committee to approve an applicant’s request for a pardon or forgiveness may also recommend the Oneida Business Committee impose restrictions on the applicant. If the Committee does not recommend a restriction, the Oneida Business Committee shall have the authority to place restrictions on the applicant before approving the pardon or forgiveness request. Restrictions shall specify the time lines attached to them, which may expand over a period of months, years, or indefinitely.

(a) Restrictions shall be clearly defined and may include the following:

(1) The applicant is ineligible for a transfer, promotion or job reassignment.

(2) The applicant may be prohibited from:

(A) Handling cash and/or merchandise.

(B) Having Tribal property sign-off authority.

(C) Supervising staff.

(D) Supervising or caring for children or the elderly.

(E) Any other restrictions the Oneida Business Committee determines as appropriate.

(b) When restrictions are imposed for a period of greater than five (5) years, the applicant may, after five (5) years, apply to have the restrictions modified or lifted. The request to modify or lift restrictions will follow the same process required to request a pardon.

(c) The applicant shall sign a written statement describing each restriction, and time period of such restriction prior to becoming employed by the Tribe.

126.9-3. *Conditions*. The Committee may also recommend that an applicant requesting a pardon or forgiveness be required to complete conditions before the applicant is granted the pardon or forgiveness. If the Committee does not recommend a condition, the Oneida Business Committee shall have the authority to place conditions on the applicant before approving the pardon or forgiveness request.

(a) Conditions shall be clearly defined and may include the following:

(1) perform community service hours within a Tribal Department.

(2) payment of restitution to the Tribe.

(3) any other conditions the Oneida Business Committee determines as appropriate.

## 126.10. Oneida Business Committee

126.10-1. The Oneida Business Committee shall consider all of the information received by the Committee prior to making a determination on whether to issue or deny a pardon or forgiveness application. The Oneida Business Committee may accept, reject or modify the Committee's recommendation.

126.10-2. *Deliberations.* Deliberations by the Oneida Business Committee shall take place in executive session. The Oneida Business Committee may request, by written notice, that the applicant be present during the deliberations to provide oral testimony or to answer questions. The notice shall be provided to the applicant thirty (30) days prior to the deliberations and shall contain the time, place and date of the deliberations.

126.10-3. *Final Decision.* The Oneida Business Committee shall issue or deny the pardon or forgiveness in open session, by resolution, including the reasons therefor and shall include for the record a clear indication of any decision and shall list the specific crimes to be pardoned or acts to be forgiven. This decision is final and cannot be appealed. Applicants may be eligible to re-apply for a pardon or forgiveness one (1) year from the date of the most recent denial of a pardon or forgiveness.

126.10-4. *Notification.* Notification of the final decision shall be sent to the applicant from the Tribal Secretary's office by certified mail or personally served within ten (10) business days following the decision. Applicants have a right to documentation of the final decision along with the resolution, and the reason(s) for the final decision.

126.10-5. *Resolution.* To grant or deny a pardon or forgiveness, a majority vote of the Oneida Business Committee is required.

126.10-6. *Eligibilities.* Unless otherwise directed by the Oneida Business Committee, a pardon or forgiveness may fully or partially restore some Tribal eligibilities lost as a result of a conviction or act including:

- (a) employment; and/or
- (b) an occupational license, certificate or permit; and/or
- (c) housing; and/or
- (d) other Tribal benefit.

*End.*

---

Adopted – BC-2-19-93-I

Adopted – BC-11-13-93-B (Oneida Pardon Procedures Policy)

Adopted – BC-11-24-93-B (Temporary Pardons)

Adopted – BC-7-31-02-A

Adopted – BC-05-25-11-A

Adopted – BC-01-22-14-B

Emergency Adoption – BC- - - -

## **Title 1. Government and Finances - Chapter 126**

### **PARDON AND FORGIVENESS**

#### **Tsiʔnáhte ʌhutawani-yóne Olihwá·ke**

*of what they will be free of matter*

126.1. Purpose and Policy  
126.2. Adoption, Amendment, Conflicts  
126.3. Definitions  
126.4. Pardon and Forgiveness Screening Committee  
Responsibilities  
126.5. Tribal Secretary's Office Responsibilities

126.6. Pardon and Forgiveness Eligibility and Application  
126.7. Fees  
126.8. Hearings  
126.9. Conditions and Restrictions  
126.10. Oneida Business Committee

#### **126.1. Purpose and Policy**

##### **126.1-1. Purpose.**

(a) The purpose of this Law is to provide a fair, efficient and formal process by which:

(1) a Tribal member may receive a pardon for the conviction of a crime(s); or

(2) a Tribal member may receive forgiveness for acts that render him or her ineligible for housing with the Tribe or other Tribal benefits.

(3) a Tribal member or non-Tribal member may receive forgiveness for acts that render him or her ineligible for Tribal employment; an occupational license, certification or permit issued by the Tribe; housing through the Tribe; or other Tribal benefit.

(b) This Law defines the duties and responsibilities of the Oneida Pardon and Forgiveness Screening Committee, Oneida Business Committee, Oneida Tribal Secretary's Office, and other persons involved in the granting or denial of pardons and forgiveness.

126.1-2. *Policy.* It is the policy of the Oneida Tribe of Indians of Wisconsin to grant pardons or forgiveness to individuals upon demonstration of full rehabilitation, trustworthiness and/or commitment to lawful behavior. Nothing contained herein shall be construed as permitting the employment of individuals who are otherwise disqualified for employment from certain occupations under Tribal, State or Federal Law. Receipt of a pardon or forgiveness does not affect obligations imposed as part of a sentence or conviction in another jurisdiction.

#### **126.2. Adoption, Amendment, Conflicts**

126.2-1. This Law was adopted by the Oneida Business Committee by resolution BC-05-25-11-A, amended by resolution BC-01-22-14-B, and emergency amended by resolution BC-\_\_-\_\_-\_\_.

126.2-2. This Law may be amended pursuant to the procedures set out in Tribal law by the Oneida Business Committee or the Oneida General Tribal Council.

126.2-3. 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.

126.2-4. In the event of a conflict between a provision of this Law and a provision of another law, ordinance, policy, regulation, rule, resolution, or motion, the provisions of this Law shall control. Provided that, this Law repeals Resolution BC-7-31-02-A: Resolution Adopting a New Oneida Pardon Ordinance.

126.2-5. This Law is adopted under authority of the Constitution of the Oneida Tribe of Indians of Wisconsin.

#### **126.3. Definitions**



126.3-1. 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) "Applicant" shall mean an individual who is applying for a pardon or forgiveness from the Tribe.

(b) "Certified mail" shall mean mail sent through either the United States Postal Service or the Tribal Inter-Office Certified system that provides proof of delivery and receipt.

(c) "Committee" shall mean the Pardon and Forgiveness Screening Committee.

(d) "Conditions" shall mean a requirement or prerequisite event or activity.

(e) "Conflict of interest" shall mean a conflict between the private interests and the official responsibilities of the committee member.

(f) "Conviction" shall mean an individual was either found guilty or entered a plea of guilty or no contest to charges of a crime in any court of competent jurisdiction.

(g) "Court of competent jurisdiction" shall mean any court or forum that has the power and authority to properly exercise jurisdiction over a dispute or interpret and/or enforce laws.

(h) "Crime" shall mean any act, default, or conduct punishable as a felony or a misdemeanor.

(i) "Forgiveness" shall mean the formal and public act of acknowledging or excusing an individual's actions or behavior that makes him or her ineligible for Tribal employment, an occupational license, certification or permit issued by the Tribe, housing through the Tribe or other Tribal benefit

(j) "Hearing" shall mean a publicly noticed hearing, conducted either in-person or virtually, in which an applicant is afforded an opportunity to present a case for obtaining a pardon or forgiveness from the Nation.

(k) "Individual" shall mean a Tribal member seeking a pardon for a conviction of a crime, a Tribal member seeking forgiveness for an act(s) that makes him or her ineligible for housing with the Tribe or other Tribal benefit(s) or anyone seeking forgiveness for an act(s) that renders him or her ineligible for employment, an occupational license, certification or permit issued by the Tribe.

(l) "Family member" shall mean a spouse, child sibling, parent, grandparent, grandchild, step-parent, step-child, in-law or legal guardian.

(m) "Pardon" shall mean the formal and public act of acknowledging or excusing a Tribal member's criminal conviction that makes him or her ineligible for Tribal employment, an occupational license, a certification or permit issued by the Tribe, housing through the Tribe, or other Tribal benefit.

(n) "Prominent locations" shall include, but not be limited to, the following: the Tribal newspaper; at least one (1) local newspaper with regular distribution within the Reservation boundaries; one (1) regional Indian newspaper; and the Tribe's official website.

(o) "Restriction" shall mean a limitation or constraint imposed.

(p) "Tribal", "Tribe" and/or "Nation" shall mean the Oneida Nation.

(q) "Victim" shall mean a person or entity against whom an offense, either civil or criminal, has been committed.

#### **126.4. Pardon and Forgiveness Screening Committee Responsibilities**

126.4-1. A Committee is hereby created for the purpose of carrying out the provisions of this Law.

126.4-2. *Authority.* The Committee shall:

(a) promulgate internal standard operating procedures necessary to govern its proceedings;

(b) review and process applications for a pardon or forgiveness in an orderly and

- expeditious manner;
- (c) review an applicant's background investigation report received from the Oneida Human Resources Department;
- (d) conduct and preside over hearings;
- (e) provide formal, written recommendations to the Oneida Business Committee to approve or deny a pardon or forgiveness application; and
- (f) take other actions reasonably related to the purpose of the Committee.

#### **126.5. Tribal Secretary's Office Responsibilities**

126.5-1. The Tribal Secretary's Office shall assist the Committee with carrying out the provisions of this Law and assist individuals in applying for a pardon or forgiveness. The Tribal Secretary's Office shall:

- (a) create and implement procedures necessary to process pardon and forgiveness applications.
- (b) accept pardon and forgiveness applications.
- (c) submit and track requests for a background investigation.
- (d) forward pardon and forgiveness applications to the Committee when the background investigations are complete.
- (e) maintain a record of all pardon and forgiveness applications filed, every pardon and forgiveness request granted or denied, and the reasons for each action.
- (f) maintain a complete and accurate record of all proceedings, including all correspondence, transcripts, documents, evidence, and appearances made in connection with the applications.
- (g) perform other duties in connection with matters under this Law as may be requested by the Committee.

#### **126.6. Pardon and Forgiveness Eligibility and Application**

126.6-1. *Eligibility.* A Tribal member may receive a pardon for any criminal conviction(s), or a forgiveness for an act(s) that renders the Tribal member ineligible for housing with the Tribe or other Tribal benefit(s); and any individual may receive forgiveness for an act(s) that renders the individual ineligible for Tribal employment, an occupational license, certification or permit issued by the Tribe.

- (a) Upon completion of incarceration, parole, probation and/or deferred prosecution, Tribal members shall be eligible to apply for a pardon.
- (b) One (1) year after an act is committed, or affirmed through the conclusion of any appeal process, an individual shall be eligible to apply for pardon or forgiveness.

126.6-2. *Ineligibility.* An individual is ineligible for a pardon or forgiveness if he or she is:

- (a) being investigated for an act and if found to have committed such act, would be ineligible for the benefit he or she is seeking; or
- (b) appealing a termination and the termination makes him or her ineligible for the benefit he or she is seeking; or
- (c) currently incarcerated, on parole, probation, and/or under a deferred prosecution agreement; or
- (d) has any outstanding penalties or fines.

126.6-3. *Initiating an Application.* Applications for a pardon or forgiveness may be obtained from the Tribal Secretary's Office or on the Tribal website. Completed applications shall be filed with the Tribal Secretary's Office in person, during normal Tribal business hours, or sent by certified mail to the Tribal Secretary at P.O. Box 365, Oneida, WI 54155.



126.6-4. *Required Application Information.* Each applicant is responsible for submitting all required materials and authorizations.

(a) A completed pardon application shall include the following:

- (1) a copy of the applicant's Tribal enrollment card.
- (2) a copy or copies of any discharge papers from incarceration or jail.
- (3) official verification of any successful completion date of the probation, parole or deferred prosecution.
- (4) any necessary releases for investigations and/or background checks.
- (5) any authorizations from a probation officer to release information.
- (6) the required non-refundable fee as specified under 126.6.
- (7) a personal written statement, including the reason(s) for requesting a pardon and a description and documentation of the applicant's efforts towards self-improvement.
- (8) information regarding the conviction(s) for which the applicant is seeking a pardon, including:
  - (A) date(s) upon which the crime(s) occurred;
  - (B) location(s) where the crime(s) occurred;
  - (C) date(s) of conviction(s); and
  - (D) jurisdiction(s) which imposed the sentence(s).
- (9) verification of attendance or successful completion of any counseling, therapy, or rehabilitative programs such as anger management or coping skills classes.
- (10) letters of reference or support from people well-regarded in the community. Such letters shall detail the applicant's accomplishments or contributions to the community or attest to the applicant's rehabilitation and trustworthiness. These may include, but are not limited to:
  - (A) clergy or other spiritual leaders.
  - (B) employers and/or community members.
  - (C) teachers.
  - (D) organizers of support groups the applicant attends or has attended.
- (11) any other information relevant to the applicant's conviction(s) or rehabilitation efforts.
- (12) proof of payment of all penalties and fines.

(b) A completed forgiveness application shall include the following:

- (1) a copy of the applicant's Tribal enrollment card, if applicable.
- (2) the applicant's employment record prior to the act, if applicable.
- (3) the applicant's background records.
- (4) the act that triggered the applicant's ineligibility.
- (5) the impact of the act on the Tribe.
- (6) the length of time since the act.
- (7) a written statement from the applicant demonstrating remorse for the violation.
- (8) two (2) letters of recommendation, with no more than one (1) recommendation coming from a person who is a family member of the applicant.
- (9) the required non-refundable fee as specified under 126.6.
- (10) any additional credible and relevant information.
- (11) proof of payment of all penalties and fines.

126.6-5. Failure of the applicant to provide a complete application, or any of the required information and/or materials may result in:

(a) the application being returned with a request for more information; or

(b) the application being removed from consideration; or

(c) denial of a pardon or forgiveness.

126.6-6. *Applicant Misrepresentations.* Any applicant who misrepresents, omits, or falsifies any information on the application or during the pardon process shall be denied a pardon. If a pardon is granted and it is later determined that there is misrepresented or false information, or pertinent information was purposefully omitted, the Oneida Business Committee shall have the right to rescind the pardon.

#### **126.7. Fees**

126.7-1. Each application shall be accompanied by a non-refundable fee as set by the Oneida Business Committee in a resolution. Said payment shall be made payable to the Oneida Tribe in the form of a:

(a) money order; or

(b) cashier's check; or

(c) intra-tribal purchase document, if a Tribal department or program, such as Social Services, will be providing the funds for the application fee.

#### **126.8. Hearings**

126.8-1. *Hearing.* The Committee shall conduct quarterly hearings on applications for a pardon or forgiveness from the Nation in accordance with this law.

(a) Hearings may be conducted in person or virtually as determined by the Committee.

(b) Hearings shall take place at a regularly scheduled time and location or virtual platform, as determined by the Committee, and shall be open to the public to the extent permitted by governing laws of the Nation.

126.8-2. *Hearing Notice.* The Committee shall provide hearing notice as follows:

(a) *Applicant.* At least thirty (30) calendar days prior to the hearing, the Committee shall provide official hearing notice to the applicant by certified mail, the notice of which shall include:

(1) The date;

(2) The time;

(3) Whether the hearing will be conducted in-person or virtually; and

(4) The location of or virtual platform for the hearing and, if virtual, instructions on how to access the platform.

(b) *Public.* The Committee shall provide public notice of hearings as follows:

(1) By posting the notice in prominent locations at least thirty (30) days prior to the hearing;

(A) If alternate arrangements have been made under section 126.8-2 of this law, notice shall be posted in prominent locations with as much advance notice as possible and as time permits.

(2) By posting notice of the hearings scheduled for the year on the Nation's website and periodically in the Nation's newspaper.

126.8-3. *Alternate Hearing Arrangements.* Applicants who reside out of the State of Wisconsin who are unable to attend a hearing may submit a written request by certified mail to the Tribal Secretary's Office for alternate arrangements to appear by video conference and/or to reschedule the hearing date. If alternate arrangements are unavailable, the applicant may withdraw the application up to three (3) business days prior to the hearing without penalty, and may re-apply for a pardon at any time.

126.8-4. *Failure to Attend Hearing.* Failure of the applicant to attend the hearing may result in the Committee postponing making a determination on the application or recommending the Oneida Business Committee deny the application.

- (a) Applicants with a legitimate reason for failing to attend a hearing shall have ten (10) calendar days from the date of the missed hearing to provide documentation to the Committee. Such documentation may include, but is not limited to, a Doctor's excuse, accident/police report, or funeral notice.

126.8-5. *Testimony and Notarized Statements.* The Committee shall obtain oral testimony during the hearing from the applicant and any victims, witnesses, or other persons supporting or opposing the pardon or forgiveness.

- (a) Victims, witnesses, and other persons unavailable for a scheduled hearing may submit a notarized statement for consideration.
- (b) The Committee may institute recesses and postponements as they see fit.
- (c) The Committee may ask questions at any time during the hearing.
- (d) The Committee may require the applicant to provide further documentation.
  - (1) Within five (5) business days of the hearing, the Committee shall send a written request by certified mail to the applicant for the additional documentation.
  - (2) The applicant shall submit the documentation to the Tribal Secretary's Office within thirty (30) calendar days after receiving the request for the documentation. Failure of the applicant to provide any of the required documentation may result in:
    - (A) the application being removed from consideration; or
    - (B) denial of the application.

126.8-6. *Deliberations and Recommendation.* After the hearing, the Committee shall go into executive session for deliberations.

- (a) The Committee shall consider all information gathered from the hearing, the application, the background investigation, and any testimony or notarized statements when determining whether to recommend that the application be approved or denied.

- (1) The Committee shall be responsible for weighing the appropriateness of granting a pardon or forgiveness.
- (b) *Recommendation.* After considering the factors provided, the Committee shall make a decision and compose a formal, written recommendation for each application, including reasons to approve or deny the application within sixty (60) days after the pardon or forgiveness hearing. The recommendation, including any dissenting opinions issued by the Committee, shall be forwarded to the Oneida Business Committee within thirty (30) calendar days after making a decision, along with the following materials for review:
  - (1) All information from the application and the background investigation;
  - (2) Any notarized statements submitted;
  - (3) A proposed draft resolution; and
  - (4) An audio recording of the hearing, upon request by an Oneida Business Committee member.

## **126.9. Conditions and Restrictions**

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126.9-2. *Other Restrictions*. The Committee’s written recommendation to the Oneida Business Committee to approve an applicant’s request for a pardon or forgiveness may also recommend the Oneida Business Committee impose restrictions on the applicant. If the Committee does not recommend a restriction, the Oneida Business Committee shall have the authority to place restrictions on the applicant before approving the pardon or forgiveness request. Restrictions shall specify the time lines attached to them, which may expand over a period of months, years, or indefinitely.

(a) Restrictions shall be clearly defined and may include the following:

(1) The applicant is ineligible for a transfer, promotion or job reassignment.

(2) The applicant may be prohibited from:

(A) Handling cash and/or merchandise.

(B) Having Tribal property sign-off authority.

(C) Supervising staff.

(D) Supervising or caring for children or the elderly.

(E) Any other restrictions the Oneida Business Committee determines as appropriate.

(b) When restrictions are imposed for a period of greater than five (5) years, the applicant may, after five (5) years, apply to have the restrictions modified or lifted. The request to modify or lift restrictions will follow the same process required to request a pardon.

(c) The applicant shall sign a written statement describing each restriction, and time period of such restriction prior to becoming employed by the Tribe.

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(a) Conditions shall be clearly defined and may include the following:

(1) perform community service hours within a Tribal Department.

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126.10-1. The Oneida Business Committee shall consider all of the information received by the Committee prior to making a determination on whether to issue or deny a pardon or forgiveness application. The Oneida Business Committee may accept, reject or modify the Committee’s recommendation.

126.10-2. *Deliberations.* Deliberations by the Oneida Business Committee shall take place in executive session. The Oneida Business Committee may request, by written notice, that the applicant be present during the deliberations to provide oral testimony or to answer questions. The notice shall be provided to the applicant thirty (30) days prior to the deliberations and shall contain the time, place and date of the deliberations.

126.10-3. *Final Decision.* The Oneida Business Committee shall issue or deny the pardon or forgiveness in open session, by resolution, including the reasons therefor and shall include for the record a clear indication of any decision and shall list the specific crimes to be pardoned or acts to be forgiven. This decision is final and cannot be appealed. Applicants may be eligible to re-apply for a pardon or forgiveness one (1) year from the date of the most recent denial of a pardon or forgiveness.

126.10-4. *Notification.* Notification of the final decision shall be sent to the applicant from the Tribal Secretary's office by certified mail or personally served within ten (10) business days following the decision. Applicants have a right to documentation of the final decision along with the resolution, and the reason(s) for the final decision.

126.10-5. *Resolution.* To grant or deny a pardon or forgiveness, a majority vote of the Oneida Business Committee is required.

126.10-6. *Eligibilities.* Unless otherwise directed by the Oneida Business Committee, a pardon or forgiveness may fully or partially restore some Tribal eligibilities lost as a result of a conviction or act including:

- (a) employment; and/or
- (b) an occupational license, certificate or permit; and/or
- (c) housing; and/or
- (d) other Tribal benefit.

*End.*

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Adopted – BC-2-19-93-I

Adopted – BC-11-13-93-B (Oneida Pardon Procedures Policy)

Adopted – BC-11-24-93-B (Temporary Pardons)

Adopted – BC-7-31-02-A

Adopted – BC-05-25-11-A

Adopted – BC-01-22-14-B

Emergency Adoption – BC-\_\_-\_\_-\_\_-\_\_



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



## AGENDA REQUEST FORM

- 1) Request Date: April 14, 2021
- 2) Contact Person(s): Attorney Kristen Hooker  
 Dept: Legislative Reference Office  
 Phone Number: 920-869-4411 Email: khooker@oneidanation.org
- 3) Agenda Title: Emergency Amendments PFSC Bylaws
- 4) Detailed description of the item and the reason/justification it is being brought before the LOC:  
On 4.14.21, BC motioned LOC to amend PFSC's bylaws 1-5(a) that all  
alternates, as identified in 1-5(a)(1)(A)-(C) are now members and shall be  
eligible to make up the 3 person quorum requirement in 3-5, and that  
such amendments shall remain in place until rescinded by the BC or the  
bylaws are amended

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

- 1) Adoption Packet Handout
- 2) \_\_\_\_\_
- 3) \_\_\_\_\_
- 4) \_\_\_\_\_

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

- 6) Please list all other departments or person(s) you have brought your concern to:

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

If yes, please indicate why:

Per the directive of the OBC, this item is supposed to come back to the April 28, 2021 OBC meeting.

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

Signature of Requester:

Kristen Hooker

*Please send this form and all supporting materials to:*

**LOC@oneidanation.org**

or

**Legislative Operating Committee (LOC)**

P.O. Box 365

Oneida, WI 54155

Phone 920-869-4376



**Oneida Nation**  
 Oneida Business Committee  
 Legislative Operating Committee  
 PO Box 365 • Oneida, WI 54155-0365  
[Oneida-nsn.gov](http://Oneida-nsn.gov)



## AGENDA REQUEST FORM

- 1) Request Date: 4/14/21
- 2) Contact Person(s): Kristen Hooker  
 Dept: Legislative Reference Office  
 Phone Number: (920) 869-4411 Email: khooker@oneidanation.org
- 3) Agenda Title: Petition: L. Elm - Real Property Law Eviction and Termination
- 4) Detailed description of the item and the reason/justification it is being brought before the LOC:  
On April 14, 2021, the Oneida Business Committee adopted a motion to  
accept the Petition: L. Elm - Real Property Law Eviction and Termination.  
The Oneida Business Committee then directed that the Legislative  
Reference Office complete a statement of effect on this petition.

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

- 1) Materials can be found at <https://oneida-nsn.gov/member-login/> 3) \_\_\_\_\_
- 2) \_\_\_\_\_ 4) \_\_\_\_\_
- 5) Please list any laws, policies or resolutions that might be affected:  
Real Property law, Eviction and Termination law
- 6) Please list all other departments or person(s) you have brought your concern to:  
n/a
- 7) Do you consider this request urgent? ☒ Yes ☐ No

If yes, please indicate why:

Oneida Business Committee directed that a status update by the Legislative Reference Office be submitted to the July 9, 2021, OBC meeting agenda.

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

Signature of Requester:

N/A - Directive from Oneida Business Committee

*Please send this form and all supporting materials to:*

**LOC@oneidanation.org**

*or*

**Legislative Operating Committee (LOC)**

P.O. Box 365

Oneida, WI 54155

Phone 920-869-4376

# April 2021

April 2021

Su	Mo	Tu	We	Th	Fr	Sa
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May 2021

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SUNDAY	MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SATURDAY
Mar 28	29	30	31	Apr 1	2	3
4	5	6	7 8:30am LOC Prep (BC_Conf_Room) - Clorissa 9:00am LOC Meeting (BC_Conf_Room) 1:30pm Public Peace Law	8	9	10
11	12 10:00am Children's Code Amendments Work Meeting (Microsoft Teams Meeting) -	13	14	15	16	17
18	19 2:30pm Budget Management and Control Law Amendments Work Meeting (Microsoft Teams)	20	21 8:30am LOC Prep (BC_Conf_Room) - Clorissa 9:00am LOC Meeting (BC_Conf_Room) 1:30pm Children's	22	23	24
25	26 10:00am Children's Code Amendments Work Meeting - Oneida Family Court (Microsoft	27	28	29 9:00am LOC Work Session (Microsoft Teams Meeting) - Clorissa N. Santiago	30	May 1