



LEGISLATIVE OPERATING COMMITTEE MEETING AGENDA
Business Committee Conference Room - 2nd Floor Norbert Hill Center
May 5, 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 21, 2021 LOC Meeting Minutes (pg. 2)

III. Current Business

1. Public Peace Law (pg. 4)
2. Oneida General Welfare Law Amendments (pg. 27)
3. Budget Management and Control Law Emergency Amendments (pg. 31)
4. Oneida Nation Gaming Ordinance Emergency Amendments (pg. 62)

IV. New Submissions

1. Budget Management and Control Law Emergency Repeal (pg. 131)

V. Additions

VI. Administrative Updates

VII. Executive Session

VIII. Recess/Adjourn



LEGISLATIVE OPERATING COMMITTEE MEETING MINUTES
Oneida Business Committee Conference Room-2nd Floor Norbert Hill Center
April 21, 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, Rhiannon Metoxen, Aliskwet Ellis

I. Call to Order and Approval of the Agenda

David P. Jordan called the April 21, 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. April 7, 2021 LOC Meeting Minutes

Motion by Jennifer Webster to approve the April 7, 2021 LOC meeting minutes and forward to the Business Committee for consideration; seconded by Marie Summers. Motion carried unanimously.

III. Current Business

1. Election Law Emergency Amendments

Motion by Jennifer Webster to approve the Election Law amendments emergency adoption packet and forward to the Oneida Business Committee for consideration; seconded by Marie Summers. Motion carried unanimously.

2. Public Peace Law

Motion by Daniel Guzman King to approve the Public Peace law draft and legislative analysis; seconded by Kirby Metoxen. Motion carried unanimously.

IV. New Submissions

1. Pardon and Forgiveness Law Emergency Amendments

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

Motion by Kirby Metoxen to approve the Pardon and Forgiveness law amendments emergency adoption packet and forward to the Oneida Business Committee for consideration; seconded by Marie Summers. Motion carried unanimously.

2. Pardon and Forgiveness Screening Committee Bylaws Amendments

Motion by Jennifer Webster to add the Pardon and Forgiveness Screening Committee

A good mind. A good heart. A strong fire.



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

Motion by Kirby Metoxen to approve the Pardon and Forgiveness Screening Committee bylaws amendments draft and legislative analysis and forward to the Oneida Business Committee for consideration; seconded by Marie Summers. Motion carried unanimously.

3. Petition: L. Elm – Real Property Law Eviction and Termination

Motion by Marie Summers to add the Petition: L. Elm – Real Property Law Eviction and Termination to the Active Files List with Kirby Metoxen as the sponsor; seconded by Daniel Guzman King. Motion carried unanimously.

V. Additions

VI. Administrative Items

VII. Executive Session

VIII. Adjourn

Motion by Daniel Guzman King to adjourn at 9:36 a.m.; seconded by Marie Summers. Motion carried unanimously.



Legislative Operating Committee May 5, 2021

Public Peace Law

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

4/21/21 LOC: Motion by Daniel Guzman King to approve the Public Peace law draft and legislative analysis; seconded by Kirby Metoxen. Motion carried unanimously.

Next Steps:

- Approve the Public Peace law public comment period packet and forward the Public Peace law to a public comment period to be held open until June 9, 2021.

ONEIDA NATION
PUBLIC COMMENT PERIOD NOTICE
Due to the COVID-19 Public Health Emergency
Only Written Comments Will Be Accepted Until:
WEDNESDAY, June 9, 2021

Find Public Meeting Materials at

[Oneida-nsn.gov/government/register/public meetings](https://oneida-nsn.gov/government/register/public%20meetings)

Send Public Comments to

LOC@oneidanation.org

Ask Questions here

LOC@oneidanation.org



PUBLIC PEACE 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.

The Public Peace law will:

1. Prohibit a person from committing a civil infraction under this law. Civil infractions include violations against property, the peace, government, the person, as well as civil infractions involving alcohol, tobacco, and drugs, and civil infractions affecting health and safety;
2. 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. Provide that citation for a violation of this law shall be processed in accordance with the procedure contained in the Nation's Citations law;
4. Delegate jurisdiction to the Trial Court for any action brought under this law; and
5. Provide various penalties to be utilized by the Trial Court upon a finding that a violation of this law has occurred, including fines, community service, counseling and/or other programs, restitution, and any other penalty as deemed appropriate by the Trial Court.

For more information on the Public Peace law please review the public comment packet at [oneida-nsn.gov/government/register/public meetings](https://oneida-nsn.gov/government/register/public%20meetings).

PUBLIC COMMENT PERIOD CLOSSES WEDNESDAY, JUNE 9, 2021

The Nation's COVID-19 Team issued a declaration on March 27, 2020, titled "*Suspension of Public Meetings under the Legislative Procedures Act.*" This declaration provides that the Legislative Procedures Act's requirement to hold a public meeting during the public comment period is suspended due to the COVID-19 public health emergency. Although there will be no public meeting, the public comment period will still occur, and individuals can participate in the legislative process by submitting written comments, questions, or other input via e-mail to LOC@oneidanation.org.



PUBLIC PEACE LAW LEGISLATIVE ANALYSIS

SECTION 1. EXECUTIVE SUMMARY

<i>Analysis by the Legislative Reference Office</i>	
Intent of the Proposed Law	<ul style="list-style-type: none"> ▪ Delegate jurisdiction to the Trial Court for any action brought under this law [3 O.C. 309.4-1]; ▪ 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]; ▪ Prohibit a person from committing a civil infraction under this law [3 O.C. 309.4-4]; ▪ Provide the various civil infractions including: <ul style="list-style-type: none"> ▪ Civil infractions against property [3 O.C. 309.5]; ▪ Civil infractions against the peace [3 O.C. 309.6]; ▪ Civil infractions against government [3 O.C. 309.7]; ▪ Civil infractions against the person [3 O.C. 309.8]; ▪ Civil infractions involving alcohol, tobacco, and drugs [3 O.C. 309.9]; and ▪ Civil Infractions affecting health and safety [3 O.C. 309.10]; ▪ 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)]; ▪ 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 ▪ 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"> ▪ Fines [3 O.C. 309.11-2(a)]; ▪ Community service [3 O.C. 309.11-2(b)]; ▪ Counseling and/or other programs [3 O.C. 309.11-2(c)]; ▪ Restitution [3 O.C. 309.11-2(d)]; and/or ▪ Any other penalty as deemed appropriate by the Trial Court. [3 O.C. 309.11-2(e)].
Purpose	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]
Affected Entities	Oneida Nation Judiciary, Oneida Police Department, Oneida Law Office, Comprehensive Housing Division.
Related Legislation	Citations law, Per Capita law, Garnishment law, Eviction and Termination law, Leasing law
Public Meeting	A public comment period will be held open until June 9, 2021. A public meeting will not be held in accordance with the Nation’s COVID-19 Core Decision Making Team’s

	declaration titled, “ <i>Suspension of Public Meetings under the Legislative Procedures Act.</i> ”
Fiscal Impact	A fiscal impact statement has not yet been requested.

1 **SECTION 2. LEGISLATIVE DEVELOPMENT**

2 **A. Background.** The request for the Legislative Operating Committee to develop and adopt a Public Peace
3 law (“the Law”) was originally submitted on December 7, 2016. On October 26, 2016, the Oneida
4 Police Commission, in its quarterly report to the Oneida Business Committee, made a recommendation
5 to develop a Public Peace law in an effort to exercise the Nation’s sovereignty and jurisdiction. This
6 recommendation was made based on input received during a community meeting held in Site 2 by the
7 Oneida Police Department and Oneida Housing Authority due to a homicide investigation. The Oneida
8 Business Committee then forwarded this request to the LOC who originally placed this item on the
9 Active Files List in December 2016. The purpose of developing a Public Peace law would be to address
10 community issues such as trespassing, damage to property, noise nuisances, and loitering.

11 **B.** On October 7, 2020, the Legislative Operating Committee added the Public Peace law to its Active
12 Files List with Jennifer Webster as the sponsor. This item had been carried over from the last two (2)
13 Legislative Operating Committee terms. Since that time, a work group of representatives from the
14 Oneida Police Department, Oneida Law Office, Tribal Action Plan (TAP), Comprehensive Housing
15 Division, and the Oneida Business Committee has met to work on the development of the Law.

16 **C.** On November 13, 2020, the LOC received a request from Vice Chairman Brandon Stevens to develop
17 a Nuisance law on an emergency basis. Vice Chairman Stevens provided that he would like a Nuisance
18 law developed on an emergency basis to preserve the welfare of the community from homes that are
19 suspected drug houses. He also provided that currently the Comprehensive Housing Division and the
20 Oneida Police Department have little authority over some homes on the Reservation, especially
21 conveyed homes, and he would like to see that changed. The Legislative Operating Committee denied
22 the request to develop a Nuisance law because the Legislative Operating Committee already had the
23 development of a Public Peace law on its Active Files List, and the Public Peace law would address the
24 social issues the request for a Nuisance law identified.
25

26 **SECTION 3. CONSULTATION AND OUTREACH**

27 **A.** Representatives from the following departments of the Nation participated in the development of this
28 Law and legislative analysis:

- 29 ▪ Oneida Business Committee;
- 30 ▪ Oneida Law Office;
- 31 ▪ Oneida Police Department;
- 32 ▪ Strategic Planner;
- 33 ▪ Tribal Action Plan (TAP); and
- 34 ▪ Comprehensive Housing Division.

35 **B.** The following laws of the Nation were reviewed in the drafting of this analysis:

- 36 ▪ Citations law;
- 37 ▪ Per Capita law;
- 38 ▪ Garnishment law;
- 39 ▪ Oneida Judiciary Rules of Civil Procedure;
- 40 ▪ Real Property law;

- 41 ▪ Leasing law;
- 42 ▪ Eviction and Termination law.
- 43 C. The following laws and ordinances from other States, municipalities, and Tribes were reviewed in the
- 44 drafting of this law and analysis:
- 45 ▪ Ysleta del Sur Pueblo Peace Code;
- 46 ▪ Stockbridge-Munsee Public Peace and Good Order Ordinance;
- 47 ▪ Saginaw Chippewa Public Nuisance Order;
- 48 ▪ Rincon Band of Luiseno Mission Indians Peace and Security Ordinance;
- 49 ▪ Ho-Chunk Nation Public Nuisance Act;
- 50 ▪ Village of Hobart Peace and Good Order Law;
- 51 ▪ Green Bay Public Peace and Good Order Ordinance;
- 52 ▪ Green Bay Public Nuisance Ordinance;
- 53 ▪ Brown County Offenses Against Public Peace and Safety; and
- 54 ▪ Relevant State of Wisconsin statutes.
- 55 D. ***COVID-19 Pandemic’s Effect on the Legislative Process.*** The world is currently facing a pandemic
- 56 of COVID-19. The COVID-19 outbreak originated in Wuhan, China and has spread to many other
- 57 countries throughout the world, including the United States. The COVID-19 pandemic has resulted in
- 58 high rates of infection and mortality, as well as vast economic impacts including effects on the stock
- 59 market and the closing of all non-essential businesses. A public meeting for this proposed Law will not
- 60 be held due to the COVID-19 pandemic, but a public comment period for the submission of written
- 61 comments will be held open until June 9, 2021.
- 62 ▪ *Declaration of a Public Health State of Emergency.*
- 63 ▪ On March 12, 2020, Chairman Tehassi Hill signed a “*Declaration of Public Health State*
- 64 *of Emergency*” regarding the COVID-19 pandemic which declared a Public Health State
- 65 of Emergency for the Nation until April 12, 2020, and set into place the necessary authority
- 66 for action to be taken and allows the Nation to seek reimbursement of emergency
- 67 management actions that may result in unexpected expenses.
- 68 ▪ The Public Health State of Emergency has since been extended until May 12, 2021, by the
- 69 Oneida Business Committee through the adoption of resolutions BC-03-28-20-A, BC-05-
- 70 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-
- 71 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-
- 72 21-D.
- 73 ▪ *COVID-19 Core Decision Making Team Declarations: Safer at Home.*
- 74 ▪ On March 24, 2020, the Nation’s COVID-19 Core Decision Making Team issued a “*Safer*
- 75 *at Home*” declaration which ordered all individuals present within the Oneida Reservation
- 76 to stay at home or at their place of residence, with certain exceptions allowed. This
- 77 declaration prohibited all public gatherings of any number of people.
- 78 ▪ On April 21, 2020, the COVID-19 Core Decision Making Team issued an “*Updated Safer*
- 79 *at Home*” declaration which allowed for gaming and golf operations to resume.
- 80 ▪ On May 19, 2020, the COVID-19 Core Decision Making Team issued a “*Safer at Home*
- 81 *Declaration, Amendment, Open for Business*” which directs that individuals within the
- 82 Oneida Reservation should continue to stay at home, businesses can re-open under certain
- 83 safer business practices, and social distancing should be practiced by all persons.

- 84 ▪ On June 10, 2020, the COVID-19 Core Decision Making Team issued a “*Stay Safer at*
85 *Home*” declaration which lessened the restrictions of the “*Safer at Home Declaration,*
86 *Amendment, Open for Business*” while still providing guidance and some restrictions. This
87 declaration prohibits all public and private gatherings of more than twenty (20) people that
88 are not part of a single household or living unit.
- 89 ▪ On July 17, 2020, the COVID-19 Team issued a “*Safe Re-Opening Governmental Offices*”
90 which sets minimum standards for the safe re-opening of a building or recall of employees
91 to work.
- 92 ▪ *COVID-19 Core Decision Making Team Declaration: Suspension of Public Meetings under the*
93 *Legislative Procedures Act.*
- 94 ▪ On March 27, 2020, the Nation’s COVID-19 Core Decision Making Team issued a
95 “*Suspension of Public Meetings under the Legislative Procedures Act*” declaration which
96 suspended the Legislative Procedures Act's requirement to hold a public meeting during
97 the public comment period, but allows members of the community to still participate in the
98 legislative process by submitting written comments, questions, data, or input on proposed
99 legislation to the Legislative Operating Committee via e-mail during the public comment
100 period.
- 101 ▪ Although a public meeting will not be held on the proposed Law, a public comment period
102 will still be held open until June 9, 2021, in accordance with the Legislative Procedures
103 Act and the COVID-19 Core Decision Making Team’s “*Suspension of Public Meetings*
104 *under the Legislative Procedures Act*” declaration.

106 **SECTION 4. PROCESS**

- 107 **A.** This Law has followed the process set forth in the Legislative Procedures Act (LPA).
- 108 ▪ On October 7, 2020, the Legislative Operating Committee added the Public Peace law to its
109 Active Files List.
- 110 ▪ On April 21, 2021, the Legislative Operating Committee approved the draft and legislative
111 analysis for this Law.
- 112 ▪ On May 5, 2021, the Legislative Operating Committee will consider scheduling a public
113 comment period to be held for this proposed Law.
- 114 **B.** At the time this legislative analysis was developed the following work meetings had been held
115 regarding the development of this Law:
- 116 ▪ December 16, 2020: LOC work meeting held with representatives from the Oneida Police
117 Department, TAP, Comprehensive Housing Division, and Oneida Business Committee.
- 118 ▪ January 15, 2021: LOC work meeting held with representatives from the Oneida Police
119 Department, TAP, Comprehensive Housing Division, Oneida Law Office, Oneida Business
120 Committee, and Strategic Planner.
- 121 ▪ January 28, 2021: LOC work meeting.
- 122 ▪ February 11, 2021: LOC work meeting.
- 123 ▪ March 17, 2021: LOC work meeting held with representatives from the Oneida Police
124 Department, TAP, Comprehensive Housing Division, Oneida Law Office, and Oneida
125 Business Committee.

- 126 ▪ April 7, 2021: LOC work meeting held with representatives from the Oneida Police
127 Department, TAP, Comprehensive Housing Division, Oneida Law Office, and Oneida
128 Business Committee.

129

130 **SECTION 5. CONTENTS OF THE LEGISLATION**

131 **A. *Intent of the Law.*** The purpose of this law is to set forth community standards and expectations which
132 preserve the peace, harmony, safety, health, and general welfare of individuals who live within the
133 boundaries of the Reservation. [3 O.C. 309.1-1]. It is the policy of the Nation to promote peace and
134 order within the boundaries of the Reservation while also providing an orderly process for addressing
135 civil infractions that occur. [3 O.C. 309.1-2]. The Legislative Operating Committee was motivated to
136 develop this Law after hearing concerns from fellow Oneida Business Committee councilmembers and
137 members of the community regarding issues and problems occurring in neighborhoods throughout the
138 Reservation.

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

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

- 144 ▪ Damage to Property;
- 145 ▪ Reckless Damage or Destruction;
- 146 ▪ Trespass;
- 147 ▪ Theft;
- 148 ▪ Retail Theft;
- 149 ▪ Loitering;
- 150 ▪ Fraud; and
- 151 ▪ Negligent Handling of Burning Material.

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

- 153 ▪ Disorderly Conduct;
- 154 ▪ Carrying a Prohibited Weapon;
- 155 ▪ Gang Related Activity;
- 156 ▪ Throwing or Shooting Projectiles;
- 157 ▪ Obstructing Streets and Sidewalks;
- 158 ▪ Nuisance;
- 159 ▪ Maintaining a Chronic Nuisance House; and
- 160 ▪ Interfering with Lawful Arrest or Resisting Arrest.

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

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

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

- 166 ▪ Assault;
- 167 ▪ Harassment;
- 168 ▪ Abuse of Individuals at Risk; and
- 169 ▪ Truancy.

- 170 ▪ *Civil Infractions Involving Alcohol, Tobacco, and Drugs [3 O.C. 309.9].*
- 171 ▪ Public Intoxication;
- 172 ▪ Unauthorized Alcohol Beverage;
- 173 ▪ Underage Possession of Alcohol;
- 174 ▪ Furnishing Alcohol Beverages to Minors;
- 175 ▪ Underage Possession of Tobacco;
- 176 ▪ Furnishing Tobacco to Minors;
- 177 ▪ Misrepresentation of Identification Card;
- 178 ▪ Possession of Prohibited Drugs;
- 179 ▪ Manufacturing Prohibited Drugs;
- 180 ▪ Maintaining a Drug House; and
- 181 ▪ Determination of a Prohibited Drug.

- 182 ▪ *Civil Infractions Affecting Health and Safety [3 O.C. 309.10].*
- 183 ▪ Littering;
- 184 ▪ Unsightly Areas;
- 185 ▪ Depositing Human Waste; and
- 186 ▪ Exposure of a Communicable or Infectious Disease.

187 **C. *Enforcement.*** The Oneida Police Department is delegated the authority to investigate complaints
188 involving civil infractions under this Law, and to issue citations for violations of this Law. [3 O.C.
189 309.4-3(a)-(b), 309.11-1]. A citation issued for a violation of this Law is required to be processed in
190 accordance with the process and procedure contained in the Nation’s Citations law. [3 O.C. 309.11-
191 1(b)]. Once an Oneida Police Department Officer issues a citation, the Trial Court then has jurisdiction
192 over any action brought under this law. [3 O.C. 309.4-1]. A citation for a violation of this Law and/or
193 any orders issued pursuant to this Law may include fines and other penalties, as well as conditional
194 orders made by the Trial Court. [3 O.C. 309.11-1(a)]. All matters decided by the Trial Court shall be
195 proven by clear and convincing evidence. [3 O.C. 309.4-2]. The Citations law requires that this standard
196 of proof be used. [8 O.C. 807.6-2(a)]. Clear and convincing evidence means that the person filing the
197 complaint must provide evidence indicating that the allegation to be proved is highly probable or
198 reasonably certain. This is a greater burden than “preponderance of the evidence” standard, which is
199 the standard used in most civil trials, but a lesser burden than “beyond a reasonable doubt” standard,
200 which is used for criminal trials. The Trial Court is then responsible for determining that a violation of
201 this Law has occurred, and if so, imposing a penalty on the individual. [3 O.C. 309.11-2].

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

- 204 ▪ *Fines.* An individual may be ordered to pay a fine as a result of a violation of this law. The Oneida
205 Business Committee is given the responsibility to adopt through resolution a citation schedule
206 which sets forth specific fine amounts for violations of this law. [3 O.C. 309.11-2(a)]. The Law
207 then goes on to provide details as to who fines should be paid to, and the deadline for paying a fine.
208 [3 O.C. 309.11-2(a)(1)-(2)]. If an individual does not pay his or her fine within the required
209 timeframe, the Trial Court may seek to collect the money owed through the Nation’s garnishment
210 and/or per capita attachment process or any other collection process available to the Trial Court. [3
211 O.C. 309.11-2(a)(3)].

- 212 ▪ *Community Service.* An individual may be ordered to perform community service, which can be
213 used in lieu of, or in addition to, a fine. [3 O.C. 309.11-2(b)]. The Law then goes on to provide

214 how community service assignments will be approved, what information the community service
215 order is required to contain, and how the community service assignment will be monitored. [3 O.C.
216 309.11-2(b)(1)-(3)].

217 ■ *Counseling and/or other programs.* An individual may be ordered to participate in counseling
218 and/or any other program relevant and available to the Nation. [3 O.C. 309.11-2(c)].

219 ■ *Restitution.* An individual may be ordered to pay restitution, which may include the repayment of
220 any improperly received benefit, or any other payment which is intended to make another whole
221 after suffering losses as a result of the actions of the individual. [3 O.C. 309.11-2(d)].

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

225 **E. *Interaction with the Comprehensive Housing Division.*** An Oneida Police Department officer is
226 required to provide notice of a citation to the Oneida Law Office attorney assigned to the
227 Comprehensive Housing Division if the citation was issued to an individual located at a property rented
228 or leased through the Comprehensive Housing Division. [3 O.C. 309.11-1(c)]. Any information or
229 reports shared by the Oneida Police Department officer with the Oneida Law Office attorney shall
230 remain confidential as agreed upon between the Oneida Law Office and the Oneida Police Department
231 Chief of Police. *Id.* Notwithstanding constraints imposed by any rules promulgated under any laws of
232 the Nation governing leases, eviction, and/or termination, the Oneida Law Office attorney is vested
233 with the discretion to resolve any housing related enforcement occurring in accordance with this law to
234 the mutual benefit of all involved parties. [3 O.C. 309.11-1(c)(1)]. The purpose of this provision is to
235 promote communication between the Oneida Police Department and the Comprehensive Housing
236 Division, and recognize that the Comprehensive Housing Division has its own enforcement
237 mechanisms, that although separate from the process and procedures contained in this Law, may be
238 triggered when an individual who they hold lease or rental agreement with violates this Law and
239 receives a citation. Discretion is given to the Comprehensive Housing Division’s attorney to resolve
240 housing related enforcement occurring in accordance with this Law despite the confines of any rules
241 promulgated under relevant housing related laws in an effort to provide more flexibility to the
242 Comprehensive Housing Division to resolve an issue to the mutual benefit of all parties involved.
243

244 **SECTION 6. EXISTING LEGISLATION**

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

246 ■ *Citations law.* The Citations law provides a consistent process for handling citations of the Nation
247 in order to ensure equal and fair treatment to all persons who come before the Judiciary to have
248 their citations resolved. [8 O.C. 807.1-2]. The Citations law provides how a citation action is started
249 – such as who has the authority to issue a citation, the requirements of the form of the citation, and
250 how a citation is served and filed; stipulations for the settlement of a citation; and the citation
251 hearing procedures. [8 O.C. 807].

252 ■ This Law provides that a citation for a violation of this Law shall be processed in
253 accordance with the procedure contained in the Nation’s laws and policies governing
254 citations. [3 O.C. 302.10-2]. The Citations law is the Nation’s law governing citations.

255 ■ Any citations issued by the Oneida Police Department for a violation of this Law must
256 comply with the requirements and procedures of the Citations law. [3 O.C. 309.11-
257 1(b)].

- 258 ▪ *Garnishment Law.* The Garnishment law allows the Nation to exercise its authority to provide an
259 effective mechanism for creditors to access an employee’s income for reduction of personal debt.
260 [2 O.C. 204.1-1]. Garnishment of an individual’s income to collect debt owed to an entity of the
261 Nation is allowed under the Garnishment law. [2 O.C. 204.6].
262 ▪ If an official is ordered to pay a fine in accordance with this Law and does not pay
263 according to the deadline, the Trial Court may seek to collect that fine through the
264 Nation’s garnishment process. [3 O.C. 309.11-2(a)(3)].
- 265 ▪ *Per Capita Law.* The Per Capita law specifies the procedure to be followed in the event that per
266 capita payments are distributed by the Nation and states the responsibilities of the various Oneida
267 entities in the distribution or maintenance of any such per capita payments. [1 O.C. 123.1-1]. The
268 Per Capita law allows per capita payments to be subject to attachment prior to distribution for debt
269 owed to an Oneida entity. [1 O.C. 123.4-9, 123.4-9(a)(2)].
270 ▪ If an official is ordered to pay a fine in accordance with this Law and does not pay
271 according to the deadline, the Trial Court may seek to collect that fine through the
272 Nation’s per capita attachment process. [3 O.C. 309.11-2(a)(3)].
- 273 ▪ *Leasing Law.* The Leasing law sets out the Nation’s authority to issue, review, approve and enforce
274 leases. [6 O.C. 602.1-1]. The Leasing law delegates all powers necessary and proper to the
275 Comprehensive Housing Division to enforce the lease terms, the Leasing law and any rules
276 developed pursuant to the Leasing law. [6 O.C. 602.11-1]. If a lessee or other party causes or
277 threatens to cause immediate and significant harm to the premises, or undertakes criminal activity
278 thereon, the Comprehensive Housing Division may take appropriate emergency action, which may
279 include cancelling the lease and/or securing judicial relief. [6 O.C. 602.11-2].
280 ▪ If a person commits a civil infraction under this Law, his or her violations of this Law
281 may be used as a basis of lease enforcement action by the Comprehensive Housing
282 Division.
- 283 ▪ *Eviction and Termination Law.* The Eviction and Termination law provides consistent procedures
284 relating to the Nation’s rental and leasing programs for terminating a contract and/or evicting an
285 occupant which affords the applicant due process and protects all parties involved. [6 O.C. 610.1-
286 1]. The Eviction and Termination law provides that an owner may terminate the contract prior to
287 the contract term and evict the occupant if the occupant is alleged to have violated any applicable
288 law or rule of the Nation, or is alleged to have committed one or more nuisance activities. [6 O.C.
289 610.5-1(b)-(c)].
290 ▪ If a person commits a civil infraction under this Law, his or her violations of this Law
291 may be used as a basis of eviction or termination of a contract action by the
292 Comprehensive Housing Division.

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

- 295 **A. *Effect on Existing Rights.*** An individual who is issued a citation for a violation of this law has due
296 process protections under the Citations law. The Citations law protects due process rights by:
297 ▪ Requiring that all citations be properly noticed and served on the defendant, including a notice of
298 the defendant’s rights and privileges, hearing dates and information [8 O.C. 807.4-3, 807.4-4];
299 ▪ Ensuring that defendants have the right to contest their citations in the Nation’s Judiciary [8 O.C.
300 807.6-1];

- 301 ▪ Establishing a formal process for stipulations that require defendants to acknowledge that they are
- 302 waiving their rights to contest the citation in court and sign a statement that they enter into the
- 303 agreement free of duress and coercion [8 O.C. 807.5]; and
- 304 ▪ Providing an opportunity for a defendant to appeal the Trial Court or Family Court’s decision to
- 305 the Nation’s Court of Appeals in accordance with the Rules of Appellate Procedure. [8 O.C. 807.6-
- 306 3].

307

308 **SECTION 8. ENFORCEMENT AND ACCOUNTABILITY**

- 309 **A. Enforcement.** The Oneida Police Department is delegated enforcement authority under this Law.
- 310 ▪ The Oneida Police Department has the authority to investigate complaints involving civil
- 311 infractions under this Law, and to issue citations for violations of this Law. [3 O.C. 309.4-3(a)-(b),
- 312 309.11-1].
- 313 **B. Citation Schedule Resolution.** The Oneida Business Committee is delegated the authority to adopt
- 314 through resolution a citation schedule which sets forth specific fine amounts for violations of this Law.
- 315 [3 O.C. 30309.11-2(a)].

316

317 **SECTION 9. OTHER CONSIDERATIONS**

- 318 **A. Public Peace Law Citation Schedule.** This Law provides that the Oneida Business Committee shall
- 319 hereby be delegated the authority to adopt through resolution a citation schedule which sets forth
- 320 specific fine amounts for violations of this Law. [3 O.C. 309.11-2(a)]. A citation schedule will need to
- 321 be developed and adopted.
- 322 ▪ *Conclusion.* The Legislative Operating Committee will need to work with the affected entities to
- 323 develop a citation schedule resolution that can be presented to the Oneida Business Committee for
- 324 consideration at the time the adoption of this Law is considered.
- 325 **B. Fiscal Impact.** Under the Legislative Procedures Act, a fiscal impact statement is required for all
- 326 legislation except emergency legislation [1 O.C. 109.6-1]. Oneida Business Committee resolution BC-
- 327 10-28-20-A titled, “*Further Interpretation of ‘Fiscal Impact Statement’ in the Legislative Procedures*
- 328 *Act,*” provides further clarification on who the Legislative Operating Committee may direct complete
- 329 a fiscal impact statement at various stages of the legislative process, as well as timeframes for
- 330 completing the fiscal impact statement.
- 331 ▪ *Conclusion.* The Legislative Operating Committee will need to direct that a fiscal impact statement
- 332 be completed for the proposed Law.

333

Title 3. Health & Public Safety - Chapter 309
PUBLIC PEACE

309.1. Purpose and Policy	309.7. Civil Infractions Against Government
309.2. Adoption, Amendment, Repeal	309.8. Civil Infractions Against the Person
309.3. Definitions	309.9. Civil Infractions Involving Alcohol, Tobacco, and Drugs
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309.5. Civil Infractions Against Property	309.11. Enforcement and Penalties
309.6. Civil Infractions Against the Peace	

1
2 **309.1. Purpose and Policy**
3 309.1-1. *Purpose.* The purpose of this law is to set forth community standards and expectations
4 which preserve the peace, harmony, safety, health, and general welfare of individuals who live
5 within the boundaries of the Reservation.
6 309.1-2. *Policy.* It is the policy of the Nation to promote peace and order within the boundaries of
7 the Reservation while also providing an orderly process for addressing civil infractions that occur.
8
9 **309.2. Adoption, Amendment, Repeal**
10 309.2-1. This law was adopted by the Oneida Business Committee by resolution BC-__-__-__-__.
11 309.2-2. This law may be amended or repealed by the Oneida Business Committee and/or General
12 Tribal Council pursuant to the procedures set out in the Legislative Procedures Act.
13 309.2-3. Should a provision of this law or the application thereof to any person or circumstances
14 be held as invalid, such invalidity shall not affect other provisions of this law which are considered
15 to have legal force without the invalid portions.
16 309.2-4. In the event of a conflict between a provision of this law and a provision of another law,
17 the provisions of this law shall control.
18 309.2-5. This law is adopted under authority of the Constitution of the Oneida Nation.
19
20 **309.3. Definitions**
21 309.3-1. This section shall govern the definitions of words and phrases used within this law. All
22 words not defined herein shall be used in their ordinary and everyday sense.
23 (a) “Adult at risk” means any adult who has a physical or mental condition that
24 substantially impairs his or her ability to care for his or her needs and who has experienced,
25 is currently experiencing, or is at risk of experiencing abuse, neglect, self-neglect, or
26 financial exploitation.
27 (b) “Alcohol beverage” means a fermented malt beverage and any intoxicating liquor.
28 (c) “Bodily harm” means physical pain or injury, illness, or any impairment of physical
29 condition.
30 (d) “Child” means a person who has not attained the age of eighteen (18) years.
31 (e) “Cigarette” means any roll for smoking made wholly or in part of tobacco, irrespective
32 of size, shape and irrespective of the tobacco being flavored, adulterated, or mixed with
33 any other ingredient, where such roll has a wrapper or cover made of paper or any material,
34 except where such wrapper is wholly or in the greater part made of natural leaf tobacco in
35 its natural state.
36 (f) “Drug paraphernalia” means any equipment, product, object or container used or
37 intended for use to cultivate, plant, maintain, manufacture, package or store a prohibited

- 38 drug or inject, ingest, inhale or otherwise introduce an prohibited drug into the human body,
39 regardless of the material composition of the instrument used for such purposes.
- 40 (g) “Elder at risk” means any person age fifty-five (55) or older who has experienced, is
41 currently experiencing, or is at risk of experiencing abuse, neglect, self-neglect, or financial
42 exploitation.
- 43 (h) “Electronic cigarette” means device that enables a person to ingest nicotine, or other
44 chemicals or substances, by inhaling a vaporized liquid and shall include the cartridges and
45 other products used to refill the device. “Electronic cigarette” shall not include any device
46 that is prescribed by a healthcare professional.
- 47 (i) “Fleet vehicle” means a vehicle owned or leased by the Nation.
- 48 (j) “Gang” means an association of three (3) or more individuals whose members
49 collectively identify themselves by adopting a group identity which they use to create an
50 atmosphere of fear or intimidation frequently by employing one (1) or more of the
51 following: a common name, slogan, identifying sign, symbol, tattoo, or other physical
52 marking, style or color of clothing, hairstyle, hand sign or graffiti.
- 53 (k) “Intoxication” means not having the normal use of mental or physical faculties by
54 reason of the introduction of an alcohol beverage or a prohibited drug, or any other
55 substance into the body.
- 56 (l) “Judiciary” means the Oneida Nation Judiciary, which is the judicial system that was
57 established by Oneida General Tribal Council resolution GTC-01-07-13-B, and then later
58 authorized to administer the judicial authorities and responsibilities of the Nation by
59 Oneida General Tribal Council resolution GTC-03-19-17-A.
- 60 (m) “Liter” means all rubbish, waste materials refuse, garbage, trash debris, or other
61 foreign substances, solid, liquid, or every form, size, and kind.
- 62 (n) “Merchant” means a person who deals in goods of the kind or otherwise by his or her
63 occupation holds himself or herself out as having knowledge or skill peculiar to the
64 practices or goods involved in the transaction or to whom such knowledge or skill may be
65 attributed by his or her employment of an agent or broker or other intermediary who by his
66 or her occupation holds himself or herself out as having such knowledge or skill.
- 67 (o) “Nation” means the Oneida Nation.
- 68 (p) “Official” means any person who is elected or appointed to serve a position for the
69 Nation, including, but not limited to, a position on a board, committee, commission, or
70 office of the Nation, including the Oneida Business Committee and Judiciary.
- 71 (q) “Pecuniary loss” means a loss of money, or of something by which money or of value
72 may be acquired.
- 73 (r) “Prohibited drug” means marijuana, cocaine, opiates, amphetamines, phencyclidine
74 (PCP), hallucinogens, methaqualone, barbiturates, narcotics, and any other substance
75 included in Schedules I through V, as defined by Section 812 of Title 21 of the United
76 States Code. Prohibited drugs also includes prescription medication or over-the-counter
77 medicine used in an unauthorized or unlawful manner.
- 78 (s) “Recklessly” mean a person acts recklessly, or is reckless, with respect to circumstance
79 surrounding his or her conduct, or the result of his or her conduct when he or she is aware
80 of, but consciously disregards a substantial and unjustifiable risk that the circumstances
81 exist or the result will occur. The risk must be of such a nature and degree that its disregard
82 constitutes a gross deviation from the standard of care that an ordinary person would
83 exercise under all the circumstances as viewed from the person’s standpoint.

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

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

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

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

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

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

106 (z) “Trial Court” means the Trial Court of the Oneida Nation Judiciary.

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

111 **309.4. Jurisdiction and Authority**

112 309.4-1. *Jurisdiction of the Court.* The Trial Court shall have jurisdiction over any action brought
113 under this law.

114 309.4-2. *Standard of Proof.* All matters to be decided by the Trial Court shall be proven by clear
115 and convincing evidence.

116 309.4-3. *Authority of the Oneida Police Department.* The Oneida Police Department shall have
117 the authority to:

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

119 (b) issue citations for violations of this law.

120 309.4-4. *General Prohibition of Civil Infractions.* No person shall commit a civil infraction under
121 this law.

123 **309.5. Civil Infractions Against Property**

124 309.5-1. *Damage to Property.* A person commits the civil infraction of damage to property if he
125 or she, without the consent of the owner:

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

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

129 (c) makes markings, including inscriptions, slogans, drawings, or paintings on the property
130 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.

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

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

185 309.5-7. *Fraud*. A person commits the civil infraction of fraud if, to obtain property, money, gain,
186 advantage, interest, asset, or services for himself or herself or another he or she:

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

192 309.5-8. *Negligent Handling of Burning Material*. A person commits the civil infraction of
193 negligent handling of burning material if he or she handles burning material in a highly negligent
194 manner in which the person should realize that a substantial and unreasonable risk of serious
195 damage to another person or another's property is created.

197 **309.6. Civil Infractions Against the Peace**

198 309.6-1. *Disorderly Conduct*. A person commits the civil infraction of disorderly conduct if he
199 or she engages in violent, abusive, indecent, profane, boisterous, unreasonably loud, or otherwise
200 disorderly conduct under circumstances in which the conduct tends to cause or provoke a
201 disturbance. A civil infraction of disorderly conduct may include, but is not limited to, the
202 following behaviors:

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

213 309.6-2. *Carrying a Prohibited Weapon*. A person commits the civil infraction of carrying a
214 prohibited weapon if he or she bears or carries on or about his or her person, whether in the open
215 or concealed, a weapon on any public property of the Nation, including any buildings, gaming or
216 retail business, facility, construction site, fleet vehicle, or at any event sponsored by the Nation.

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

225 309.6-3. *Gang Related Activity*. A person commits the civil infraction of gang activity if he or
226 she participates in any activity with a gang which:

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

230 309.6-4. *Throwing or Shooting Projectiles*. A person commits the civil infraction of throwing or
231 shooting projectiles if he or she throws or shoots any object, stone, snowball, or other projectile
232 by hand or by any other means, at any person, or at or into any building, street, sidewalk, alley,
233 highway, park, playground or other public place.

234 309.6-5. *Obstructing Streets and Sidewalks*. A person commits the civil infraction of obstructing
235 streets and sidewalks if he or she stands, sits, loafs, loiters, engages in any sport of exercise, or
236 uses or maintains a motor vehicle on any public street, sidewalk, bridge, or public ground within
237 the Reservation in such manner as to:

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

243 309.6-6. *Nuisance*. A person commits the civil infraction of nuisance whenever he or she engages
244 in a thing, act, occupation, condition or use of property which shall continue for such length of
245 time as to:

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

250 309.6-7. *Maintaining a Chronic Nuisance House*. A person commits the civil infraction of
251 maintaining a chronic nuisance house if he or she has three (3) or more police contacts occurring
252 during a twelve (12) month period at the premises that he or she owns or occupies through a lease
253 or rental agreement.

254 309.6-8. *Interfering with Lawful Arrest or Resisting Arrest*. A person commits the civil infraction
255 of interfering with lawful arrest or resisting arrest if by force, violence or other means, he or she:

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

261 262 **309.7. Civil Infractions Against Government**

263 309.7-1. *Disrupting a Meeting or Government Function*. A person commits the civil infraction
264 of disrupting a meeting or government function if he or she:

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

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

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

279 309.7-2. *Breach of Confidentiality.* A person commits the civil infraction of breach of
280 confidentiality if he or she;

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

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

289 309.7-3. *Threatening an Official.* A person commits the civil infraction of threatening an official
290 if he or she threatens to inflict serious injury against an official, a member of the official's family,
291 or the official's property as a result of any action taken by the official in the course of his or her
292 duties.

293

294 **309.8. Civil Infractions Against the Person**

295 309.8-1. *Assault.* A person commits the civil infraction of assault if he or she:

296 (a) causes bodily harm to another;

297 (b) threatens another with imminent bodily harm;

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

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

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

303 309.8-2. *Harassment.* A person commits the civil infraction of harassment if, with intent to harass,
304 alarm, abuse, or torment another he or she:

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

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

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

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

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

321 309.8-3. *Abuse of Individuals at Risk.* A person commits the civil infraction of abuse of
322 individuals at risk if he or she subjects an adult at risk or elder at risk to any of the following:

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

332 309.8-4. *Truancy.* A person commits the civil infraction of truancy if he or she fails without good
333 cause to ensure that a child he or she is responsible for the care of attends school in accordance
334 with the rules of the school district in which the child is enrolled.

335

336 **309.9. Civil Infractions Involving Alcohol, Tobacco, and Drugs**

337 309.9-1. *Public Intoxication.* A person commits the civil infraction of public intoxication if he or
338 she appears intoxicated by alcohol beverages and/or prohibited drugs on public property of the
339 Nation to the degree that the person may endanger himself or herself, or another person.

340 309.9-2. *Unauthorized Alcohol Beverage.* A person commits the civil infraction of unauthorized
341 alcohol beverage if he or she consumes or possesses any open or unsealed container containing an
342 alcohol beverage on any public way, in any parking lot held for public use, or on or within the
343 premises of a public place or on or in any motor vehicle on a public way or in parking lot held out
344 for public use, unless such person is on the premises of an establishment holding a valid license
345 for the on premises consumption of alcoholic beverages. No person may possess or consume an
346 alcohol beverage on school premises or while participating in a school-sponsored activity.

347 309.9-3. *Underage Possession of Alcohol.* A person commits the civil infraction of underage
348 possession of alcohol if he or she purchases, attempts to purchase, possesses, or consumes an
349 alcohol beverage prior to reaching the age of twenty-one (21) years unless accompanied by his or
350 her parent, guardian, or spouse who has attained the legal drinking age.

351 309.9-4. *Furnishing Alcohol Beverages to Minors.* A person commits the civil infraction of
352 furnishing alcohol beverages to minors if he or she procures for, sells, dispenses or gives away any
353 alcohol beverages to any person under the age of twenty-one (21) years who is not accompanied
354 by his or her parent, guardian, or spouse who has attained the legal drinking age.

355 309.9-5. *Underage Possession of Tobacco.* A person commits the civil infraction of underage
356 possession of tobacco if he or she purchases, attempts to purchase, possesses, or consumes a
357 cigarette, electronic cigarette, or other tobacco product prior to reaching the age of twenty-one (21)
358 years.

359 309.9-6. *Furnishing Tobacco to Minors.* A person commits the civil infraction of furnishing
360 tobacco to minors if he or she procures for, sells, dispenses or gives away a cigarette, electronic
361 cigarette, or other tobacco product to any person under the age of twenty-one (21) years.

362 309.9-7. *Misrepresentation of Identification Card.* A person commits the civil infraction of
363 misrepresentation of identification card if he or she:

- 364 (a) intentionally carries an official identification card not legally issued to him or her, an
365 official identification card obtained under false pretenses or an official identification card
366 which has been altered or duplicated to convey false information;
367 (b) makes, alters or duplicates an official identification card purporting to show that he or
368 she has attained the legal age to purchase and consume alcohol beverages or cigarettes,
369 electronic cigarettes, or other tobacco products;
370 (c) presents false information to an issuing officer in applying for an official identification
371 card; and/or
372 (d) intentionally carries an official identification card or other documentation showing that
373 the person has attained the legal age to purchase and consume alcohol beverages or
374 cigarettes, electronic cigarettes, or other tobacco products, with knowledge that the official
375 identification card or documentation is false.

376 309.9-8. *Possession of Prohibited Drugs.* A person commits the civil infraction of possession of
377 prohibited drugs if he or she possesses or consumes a prohibited drug or is in possession of any
378 drug paraphernalia.

379 309.9-9. *Manufacturing Prohibited Drugs.* A person commits the civil infraction of
380 manufacturing prohibited drugs if he or she manufactures, sells, or distributes any prohibited drug
381 or drug paraphernalia.

382 309.9-10. *Maintaining a Drug House.* A person commits the civil infraction of maintaining a
383 drug house if he or she owns or occupies any premise that is used to facilitate the use, delivery,
384 distribution or manufacture of a prohibited drug.

385 309.9-11. *Determination of Prohibited Drugs.* An Oneida Police Department officer shall make
386 the determination as to whether a substance is a prohibited drug using standard law enforcement
387 field testing practices.

388

389 **309.10. Civil Infractions Affecting Health and Safety**

390 309.10-1. *Littering.* A person commits the civil infraction of littering if he or she deposits, throws,
391 dumps, discards, abandons, leaves any litter on any private property or property of the Nation.

392 309.10-2. *Unsightly Areas.* A person commits the civil infraction of unsightly areas if he or she
393 allows any scrap, refuse, junk, salvage, rubbish or property within the exterior boundaries of the
394 Reservation that creates unsightly areas and/or contributes to health and safety hazards.

395 309.10-3. *Depositing Human Waste.* A person commits the civil infraction of depositing human
396 waste if he or she urinates or defecates upon any public or private property other than into a toilet
397 or other device designed and intended to be used to ultimately deposit such human waste products
398 into a septic or sanitary sewer system.

399 309.10-4. *Exposure of a Communicable or Infectious Disease.* A person commits the civil
400 infraction of exposure of a communicable or infectious disease if he or she is knowingly infected
401 with a communicable or infectious disease and willfully exposes himself or herself to another
402 person, which puts that person in danger of contracting the communicable or infectious disease.

403

404 **309.11. Enforcement and Penalties**

405 309.11-1. *Issuance of a Citation.* An individual who violates a provision of this law may be
406 subject to the issuance of a citation by an Oneida Police Department officer.

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

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

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

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

422 309.11-2. *Penalties.* Upon a finding by the Trial Court that a violation of this law has occurred,
423 the individual may be subject to the following penalties:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

461
462 *End.*

463
464

Adopted – BC-__-__-__-__



Legislative Operating Committee
May 5, 2021

Oneida General Welfare Law Amendments

Submission Date: 12/18/18	Public Meeting: N/A
LOC Sponsor: Jennifer Webster	Emergency Enacted: 8/12/20

Summary: *This item was carried over from last term. The Oneida Business Committee directed IGAC, Self-Governance and the Law Office to develop a plan of action to create rules for exempting income per the Tribal General Welfare Exclusion Act. At the December 18, 2018 Business Committee Work Meeting, the Oneida Business Committee requested that the General Welfare Exclusions Act – Income Exemptions item be sent over to the LOC for consideration to develop a law/code/ordinance that would define the income exemptions under the General Welfare Exclusion Act. As a result of the COVID-19 pandemic, emergency adoption of an Oneida General Welfare law was sought to create a law that provides a mechanism to address the economic needs of members of the Nation during the COVID-19 pandemic. The purpose of this Law is to provide assistance, on a non-taxable basis, to eligible Tribal members through approved programs that promote the general welfare of the Nation. The Law sets a framework and provides guidelines for the Nation to establish and operate approved programs which provide assistance to eligible Tribal members to promote the general welfare of the Nation, including programs designed to enhance the promotion of health, education, self-sufficiency, self-determination, and the maintenance of culture and tradition, entrepreneurship, and employment. The Oneida Business Committee adopted the Oneida General Welfare law on an emergency basis through the adoption of resolution BC-08-12-20-D. The emergency adoption of the Law will expire on February 12, 2021. The Oneida Business Committee then adopted emergency amendments to the Oneida General Welfare law on February 10, 2021, through resolution BC-02-10-21-B for the purpose of addressing the means in which the Oneida Business Committee may adopt an approved program – the emergency amendment would allow the Oneida Business Committee to adopt an approved program through resolution in addition to through the adoption of a law. The emergency adoption of the Law will expire on August 10, 2021.*

10/7/20 LOC: Motion by Kirby Metoxen to add the Oneida General Welfare Law to the Active Files List with Jennifer Webster as the sponsor; seconded by Marie Summers. Motion carried unanimously.

1/14/21: *Work Meeting.* Present: David P. Jordan, Kirby Metoxen, Jennifer Webster, Marie Summers, Daniel Guzman King, Clorissa N. Santiago, Lawrence Barton, Rae Skenandore, Carl Artman, Susan House, Kristal Hill, James Petitjean. This was a work meeting held through Microsoft Teams. The purpose of this work meeting was to discuss the Oneida General Welfare law, the Oneida Higher Education Pandemic Relief Fund law, the Pandemic Relief Assistance law, and the FY21 Budget Directive found in resolution BC-11-24-20-F and determine a plan for meeting these directives and addressing these items on a permanent basis.

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 review the proposed emergency amendments to the Law and emergency adoption packet materials.

2/3/21 LOC: Motion by Jennifer Webster to approve the Oneida General Welfare law emergency adoption packet and forward to the Oneida Business Committee for consideration; seconded by Marie Summers. Motion carried unanimously.

2/9/21: *Work Meeting.* Present: David P. Jordan, Kirby Metoxen, Jennifer Webster, Marie Summers, Daniel Guzman King, Clorissa N. Santiago, Carl Artman, JoAnne House, Lawrence Barton, Ralinda Ninham-Lamberies, Rae Skenandore, Keith Doxtator, Susan House, Kristal Hill, Rhiannon Metoxen. This was a work meeting held through Microsoft Teams. The purpose of this work meeting was to touch base and discuss the progress that was being made in bringing forward emergency amendments to the Oneida General Welfare law and developing the approved programs – through adoption of a resolution – to meet the FY21 budget directive in resolution BC-11-24-20-F.

2/10/21 OBC: Motion by Lisa Liggins to adopt resolution 02-10-21-B Emergency Amendments to the Oneida General Welfare Law with two (2) changes [1) in line 16, correct date to March 13, 2021; and 2) in line 18, insert the appropriate resolution number], seconded by Jennifer Webster. Motion carried.

Motion by Lisa Liggins to request the Legislative Operating Committee and Legislative Reference Office to bring forward a BC SOP to an upcoming BC Work Session regarding how laws and resolutions are submitted to the Business Committee in accordance with this resolution, seconded by Jennifer Webster. Motion carried.

4/14/21 OBC: Motion by Lisa Liggins to defer this item [*Oneida Nation Assistance Fund Resolution*] until after executive session noting the resolution will be brought back with three (3) additional considerations, [1) the correction to line 45 [change from, "...between 18 to 61 years of...", change to, "...age 18 or older..."]; 2) noting the LOCs considerations for possible garnishments moving forward; 3) CFO's comments regarding Treasury guidance for the 65 and over payment.], seconded by Marie Summers. Motion carried.

Motion by Lisa Liggins to adopt the Oneida Business Committee standard operating procedure entitled Oneida General Welfare Law - Adoption of an Approved Program and direct the Secretary to finalize the SOP and publish, seconded by David P. Jordan. Motion carried.

4/21/21: *Work Meeting.* Present: David P. Jordan, Kirby Metoxen, Jennifer Webster, Marie Summers, Daniel Guzman King, Clorissa N. Santiago, Kristen Hooker, Kristal Hill, Rhiannon Metoxen. The purpose of this work meeting was to discuss a plan for how to address the Oneida Business Committee directive contained in resolution BC-04-14-21-D that the LOC consider how garnishments will be handled for general welfare exclusion payments moving forward.

4/29/21: *Work Meeting.* Present: David P. Jordan, Kirby Metoxen, Jennifer Webster, Marie Summers, Daniel Guzman King, Clorissa N. Santiago, Kristal Hill, Rhiannon Metoxen. The purpose of this work meeting was to review and discuss the public comment period notice for the question of "Should assistance provided by an approved program under the Oneida General Welfare law be subject to attachment or garnishment?"

Next Steps:

- Approve the Oneida General Welfare law amendments public comment period notice for the question, "Should assistance provided by an approved program under the Oneida General Welfare law be subject to attachment or garnishment?"

Welfare law be subject to attachment or garnishment?" and forward this question to a public comment period to be held open until June 9, 2021.

ONEIDA NATION
PUBLIC COMMENT PERIOD NOTICE
Due to the COVID-19 Public Health Emergency
Only Written Comments Will Be Accepted Until:
WEDNESDAY, JUNE 9, 2021



Send Public Comments to

LOC@oneidanation.org

Ask Questions here

LOC@oneidanation.org

ONEIDA GENERAL WELFARE LAW

Garnishment or Attachment of General Welfare Assistance

The purpose of the Oneida General Welfare law is to set forth a framework and provide guidelines for the Nation to establish and operate approved programs to provide assistance on a non-taxable basis to eligible members of the Nation which promote the general welfare of the Nation, including programs designed to enhance the promotion of health, education, self-sufficiency, self-determination, and the maintenance of culture and tradition, entrepreneurship, and employment.

Approved programs must be adopted by the Oneida Business Committee through either law or resolution of the Nation, and provide the specific eligibility rules and limitations applied to that program. Examples of approved programs adopted by the Nation include the Pandemic Relief Assistance Program, Oneida Higher Education Pandemic Relief Fund, and the Oneida Nation Assistance Fund. Any assistance received from an approved program under the Oneida General Welfare law is required to be used only for the purpose stated in the approved program description. Currently, the Oneida General Welfare law provides that assistance received by a person from an approved program is not subject to attachment or garnishment by creditors. Assistance received by a person from an approved program is not a per capita payment or income. Assistance provided through approved programs is not attached or garnished for debt or child support owed due to the fact that any assistance provided through an approved program is provided on a needs based basis for the purpose of promoting the general welfare of the individual and the Nation.

The Legislative Operating Committee is looking for input from the community as to the following question:

Should assistance provided by an approved program under the Oneida General Welfare law be subject to attachment or garnishment?

OPPORTUNITY FOR COMMUNITY INPUT CLOSING WEDNESDAY, JUNE 9, 2021

The Legislative Operating Committee encourages individuals to participate in the legislative process by submitting written comments, questions, or other input via e-mail to LOC@oneidanation.org by the close of business on June 9, 2021. A copy of the Oneida General Welfare law can be found on the Oneida Code of Laws at <https://oneida-nsn.gov/government/register/laws/#TITLE-10-GENERAL-WELFARE-EXCLUSION>



Legislative Operating Committee
May 5, 2021

Budget Management and Control Law Emergency Amendments

Submission Date: 10/7/20	Public Meeting: n/a
LOC Sponsor: Jennifer Webster	Emergency Enacted: 11/24/20

Summary: *On August 12, 2020, during an executive session discussion on the supervision of the Chief Financial Officer, the Oneida Business Committee adopted a motion to send the entire subject of supervision of the Chief Financial Officer to the LOC for further analysis to create permanent amendments in the Budget Management and Control law for Tiers III, IV, and V for future events. The Legislative Operating Committee added the Budget Management and Control law amendments to its Active Files List on October 7, 2020. On November 24, 2020, the Oneida Business Committee adopted emergency amendments to the Budget Management and Control law through resolution BC-11-24-20-E to address how the Nation would adopt the budget during the COVID-19 pandemic. The emergency amendments to the Law are set to expire on May 24, 2021.*

10/7/20 LOC: Motion by Jennifer Webster to add the Budget Management and Control Law Amendments to the Active Files List with Jennifer Webster as the sponsor; seconded by Daniel Guzman King. Motion carried unanimously.

10/21/20: *Work Meeting.* Present: David P. Jordan, Kirby Metoxen, Jennifer Webster, Daniel Guzman King, Marie Summers, Cristina Danforth, Lawrence Barton, Ralinda Ninham-Lamberies, Clorissa N. Santiago, Kristen Hooker, Rae Skenandore, James Petitjean, Rhiannon Metoxen, Kristal Hill. This was a work meeting held through Microsoft Teams. The purpose of this work session was to review the Budget Management and Control law line by line and begin discussing potential amendments. Attorney will update the draft based on suggestions during this work meeting, and will note all parking lot issues, and will schedule another work meeting with this team.

11/24/20: *E-Poll Conducted.* This e-poll was titled, "Approval of the Budget Management and Control Law Emergency Amendments Adoption Packet." The requested action of this e-poll was to approve the Budget Management and Control law emergency amendments adoption packet and forward to the Oneida Business Committee. This e-poll was approved by Jennifer Webster, David P. Jordan, Marie Summers, and Kirby Metoxen. Daniel Guzman King did not provide a response during the e-poll time frame.

11/24/20 OBC: Motion by Lisa Liggins to amend the agenda to add two (2) items [1] item V.D. Adopt resolution entitled Emergency Amendments to the Budget Management and Control Law; and 2) item V.E. Adopt resolution entitled Approval of Final Draft Fiscal Year 2021 Budget and Budget Directives], seconded by Marie Summers. Motion carried.

Motion by Lisa Liggins to adopt resolution 11-24-20-E Emergency Amendments to the Budget Management and Control Law, seconded by David P. Jordan. Motion carried.

12/2/20 LOC: Motion by Kirby Metoxen to enter into the record the results of the November 24, 2020, e-poll titled, “Approval of the Budget Management and Control Law Emergency Amendments Adoption Packet”; seconded by Jennifer Webster. Motion carried unanimously.

12/2/20: *Work Meeting.* Present: David P. Jordan, Kirby Metoxen, Daniel Guzman King, Marie Summers, Clorissa N. Santiago, Kristen Hooker, Rhiannon Metoxen, Kristal Hill. This was a work meeting held through Microsoft Teams. The purpose of this work meeting was to provide a brief update to the LOC on the status of holding a work meeting with the Treasurer, Budget Analyst, and Strategic Planner to collect information on how to efficiently and effectively incorporate community input into the budget process.

1/22/21: *Work Meeting.* Present: Clorissa N. Santiago, Lawrence Barton, Ralinda Ninham-Lamberies, Rae Skenandore, James Petitjean. This was a work meeting held through Microsoft Teams. The purpose of this work meeting was to discuss with Finance potential issues that need to be addressed in the proposed amendments to this law.

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 provide the LOC an update on the January 22 work meeting with Finance, and discuss a plan for moving this item forward.

2/9/21: *Work Meeting.* Present: Clorissa N. Santiago, Cristina Danforth, Lawrence Barton, Ralinda Ninham-Lamberies, Rae Skenandore, James Petitjean. This was a work meeting held through Microsoft Teams. The purpose of this work meeting was to discuss potential amendments to the Budget Management and Control law and discuss a plan for moving this legislative item forward.


2/25/21: *Work Meeting.* Present: Clorissa N. Santiago, Cristina Danforth, Lawrence Barton, Ralinda Ninham-Lamberies, Rae Skenandore, James Petitjean. This was a work meeting held through Microsoft Teams. The purpose of this work meeting was to discuss a potential outline for a law that would include not only information on the budget, but broader financial policies of the Nation.

4/29/21: *Work Meeting.* Present: David P. Jordan, Kirby Metoxen, 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 how to address the 4/28 directive from the Oneida Business Committee to bring forward emergency amendments to the law.

Next Steps:

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



TO: Oneida Business Committee
FROM: David P. Jordan, LOC Chairperson 
DATE: May 12, 2021
RE: Budget Management and Control Law Emergency Amendments

Please find the following attached backup documentation for your consideration of the Budget Management and Control Law Emergency Amendments:

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

Overview

Emergency amendments to the Budget Management and Control law (the “Law”) are being sought to address the Nation’s non-compliance with the budget development process and deadlines contained in the Law. The emergency amendments to the Law will remove much of the details of the budget process, requirements, and deadlines from the Law, and instead provide that the Treasurer shall develop the necessary guidelines and procedures, including specific deadlines, for the Nation’s budget development process, to be reviewed and approved by the Oneida Business Committee. [1 O.C. 121.5-3(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 general welfare of the Reservation population. The COVID-19 pandemic interrupted many processes and

procedures of the Nation, including the development of the Nation's Fiscal Year 2021 and Fiscal Year 2022 budgets. The Law aims to provide a transparent process and requirements for the Oneida Business Committee and Oneida fund units when preparing the budget to be presented to the General Tribal Council for approval. The Nation is not currently in compliance with the various requirements and deadlines contained in the Law. The proposed emergency amendments to the Law will remove the details of the budget process from the Law and instead require that the Treasurer develop the necessary guidelines and procedures, including specific deadlines, for the Nation's budget development process, which will then ensure that enough flexibility is provided to allow the Nation to determine the most effective process for the adoption of the budget as we transition through the effects of the COVID-19 pandemic. Additionally, the proposed emergency amendments to the Law will ensure that a transparent budget process is available to the Oneida Business Committee and Oneida fund units as we move forward with the development and adoption of the Fiscal Year 2022 budget.

Additionally, observance of the requirements under the Legislative Procedures Act for the adoption of these amendments would be contrary to public interest. The Fiscal Year 2022 Budget is required to be adopted by September 30, 2021, and the process and requirements of the Legislative Procedures Act cannot be completed in time to ensure that a transparent budget process is made available to members of the Nation prior to the adoption of the Fiscal Year 2022 Budget.

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 Budget Management and Control Law

Oneida Nation

Post Office Box 365

Phone: (920)869-2214



Oneida, WI 54155

BC Resolution # Emergency Amendments to the Budget Management and Control 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 Budget Management and Control law (“the Law”) was adopted by the Oneida Business
10 Committee through resolution BC-02-08-17-C, and most recently amended on an
11 emergency basis through resolution BC-11-24-20-E; and
12
- 13 **WHEREAS,** the Law sets forth the requirements to be followed by the Oneida Business Committee and
14 Oneida fund units when preparing the budget to be presented to the General Tribal Council
15 for approval and to establish a triennial strategy planning process for the Nation’s budget;
16 and
17
- 18 **WHEREAS,** on March 12, 2020, Chairman Tehassi Hill signed a “*Declaration of Public Health State of*
19 *Emergency*” regarding COVID-19 which declared a Public Health State of Emergency for
20 the Nation until April 12, 2020, and set into place the necessary authority for action to be
21 taken and allows the Nation to seek reimbursement of emergency management actions
22 that may result in unexpected expenses; and
23
- 24 **WHEREAS,** the Nation’s Public Health State of Emergency has since been extended by the Oneida
25 Business Committee until May 12, 2021, through the adoption of the following resolutions:
26 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-
27 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-
28 A, and BC-03-10-21-D; and
29
- 30 **WHEREAS,** the COVID-19 pandemic interrupted many processes and procedures of the Nation,
31 including the development of the Nation’s Fiscal Year 2021 and Fiscal Year 2022 budgets;
32 and
33
- 34 **WHEREAS,** emergency amendments to the Law are being sought to address the Nation’s non-
35 compliance with the budget development process and deadlines contained in the Law; and
36
- 37 **WHEREAS,** the emergency amendments to the Law will remove the details of the budget process,
38 requirements, and deadlines from the Law, and instead provide that the Treasurer shall
39 develop the necessary guidelines and procedures, including specific deadlines, for the
40 Nation’s budget development process, to be reviewed and approved by the Oneida
41 Business Committee; and
42
- 43 **WHEREAS,** the Legislative Procedures Act authorizes the Oneida Business Committee to enact
44 legislation on an emergency basis when legislation is necessary for the immediate

45 preservation of the public health, safety, or general welfare of the Reservation population,
46 and the adoption of the legislation is required sooner than would be possible under the
47 Legislative Procedures Act; and
48

49 **WHEREAS,** the emergency adoption of amendments to this Law are necessary for the preservation of
50 the general welfare of the Reservation population in order to ensure that enough flexibility
51 is provided to allow the Nation to determine the most effective process for the adoption of
52 the budget as we transition through the effects of the COVID-19 pandemic, and to ensure
53 that a transparent budget process is available to the Oneida Business Committee and
54 Oneida fund units as we move forward with the development and adoption of the Fiscal
55 Year 2022 budget; and
56

57 **WHEREAS,** observance of the requirements under the Legislative Procedures Act for adoption of the
58 emergency amendments to this Law would be contrary to public interest since the Fiscal
59 Year 2022 Budget is required to be adopted by September 30, 2021, and the process and
60 requirements of the Legislative Procedures Act cannot be completed in time to ensure that
61 a transparent budget process is made available to members of the Nation prior to the
62 adoption of the Fiscal Year 2022 Budget; and
63

64 **WHEREAS,** adoption of emergency amendments to this Law would remain in effect for a period of six
65 (6) months, renewable by the Oneida Business Committee for an additional six (6) month
66 term; and
67

68 **WHEREAS,** the Legislative Procedures Act does not require a public meeting or fiscal impact statement
69 when considering emergency legislation; and
70

71 **NOW THEREFORE BE IT RESOLVED,** the Oneida Business Committee hereby adopts the emergency
72 amendments to the Budget Management and Control law effective immediately.



Statement of Effect

Emergency Amendments to the Budget Management and Control Law

Summary

This resolution adopts emergency amendments to the Budget Management and Control law which remove the details of the budget process, requirements, and deadlines from the Law, and instead provide that the Treasurer shall develop the necessary guidelines and procedures, including specific deadlines, for the Nation's budget development process, to be reviewed and approved by the Oneida Business Committee.

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

Date: April 30, 2021

Analysis by the Legislative Reference Office

This resolution adopts emergency amendments to the Budget Management and Control law (“the Law”). The purpose of the Law is to set forth the requirements to be followed by the Oneida Business Committee and Oneida fund units when preparing the budget to be presented to the General Tribal Council for approval and to establish a triennial strategy planning process for the Nation's budget. [1 O.C. 121.1-1]. The emergency amendments to the Law remove the details of the budget process, requirements, and deadlines from the Law, and instead provide that the Treasurer shall develop the necessary guidelines and procedures, including specific deadlines, for the Nation's budget development process, to be reviewed and approved by the Oneida Business Committee. [1 O.C. 121.5-3(a)].

The Legislative Procedures Act (“the LPA”) was adopted by the General Tribal Council for the purpose of providing a process for the adoption or amendment of laws of the Nation. [1 O.C. 109.1-1]. The LPA 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]. A public meeting and fiscal impact statement are not required for emergency legislation. [1 O.C. 109.8-1(b) and 109.9-5(a)].

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]. The COVID-19 pandemic interrupted many processes and procedures of the Nation, including the development of the Nation's Fiscal Year 2021 and Fiscal Year 2022 budgets.

The resolution provides that the emergency amendments to this Law are necessary for the preservation of the general welfare of the Reservation population. in order to ensure that enough flexibility is provided to allow the Nation to determine the most effective process for the adoption of the budget as we transition through the effects of the COVID-19 pandemic, and to ensure that a transparent budget process is available to the Oneida Business Committee and Oneida fund units as we move forward with the development and adoption of the Fiscal Year 2022 budget.

Additionally, observance of the requirements under the Legislative Procedures Act for the adoption of this law would be contrary to public interest. The Fiscal Year 2022 Budget is required to be adopted by September 30, 2021, and the process and requirements of the Legislative Procedures Act cannot be completed in time to ensure that a transparent budget process is made available to members of the Nation prior to the adoption of the Fiscal Year 2022 Budget.

The adoption of emergency amendments to this Law will take effect immediately upon adoption by the Oneida Business Committee. The emergency amendments to the Law 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 THE BUDGET MANAGEMENT AND CONTROL LAW LEGISLATIVE ANALYSIS

SECTION 1. EXECUTIVE SUMMARY

<i>Analysis by the Legislative Reference Office</i>	
Intent of the Proposed Amendments	Remove details of the budget process from the law and instead direct that Treasurer shall develop the necessary guidelines and procedures, including specific deadlines, for the Nation’s budget development process. The Treasurer is then required to submit the guidelines for the development of the budget to the Oneida Business Committee for review and approval. [1 O.C. 121.5-3(a)].
Purpose	Set forth the requirements to be followed by the Oneida Business Committee and Oneida fund units when preparing the budget to be presented to the General Tribal Council for approval and to establish a triennial strategy planning process for the Nation’s budget. [1 O.C. 121.1-1].
Affected Entities	Oneida Business Committee, Oneida Fund Units, Chief Financial Officer
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 Legislation	Emergency legislation expires six (6) months after adoption and may be renewed for an additional six (6) month period.

SECTION 2. LEGISLATIVE DEVELOPMENT

- 1
- 2 **A. Background.** The Budget Management and Control law (“the Law”) was adopted by the Oneida
- 3 Business Committee through resolution BC-02-08-17-C and then most recently amended on an
- 4 emergency basis through resolution BC-11-24-20-E. The purpose of the Law is to set forth the
- 5 requirements to be followed by the Oneida Business Committee and Oneida fund units when preparing
- 6 the budget to be presented to the General Tribal Council for approval and to establish a triennial strategy
- 7 planning process for the Nation’s budget. [1 O.C. 121.1-1].
- 8 **B. Request for Emergency Amendments.** At the April 28, 2021, Oneida Business Committee meeting
- 9 the Nation’s Secretary provided a memorandum which expressed concerns regarding the Nation’s lack
- 10 of compliance with the Law and requested that the Oneida Business Committee make one of the
- 11 following considerations: an emergency repeal of the Law due to the fact that the processes and
- 12 procedures, specifically the deadlines for the various steps of the budget process contained in the law
- 13 are not currently being followed; or emergency amendments to the Law to remove much of the budget
- 14 process and/or deadlines and revise the Law so it simply states a budget should be adopted by
- 15 September 30th. The Oneida Business Committee then adopted a motion directing the Legislative
- 16 Operating Committee to develop emergency amendments to the Law to address this issue.
- 17 **C. COVID-19 Pandemic.** The world is currently facing a pandemic of COVID-19. The COVID-19
- 18 outbreak originated in Wuhan, China and has spread to many other countries throughout the world,
- 19 including the United States. The COVID-19 pandemic has resulted in high rates of infection and

20 mortality, as well as vast economic impacts including effects on the stock market and the closing of all
21 non-essential businesses.

22 ■ *Declaration of a Public Health State of Emergency.*

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

28 ■ The Public Health State of Emergency has since been extended until May 12, 2021, by the
29 Oneida Business Committee through the adoption of resolutions BC-03-28-20-A, BC-05-
30 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-
31 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-
32 21-D.

33 ■ *COVID-19 Core Decision Making Team.*

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

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

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

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

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

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

56 ■ On April 21, 2020, the COVID-19 Core Decision Making Team issued an “*Updated Safer*
57 *at Home*” declaration which allowed for gaming and golf operations to resume.

58 ■ On May 19, 2020, the COVID-19 Core Decision Making Team issued a “*Safer at Home*
59 *Declaration, Amendment, Open for Business*” which directs that individuals within the
60 Oneida Reservation should continue to stay at home, businesses can re-open under certain
61 safer business practices, and social distancing should be practiced by all persons.

62 ■ On June 10, 2020, the COVID-19 Core Decision Making Team issued a “*Stay Safer at*
63 *Home*” declaration which lessened the restrictions of the “*Safer at Home Declaration,*

64 *Amendment, Open for Business*” while still providing guidance and some restrictions. This
65 declaration prohibits all public and private gatherings of more than twenty (20) people that
66 are not part of a single household or living unit.

- 67 ▪ On July 17, 2020, the COVID-19 Team issued a “*Safe Re-Opening Governmental Offices*”
68 which sets minimum standards for the safe re-opening of a building or recall of employees
69 to work.

- 70 ▪ *COVID-19 Core Decision Making Team Declaration: Suspension of Public Meetings under the*
71 *Legislative Procedures Act.*

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

79 80 **SECTION 3. CONSULTATION AND OUTREACH**

81 A. Representatives from the following departments or entities participated in the development of this Law
82 and legislative analysis:

- 83 ▪ Oneida Business Committee.

84 B. The Legislative Operating Committee has held the following work meetings specific to the proposed
85 emergency amendments to this Law:

- 86 ▪ April 29, 2021: LOC work meeting.

87 88 **SECTION 4. PROCESS**

89 B. These amendments are being considered on an emergency basis. The Oneida Business Committee may
90 temporarily enact an emergency law where legislation is necessary for the immediate preservation of
91 public health, safety, or general welfare of the Reservation population and enactment or amendment of
92 legislation is required sooner than would be possible under this law. [1 O.C. 109.9-5].

- 93 ▪ Emergency amendments to this Law are being pursued for the preservation of the general welfare
94 of the Reservation population. The COVID-19 pandemic interrupted many processes and
95 procedures of the Nation, including the development of the Nation’s Fiscal Year 2021 and Fiscal
96 Year 2022 budgets. The Law aims to provide a transparent process and requirements for the Oneida
97 Business Committee and Oneida fund units when preparing the budget to be presented to the
98 General Tribal Council for approval. The Nation is not currently in compliance with the various
99 requirements and deadlines contained in the Law. The proposed emergency amendments to the
100 Law will remove the details of the budget process from the Law and instead require that the
101 Treasurer develop the necessary guidelines and procedures, including specific deadlines, for the
102 Nation’s budget development process, which will then ensure that enough flexibility is provided to
103 allow the Nation to determine the most effective process for the adoption of the budget as we
104 transition through the effects of the COVID-19 pandemic. Additionally, the proposed emergency
105 amendments to the Law will ensure that a transparent budget process is available to the Oneida

- 106 Business Committee and Oneida fund units as we move forward with the development and adoption
107 of the Fiscal Year 2022 budget.
- 108 ■ Observance of the requirements under the Legislative Procedures Act for the adoption of this Law
109 would be contrary to public interest. The Fiscal Year 2022 Budget is required to be adopted by
110 September 30 2021, and the process and requirements of the Legislative Procedures Act cannot be
111 completed in time to ensure that a transparent budget process is made available to members of the
112 Nation prior to the adoption of the Fiscal Year 2022 Budget.
- 113 C. Emergency legislation typically expires six (6) months after adoption, with one (1) opportunity for a
114 six (6) month extension of the emergency legislation. [1 O.C. 109.9-5(b)].
- 115 D. The Legislative Procedures Act does not require a public meeting or fiscal impact statement when
116 considering emergency legislation. [1 O.C. 109.9-5(a)]. However, a public meeting and fiscal impact
117 statement will eventually be required when considering permanent adoption of this Law.
118

119 SECTION 5. CONTENTS OF THE LEGISLATION

- 120 A. *Removal of the Budget Process.* The proposed emergency amendment to the Law remove much of the
121 details of the budget process, requirements, and deadlines from the Law, and instead provide that the
122 Treasurer shall develop the necessary guidelines and procedures, including specific deadlines, for the
123 Nation’s budget development process. [1 O.C. 121.5-3(a)]. The Law then requires that the Treasurer
124 submit the guidelines for the development of the budget to the Oneida Business Committee for review
125 and approval. [1 O.C. 121.5-3(a)]. Previously, the Law contained great detail as to the various steps
126 of the budget process and their deadlines, which included: community input budget meetings,
127 establishment of a priority list by the Oneida Business Committee, development of annual proposed
128 budgets, review of the draft budget, final draft budget, and community meetings. The Law still provides
129 that the final draft budget shall be approved by the Oneida Business Committee through resolution prior
130 to presentation to the General Tribal Council, which shall occur with a request for adoption by
131 resolution no later than September 30th of each year. [1 O.C. 121.5-3(b)]. The
132 Law also still provides that in the event that the General Tribal Council does not adopt a budget by
133 September 30th, the Oneida Business Committee may adopt a continuing budget resolution(s) until
134 such time as a budget is adopted. [1 O.C. 121.5-3(b)]. The emergency budget adoption provision
135 adopted by the Oneida Business Committee through resolution BC-11-24-20-E, which provides that in
136 the event that the Nation proclaims an emergency, in accordance with the Emergency Management
137 law, which prevents presentation and adoption of the budget by the General Tribal Council, the Oneida
138 Business Committee shall adopt the Nation’s budget, also still remains in the law. [1 O.C. 121.5-
139 3(b)(1)].
- 140 ■ *Effect.* The proposed emergency amendment to the Law address the Nation’s non-compliance with
141 the Law and provides flexibility to allow the Nation to determine the most effective process for the
142 adoption of the budget as we transition through the effects of the COVID-19 pandemic.
143 Additionally, the proposed emergency amendments to the Law ensure that a transparent budget
144 process is available to the Oneida Business Committee and Oneida fund units as we move forward
145 with the development and adoption of the Fiscal Year 2022 budget.

146 SECTION 6. EXISTING LEGISLATION

- 147 A. *Related Legislation.* The following laws of the Nation are related to this Law:
148

- 149 ▪ *Legislative Procedures Act.* The Legislative Procedures Act was adopted by the General Tribal
150 Council for the purpose of providing a standard process for the adoption of laws of the Nation
151 which includes taking into account comments from members of the Nation and input from agencies
152 of the Nation. [1 O.C. 109.1-1, 109.1-2].
- 153 ▪ The Legislative Procedures Act provides a process for the adoption of emergency legislation
154 when the legislation is necessary for the immediate preservation of the public health, safety,
155 or general welfare of the Reservation population and the enactment or amendment of
156 legislation is required sooner than would be possible under this law. [1 O.C. 109.9-5].
- 157 ▪ The Legislative Operating Committee is responsible for first reviewing the
158 emergency legislation and for forwarding the legislation to the Oneida
159 Business Committee for consideration. [1 O.C. 109.9-5(a)].
- 160 ▪ The proposed emergency legislation is required to have a legislative analysis
161 completed and attached prior to being sent to the Oneida Business Committee
162 for consideration. [1 O.C. 109.9-5(a)].
- 163 a. A legislative analysis is a plain language analysis describing the
164 important features of the legislation being considered and factual
165 information to enable the Legislative Operating Committee to make
166 informed decisions regarding legislation. A legislative analysis
167 includes a statement of the legislation’s terms and substance; intent of
168 the legislation; a description of the subject(s) involved, including any
169 conflicts with Oneida or other law, key issues, potential impacts of the
170 legislation and policy considerations. [1 O.C. 109.3-1(g)].
- 171 ▪ Emergency legislation does not require a fiscal impact statement to be
172 completed or a public comment period to be held. [1 O.C. 109.9-5(a)].
- 173 ▪ Upon the determination that an emergency exists the Oneida Business
174 Committee can adopt emergency legislation. The emergency legislation
175 becomes effective immediately upon its approval by the Oneida Business
176 Committee. [1 O.C. 109.9-5(b)].
- 177 ▪ Emergency legislation remains in effect for a period of up to six (6) months,
178 with an opportunity for a one-time emergency law extension of up to six (6)
179 months. [1 O.C. 109.9-5(b)].
- 180 ▪ Adoption of the emergency amendments to this Law would conform with the requirements
181 of the Legislative Procedures Act.
- 182

183 **SECTION 7. OTHER CONSIDERATIONS**

- 184 **A. *Deadline for Permanent Adoption of Legislation.*** The adoption of emergency amendments to this Law
185 will expire six (6) months after adoption. The emergency legislation may be renewed for an additional
186 six (6) month period.
- 187 ▪ *Conclusion:* The Legislative Operating Committee has already been working diligently with the
188 Nation’s Treasurer and Finance Administration on the development of comprehensive permanent
189 amendments to the Law. The Legislative Operating Committee will need to consider the adoption
190 of these permanent amendments to the Law within the next six (6) to twelve (12) months.
- 191 **B. *Fiscal Impact.*** A fiscal impact statement is not required for emergency legislation.
- 192 ▪ Under the Legislative Procedures Act, a fiscal impact statement is required for all legislation except

193 emergency legislation [*1 O.C. 109.6-1*].
194

Title 1. Government and Finances – Chapter 121
Twahwistatye?nítha?

We have a certain amount of money

BUDGET MANAGEMENT AND CONTROL

121.1.	Purpose and Policy	121.7.	Appropriation of the Nation’s Funds
121.2.	Adoption, Amendment, Repeal	121.8.	Budget Authority
121.3.	Definitions	121.9.	Budget Transfers; Amendments
121.4.	Strategic Planning	121.10.	Reporting
121.5.	Budget Process	121.11.	Authorizations and Signatures
121.6.	Capital Improvements	121.12.	Enforcement and Penalties

121.1. Purpose and Policy

121.1-1. *Purpose.* The purpose of this law is to set forth the requirements to be followed by the Oneida Business Committee and Oneida fund units when preparing the budget to be presented to the General Tribal Council for approval and to establish a triennial strategy planning process for the Nation’s budget.

121.1-2. *Policy.* It is the policy of the Nation to rely on value-based budgeting strategies, identifying proper authorities and ensuring compliance and enforcement.

121.2. Adoption, Amendment, Repeal

121.2-1. This law was adopted by the Oneida Business Committee by resolution BC-02-08-17-C, and emergency amended by ~~resolution~~ **resolutions** BC-11-24-20-E, and BC- - - - .

121.2-2. This law may be amended or repealed by the Oneida Business Committee and/or the General Tribal Council pursuant to the procedures set out in the Legislative Procedures Act.

121.2-3. 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.

121.2-4. In the event of a conflict between a provision of this law and a provision of another law, the provisions of this law shall control. Provided that, nothing in this law amends or repeals the requirements of resolution BC-10-08-08-A, *Adopting Expenditure Authorization and Reporting Requirements*.

121.2-5. This law is adopted under authority of the Constitution of the Oneida Nation.

121.3. Definitions

121.3-1. 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) “Appropriation” means the legislative act of designating funds for a specific purpose in accordance with the provisions contained in this law.

(b) “Capital expenditure” means any non-recurring and non-physical improvement as follows:

(1) Any item with a cost of five thousand dollars (\$5,000.00) or more and an estimated life of one (1) year or more; or

(2) Items purchased together where none of the items individually costs more than two thousand dollars (\$2,000.00), but the total purchase price for all of the items is ten thousand dollars (\$10,000.00) or more.

- 37 (c) “Capital improvement” means non-recurring expenditure for physical improvements,
38 including costs for: acquisition of existing buildings, land, or interests in land; construction
39 of new buildings or other structures, including additions and major alterations; acquisition
40 of fixed equipment; landscaping; physical infrastructure; and similar expenditures with a
41 cost of five thousand dollars (\$5,000.00) or more and an estimated life of one (1) year or
42 more.¹
- 43 (d) “CFO” means the Nation’s Chief Financial Officer.
- 44 (e) “Debt” means the secured or unsecured obligations owed by the Nation.
- 45 (f) “Economic life” means the length of time an asset is expected to be useful.
- 46 (g) “Executive manager” means any one of the following positions within the Nation:
47 Chief Executive Officer/General Manager, Gaming General Manager, Chief Legal
48 Counsel and/or Chief Financial Officer.
- 49 (h) “Expenditure report” means a financial report which includes, but is not limited to, a
50 statement of cash flows, revenues, costs and expenses, assets, liabilities and a statement of
51 financial position.
- 52 (i) “Fiscal year” means the one (1) year period each year from October 1st to September
53 30th.
- 54 (j) “Fund unit” means any board, committee, commission, service, program, enterprise,
55 department, office, or any other division or non-division of the Nation which receives an
56 appropriation approved by the Nation.
- 57 (k) “General reserve fund” means the Nation’s main operating fund which is used to
58 account for all financial resources not accounted for in other funds.
- 59 (l) “GTC allocations” means expenditures directed by the General Tribal Council as
60 required payments and/or benefits to the Nation’s membership and are supported by either
61 a General Tribal Council or Oneida Business Committee resolution.
- 62 (m) “Line item” means the specific account within a fund unit’s budget or category that
63 expenditures are charged to.
- 64 (n) “Manager” means the person in charge of directing, controlling and administering the
65 activities of a fund unit.
- 66 (o) “Nation” means the Oneida Nation.
- 67 (p) “Rule” means a set of requirements, including citation fees and penalty schedules,
68 enacted in accordance with the Administrative Rulemaking law based on authority
69 delegated in this law in order to implement, interpret and enforce this law.
- 70 (q) “Treasurer” means the elected Oneida Nation Treasurer or his or her designee.
71

¹ Acquisition of existing buildings and land completed by the Oneida Land Commission are not included in the definition of “Capital Improvement.”

72 **121.4. Strategic Planning**

73 121.4-1. *Triennial Strategic Plan.* Prior to December 1st of each year, the Oneida Business
74 Committee, in consultation with the Executive Managers, shall develop a triennial strategic plan
75 which includes, but is not limited to:

- 76 (a) Major policy and budgetary goals for the Nation, both long and short term;
- 77 (b) Specific strategies and planned actions for achieving each goal; and
- 78 (c) Performance targets and indicators to track progress which, to the extent available,
79 includes, but is not limited to:
 - 80 (1) Statistics and trending data for, at a minimum, the last three (3) complete fiscal
81 years; and
 - 82 (2) Performance targets for, at a minimum, the next three (3) complete fiscal years
83 moving forward.

84 121.4-2. *Fund Units' Contributions to the Triennial Strategic Plan.* Managers shall annually
85 develop, submit and maintain a triennial strategic plan for the fund unit's operations which aligns
86 with the triennial strategic plan established by the Oneida Business Committee pursuant to 121.4-
87 1. Managers shall submit the fund unit's triennial strategic plan to the CFO when the fund unit's
88 budget is due and, at a minimum, shall include the following in the plan:

- 89 (a) A statement of the fund unit's mission;
- 90 (b) Specific goals including a description of the fund unit's strategies as part of its service
91 group provided in 121.5-3(c) which aligns with the goals established in the Nation's
92 triennial strategic plan;
- 93 (c) Specific strategies for achieving each of the fund unit's goals; and
- 94 (d) Performance targets and indicators to track progress which, to the extent available,
95 includes, but is not limited to:
 - 96 (1) Statistics and trending data for, at a minimum, the last three (3) complete fiscal
97 years; and
 - 98 (2) Performance targets for, at a minimum, the next three (3) complete fiscal years
99 moving forward.

100 121.4-3. *Budget Contingency Plan.* The Oneida Business Committee shall work with the CFO,
101 executive managers and managers to create a budget contingency plan which provides a strategy
102 for the Nation to respond to extreme financial distress that could negatively impact the Nation.
103 The Oneida Business Committee shall approve, by resolution, the budget contingency plan and
104 any amendments thereto. The Oneida Business Committee is responsible for the implementation
105 of the budget contingency plan, provided that such implementation is predicated on the Oneida
106 Business Committee's determination that the Nation is under extreme financial distress. For the
107 purposes of this section, extreme financial distress includes, but is not limited to, natural or human-
108 made disasters, United States Government shutdown, Tribal shutdown (which occurs when the
109 General Tribal Council has not approved a budget for the Nation prior to the beginning of a new
110 fiscal year) and economic downturns.

- 111 (a) *Cost Savings Tools.* As part of the budget contingency plan, the Oneida Business
112 Committee may require stabilization funds, reductions of expenditures, furloughs and other
113 cost saving tools provided that such tools are in compliance with the Nation's laws,
114 specifically the Nation's employment laws, rules and policies.
- 115 (b) *Business Continuity Fund.* The Oneida Business Committee shall maintain a
116 Permanent Executive Contingency account within the ownership investment report to be
117 used to prevent default on debt and to sustain operations during times of extreme financial

118 distress. The Treasurer, in consultation with the CFO, shall establish, and the Oneida
 119 Business Committee shall approve, the level of business continuity funds required in the
 120 Permanent Executive Contingency account. The Treasurer shall set aside business
 121 continuity funds in the Permanent Executive Contingency account until the established
 122 level has been achieved. Funds in the Permanent Executive Contingency may only be used
 123 for the following purposes and only to the extent that alternative funding sources are
 124 unavailable:

- 125 (1) Payments to notes payable to debt service, both principal and interest, and
 126 applicable service fees;
- 127 (2) Employee payroll, including all applicable taxes;
- 128 (3) Payments to vendors for gaming and retail;
- 129 (4) Payments to vendors for governmental operations;
- 130 (5) Payments to any other debt; and
- 131 (6) To sustain any of the Nation's other operations during implementation of the
 132 budget contingency plan.

133 (c) *Grant Funds.* Grant funds are exempt from requirements of the budget contingency
 134 plan and any cost containment initiatives as such funding is not reliant on Tribal
 135 contributions. Grant funds shall be spent according to any non-negotiable grant
 136 requirements and guidelines of the granting agency to include purchases, travel, training,
 137 hiring grant required positions and any other requirements attached to the funds as a
 138 condition of the Nation's acceptance of the grant funds.

140 **121.5. Budget Process**

141 121.5-1. *General.* The Nation shall develop, adopt, and manage an annual budget. All revenues
 142 and expenditures of the Nation shall be in accordance with the annual budget adopted by the
 143 ~~General Tribal Council. In creating the budget to present to the General Tribal Council for~~
 144 ~~consideration, the Oneida Business Committee, executive managers and managers shall follow the~~
 145 ~~processes provided in this law. The Oneida Business Committee may alter the deadlines provided~~
 146 ~~in this law only upon a showing of good cause, provided that, the Oneida Business Committee~~
 147 ~~shall approve any such alterations by resolution~~Nation.

148 ~~121.5 2. Community Input Budget Meeting(s). The Treasurer's office shall schedule, at a~~
 149 ~~minimum, one (1) community input budget meeting(s) prior to December 1st of each year. At the~~
 150 ~~community input budget meeting(s), the Treasurer shall afford community members an~~
 151 ~~opportunity to provide input as to what should be included in the upcoming fiscal year budget.~~
 152 ~~Any fund units that plan to request forecast variations for the upcoming budget shall present the~~
 153 ~~need and anticipated dollar amount of the requested forecast variation. For the purposes of this~~
 154 ~~section, a forecast variation is a fund unit's requested deviation from the performance targets the~~
 155 ~~fund unit submitted pursuant to 121.4 2(d)(2).~~

156 ~~(a) The Treasurer shall ensure the community budget input meeting(s) are voice recorded~~
 157 ~~and transcribed.~~

158 ~~(b) The CFO shall provide recommendations as to any forecast variations requested by~~
 159 ~~fund units.~~

160 ~~(c) The CFO and any relevant managers shall provide responses and/or recommendations~~
 161 ~~to all comments and considerations presented by community members.~~

162 ~~(d) The Treasurer shall work with the CFO to place a community budget input meeting~~

163 ~~packet on the Oneida Business Committee agenda no later than the last Oneida Business~~
 164 ~~Committee Meeting in January. At a minimum, the packet is required to include:~~

- 165 ~~(1) The community input budget meeting(s) transcript(s);~~
- 166 ~~(2) Any applicable fund unit's requested forecast variations; and~~
- 167 ~~(3) Responses and/or recommendations by the CFO and any relevant managers~~
 168 ~~regarding requests for forecast variations and community members' comments and~~
 169 ~~considerations related to forecast variations.~~

170 ~~121.5 3. Priority List Established by the Oneida Business Committee. The Oneida Business~~
 171 ~~Committee shall review the community input budget meeting packet and shall hold work meetings~~
 172 ~~to create a priority list.~~

173 ~~(a) The Oneida Business Committee shall establish the priority list by placing the~~
 174 ~~following services provided by the Nation in chronological order with the lowest number~~
 175 ~~having the highest priority. The order of the following service groups provided below has~~
 176 ~~no relation to the service groups' anticipated and/or required placement within the Oneida~~
 177 ~~Business Committee's priority list; the Oneida Business Committee's priority list may vary~~
 178 ~~from year to year based on the needs of the Nation.~~

- 179 ~~(1) Protection and Preservation of Natural Resources~~
- 180 ~~(2) Protection and Preservation of Oneida Culture and Language~~
- 181 ~~(3) Education and Literacy~~
- 182 ~~(4) Health Care~~
- 183 ~~(5) Economic Enterprises~~
- 184 ~~(6) Building and Property Maintenance~~
- 185 ~~(7) Human Services~~
- 186 ~~(8) Public Safety~~
- 187 ~~(9) Housing~~
- 188 ~~(10) Utilities, Wells, Wastewater and Septic~~
- 189 ~~(11) Planning, Zoning and Development~~
- 190 ~~(12) Membership Administration~~
- 191 ~~(13) Government Administration~~

192 ~~(b) The Oneida Business Committee shall approve the priority list by resolution no later~~
 193 ~~than the last meeting in February.~~

194 ~~(c) The CFO shall maintain a list which places each fund unit into a corresponding service~~
 195 ~~group.~~

196 ~~121.5 4. Annual Proposed Budgets. The CFO shall develop the necessary guidelines, including~~
 197 ~~specific deadlines, to be followed by the managers that have budget responsibility in preparing and~~
 198 ~~submitting proposed budgets. Upon review of the Nation's economic state, the CFO shall include~~
 199 ~~in the guidelines the exact amount that each service group's cumulative budget is required to be~~
 200 ~~increased/decreased in accordance with its placement on the priority list. The CFO shall submit~~
 201 ~~the guidelines, as approved by the Treasurer, to the Oneida Business Committee for review in~~
 202 ~~accordance with the deadline as set by the Oneida Business Committee. The Oneida Business~~
 203 ~~Committee may revise the guidelines as it deems necessary and shall approve a set of budgetary~~
 204 ~~guidelines within thirty (30) calendar days of the date the budgetary guidelines proposed by the~~
 205 ~~CFO were received.~~

206 ~~(a) In accordance with the approved budgetary guidelines, fund units offering like services~~
 207 ~~shall meet together to review each fund unit's budget and discuss strategies for attaining~~
 208 ~~compliance with the approved budgetary guidelines. Each service group shall submit one~~

209 ~~(1) draft budget which contains each fund unit's individual proposed budget and~~
210 ~~demonstrates cumulative compliance with the approved budgetary guidelines.~~

211 ~~(b) The CFO shall receive, review and compile the proposed budgets into the Nation's draft~~
212 ~~budget which the CFO shall present to the Oneida Business Committee no later than the~~
213 ~~last Oneida Business Committee meeting in May. The CFO may not alter any proposed~~
214 ~~budgets until such budgets have been reviewed by the Oneida Business Committee.~~

215 ~~(1) The CFO shall return any service group's draft budget that is in non-compliance~~
216 ~~with the approved budgetary guidelines within ten (10) business days of the date~~
217 ~~the budget was submitted to the CFO.~~

218 ~~(2) Upon return, the CFO shall notice the service group of the amount of its non-~~
219 ~~compliance and provide the service group with a deadline for a compliant~~
220 ~~resubmission.~~

221 ~~(3) Any service group's budget that remains in non-compliance upon the expiration~~
222 ~~of the deadline provided by the CFO shall be included in the draft budget submitted~~
223 ~~to the Oneida Business Committee noting the dollar amount of the service group's~~
224 ~~non-compliance. A service group's continued non-compliance may result in~~
225 ~~employee discipline according to the Nation's laws, rules and policies governing~~
226 ~~employment.~~

227 ~~121.5-5. Content of Budget. The CFO shall present the Nation's draft budget to the Oneida~~
228 ~~Business Committee for review each year to ensure that it is consistent with the Nation's spending~~
229 ~~priorities and budget strategy. The Nation's draft budget shall include, but is not limited to:~~

230 ~~121.5-2. Content of Budget. The Nation's budget shall include, but is not limited to, the following~~
231 ~~information:~~

- 232 ~~(a) Estimated revenues to be received from all sources for the year which the budget covers;~~
- 233 ~~(b) The individual budgets of each fund unit;~~
- 234 ~~(c) A description of each line item within each fund unit's budget;~~
- 235 ~~(d) The estimated expenditures by each fund unit; and~~
- 236 ~~(e) Each fund unit's strategic plan showing alignment with the Nation's goals.~~

237 ~~121.5-6. Review of Draft Budget. In the month of May, the CFO shall meet with the Oneida~~
238 ~~Business Committee to review the draft budget and provide any recommendations for~~
239 ~~modifications.~~ ~~3. Budget Adoption Procedure. The Nation shall develop and adopt its budget~~
240 ~~according to the following procedures:~~

241 ~~(a) Following Budget Schedule and Guidelines. The Treasurer shall develop the Oneida~~
242 ~~Business Committee's review of the draft necessary guidelines and procedures, including~~
243 ~~specific deadlines, for the Nation's budget with the CFO, development process. The~~
244 ~~Treasurer shall submit the guidelines for the development of the budget to the Oneida~~
245 ~~Business Committee shall schedule meetings with managers of each fund unit for which~~
246 ~~the Oneida Business Committee is considering altering the fund unit's proposed budget for~~
247 ~~review and approval.~~

248 ~~(b) The Oneida Business Committee shall complete all meetings with fund unit managers~~
249 ~~required by this section by the end of June each year.~~

250 ~~121.5-7. Final Draft Budget. The Oneida Business Committee shall work with fund unit~~
251 ~~managers and the CFO to compile a Budget Adoption. The final draft budget shall be approved~~
252 ~~by the Oneida Business Committee through resolution prior to be presented presentation~~
253 ~~to the General Tribal Council. The Oneida Business Committee shall approve, by resolution, the final~~
254 ~~draft budget to be presented to the General Tribal Council by the end of July each year.~~

~~121.5-8. *Community Meetings.* Once the Oneida Business Committee has approved the final draft budget, the Treasurer shall hold, at a minimum, two (2) community informational meetings to present the contents of the final draft budget that will be presented to the General Tribal Council.~~

~~121.5-9. *Budget Adoption.*~~ The Oneida Business Committee shall present the budget to the General Tribal Council with a request for adoption by resolution no later than September 30th of each year. ~~In the event that the General Tribal Council does not adopt a budget by September 30th, the Oneida Business Committee may adopt a continuing budget resolution(s) until such time as a budget is adopted.~~

(a1) *Emergency Budget Adoption.* In the event that the Nation proclaims an emergency, in accordance with the Emergency Management and Homeland Security law, which prevents presentation and adoption of the budget by the General Tribal Council, the Oneida Business Committee shall adopt the Nation's budget.

121.6. Capital Improvements

121.6-1. *Capital Improvement Plan for Government Services.* The Oneida Business Committee shall develop and the General Tribal Council shall approve a capital improvement plan for government services and shall reassess the plan once every five (5) years. The capital improvement plan for government services shall cover a period of five (5) to ten (10) years and shall include any risks and liabilities. The Oneida Business Committee shall provide a status report and recommendation for any improvements that have not been completed or that have been modified at the time of the reassessment.

121.6-2. *Capital Improvement Plan for Enterprises.* Capital improvement plans for enterprises may be brought forward as needed in accordance with the capital improvement rules which the Community Development Planning Committee and the Development Division shall jointly create, provided that the rules shall include a provision that the Oneida Business Committee shall approve all capital improvement plans.

121.6-3. *Capital Improvement Plan Implementation.* Capital Improvement plans shall be implemented, contingent on available funding capacity, using the capital improvement rules.

121.7. Appropriation of the Nation's Funds

121.7-1. *Unexpended Capital Improvement Funds.* Unless the fund unit qualifies for an exception as provided in the capital improvement rules, unexpended capital improvement funds carry over to the next fiscal year's budget, provided that such funds are required to remain appropriated for the same purpose as originally budgeted until the project is complete. Once a capital improvement project is complete, any remaining unexpended funds shall be returned to the general fund to be re-allocated in accordance with the Oneida Business Committee's priority list under 121.5-3 using the regular budget process under 121.5.

121.7-2. *Unexpended Capital Expenditure Funds.* The CFO shall ensure that all unexpended capital expenditure funds are reallocated to the fiscal year budget two (2) years out from the fiscal year in which the funds were unexpended. Such unexpended funds shall be re-allocated in accordance with the Oneida Business Committee's priority list under 121.5-3 using the regular budget process under 121.5.

299 **121.8. Budget Authority**

300 121.8-1. *Authority to Expend Funds.* The Treasurer's authority to expend appropriated funds is
301 delegated to the CFO, who shall make such expenditures in accordance with the adopted budget.
302 This authority is necessarily delegated to other managers, including executive managers, of the
303 Nation who manage the budgets, pursuant to their job descriptions based on the procurement
304 manual rules developed by the Purchasing Department.

305 121.8-2. *Exhaustion of Non-Tribal Funds.* When grant funds provide for forward funding as
306 applicable to a function for which the Nation's funds have also been appropriated, those grant
307 funds shall be used before appropriating the Nation's funds unless the Nation's funds are needed
308 to make up an otherwise shortfall in the overall fund unit budget or there is a restriction on the
309 grant funds that provide otherwise.

310 121.8-3. In addition to the authority and responsibilities provided elsewhere in this law, the
311 following positions and fund units shall have the authority and responsibilities as outlined below:

312 (a) *Oneida Business Committee.* Once the Nation's annual budget is adopted by the
313 General Tribal Council, the authority of the Oneida Business Committee is limited to
314 budget oversight except as otherwise provided in this law. However, these limitations do
315 not prevent the Oneida Business Committee, with input from the CFO, from taking
316 necessary action, on an emergency basis and within the scope of its authority, to protect
317 and safeguard the resources and general welfare of the Nation and ensure compliance with
318 applicable laws, regulations and requirements. The OBC shall ensure that the CFO
319 performs the duties and responsibilities as assigned under this law.

320 (b) *Treasurer.* In addition to the Treasurer's Constitutional responsibilities, the Nation's
321 Treasurer shall:

322 (1) Submit expenditure reports and other financial reports as deemed necessary by
323 the Oneida Business Committee and/or the General Tribal Council at:

324 (A) The annual General Tribal Council meeting;

325 (B) The semi-annual General Tribal Council meeting; and

326 (C) Other such times as may be directed by the Oneida Business Committee
327 and/or the General Tribal Council.

328 (2) Present the proposed draft budget to the General Tribal Council at the annual
329 budget meeting as required by section 121.5-9.

330 (c) *Chief Financial Officer.* Once the Nation's budget is properly adopted, the CFO shall
331 ensure that it is properly implemented. The CFO shall:

332 (1) Provide managers with monthly revenue and expense reports in order for the
333 managers to track their expenditures;

334 (2) Submit, to the Oneida Business Committee, a written report of any monthly
335 variances that are either a difference of three percent (3%) or more from the adopted
336 annual budget or \$50,000 or more in total; and

337 (3) Conduct financial condition meetings with the Nation's management on a
338 quarterly basis.

339 (d) *Managers.* Managers of each business unit shall:

340 (1) Ensure that their business units operate, on a day-to-day basis, in compliance
341 with the budget adopted pursuant this law;

342 (2) Report to the CFO explanations and corrective actions for any monthly variance
343 that are either a difference of three percent (3%) or more from the adopted annual
344 budget or \$50,000 or more in total; and

345 (3) Submit budget review reports to the CFO on a reasonable and timely basis not
346 to exceed thirty (30) calendar days from the end of the month.
347

348 **121.9. Budget Transfers; Amendments**

349 121.9-1. *Budget Transfers.* After the budget is adopted, transfer of funds within the budget is not
350 permitted except as provided in section 121.8-3(a) and to allow the CFO to adjust the approved
351 budget as required to accurately reflect the amount of grant funding actually received.

352 121.9-2. *Budget Amendments.* After the budget is adopted, amendments of the budget are not
353 permitted except as provided in section 121.8-3(a).
354

355 **121.10. Reporting**

356 121.10-1. *Monthly Reporting.* The CFO shall provide copies of the monthly Treasurer's reports
357 and quarterly operational reports from direct reports to the Oneida Business Committee in
358 accordance with Secretary's Oneida Business Committee packet schedule for the Oneida Business
359 Committee Meeting held for the acceptance of such reports.

360 121.10-2. *Audits.* The Internal Audit Department, annually, shall conduct independent
361 comprehensive performance audits, in accordance with the Audit Law, the Financial Accounting
362 Standards Board (FASB) and the Governmental Accounting Standards Board (GASB), of
363 randomly selected fund units or of fund units deemed necessary by the Oneida Business
364 Committee or Internal Audit Department. Each fund unit shall offer its complete cooperation to
365 the Internal Audit Department. The Oneida Business Committee may, as it deems necessary,
366 contract with an independent audit firm to conduct such audits.
367

368 **121.11. Authorizations and Signatures**

369 121.11-1. *General.* The procurement manual rules developed by the Purchasing Department shall
370 provide the sign-off process and authorities required to expend funds on behalf of the Nation.

371 121.11-2. *Fees and Charges.* Managers of programs and services requiring Tribal contribution
372 that desire to charge fees for their services shall determine the full cost of providing the program
373 and/or service and, only then, may charge fees to cover operational costs. The full cost of
374 providing a program and/or service includes all costs including operation costs, overhead such as
375 direct and indirect costs, and depreciation. Fees and charges may cover the full cost of service
376 and/or goods whenever such fee or charge would not present an undue financial burden to
377 recipient. Programs and services charging fees may offer fee waivers, provided that the
378 program/service has developed rules outlining the fee waiver eligibility and requirements.
379

380 **121.12. Enforcement**

381 121.12-1. *Compliance and Enforcement.* All employees and officials of the Nation shall comply
382 with and enforce this law to the greatest extent possible.

383 121.12-2. *Violations.* Violations of this law shall be addressed using the applicable enforcement
384 tools provided by the Nation's laws, policies and rules, including but not limited to, those related
385 to employment with the Nation, conflicts of interest, ethics and removal from an elected position.

386 121.12-3. *Civil and/or Criminal Charges.* This law shall not be construed to preclude the Nation
387 from pursuing civil and/or criminal charges under applicable law. Violations of applicable federal
388 or state civil and/or criminal laws may be pursued in a court having jurisdiction over any such
389 matter.
390

391 *End.*
392 Adopted-BC-02-08-17-C
393 Emergency Amended – BC-11-24-20-E
394 Emergency Amended – BC- - - -

Title 1. Government and Finances – Chapter 121

Twahwistatye'nítha?

We have a certain amount of money

BUDGET MANAGEMENT AND CONTROL

121.1. Purpose and Policy	121.7. Appropriation of the Nation's Funds
121.2. Adoption, Amendment, Repeal	121.8. Budget Authority
121.3. Definitions	121.9. Budget Transfers; Amendments
121.4. Strategic Planning	121.10. Reporting
121.5. Budget Process	121.11. Authorizations and Signatures
121.6. Capital Improvements	121.12. Enforcement and Penalties

1

2

3 **121.1. Purpose and Policy**

4 121.1-1. *Purpose.* The purpose of this law is to set forth the requirements to be followed by the
5 Oneida Business Committee and Oneida fund units when preparing the budget to be presented to
6 the General Tribal Council for approval and to establish a triennial strategy planning process for
7 the Nation's budget.

8 121.1-2. *Policy.* It is the policy of the Nation to rely on value-based budgeting strategies,
9 identifying proper authorities and ensuring compliance and enforcement.

10

11 **121.2. Adoption, Amendment, Repeal**

12 121.2-1. This law was adopted by the Oneida Business Committee by resolution BC-02-08-17-
13 C, and emergency amended by resolutions BC-11-24-20-E, and BC-__-__-__-__.

14 121.2-2. This law may be amended or repealed by the Oneida Business Committee and/or the
15 General Tribal Council pursuant to the procedures set out in the Legislative Procedures Act.

16 121.2-3. Should a provision of this law or the application thereof to any person or circumstances
17 be held as invalid, such invalidity shall not affect other provisions of this law which are considered
18 to have legal force without the invalid portions.

19 121.2-4. In the event of a conflict between a provision of this law and a provision of another law,
20 the provisions of this law shall control. Provided that, nothing in this law amends or repeals the
21 requirements of resolution BC-10-08-08-A, *Adopting Expenditure Authorization and Reporting*
22 *Requirements.*

23 121.2-5. This law is adopted under authority of the Constitution of the Oneida Nation.

24

25 **121.3. Definitions**

26 121.3-1. This section shall govern the definitions of words and phrases used within this law. All
27 words not defined herein shall be used in their ordinary and everyday sense.

28 (a) "Appropriation" means the legislative act of designating funds for a specific purpose
29 in accordance with the provisions contained in this law.

30 (b) "Capital expenditure" means any non-recurring and non-physical improvement as
31 follows:

32 (1) Any item with a cost of five thousand dollars (\$5,000.00) or more and an
33 estimated life of one (1) year or more; or

34 (2) Items purchased together where none of the items individually costs more than
35 two thousand dollars (\$2,000.00), but the total purchase price for all of the items is
36 ten thousand dollars (\$10,000.00) or more.

- 37 (c) “Capital improvement” means non-recurring expenditure for physical improvements,
38 including costs for: acquisition of existing buildings, land, or interests in land; construction
39 of new buildings or other structures, including additions and major alterations; acquisition
40 of fixed equipment; landscaping; physical infrastructure; and similar expenditures with a
41 cost of five thousand dollars (\$5,000.00) or more and an estimated life of one (1) year or
42 more.¹
- 43 (d) “CFO” means the Nation’s Chief Financial Officer.
- 44 (e) “Debt” means the secured or unsecured obligations owed by the Nation.
- 45 (f) “Economic life” means the length of time an asset is expected to be useful.
- 46 (g) “Executive manager” means any one of the following positions within the Nation:
47 Chief Executive Officer/General Manager, Gaming General Manager, Chief Legal
48 Counsel and/or Chief Financial Officer.
- 49 (h) “Expenditure report” means a financial report which includes, but is not limited to, a
50 statement of cash flows, revenues, costs and expenses, assets, liabilities and a statement of
51 financial position.
- 52 (i) “Fiscal year” means the one (1) year period each year from October 1st to September
53 30th.
- 54 (j) “Fund unit” means any board, committee, commission, service, program, enterprise,
55 department, office, or any other division or non-division of the Nation which receives an
56 appropriation approved by the Nation.
- 57 (k) “General reserve fund” means the Nation’s main operating fund which is used to
58 account for all financial resources not accounted for in other funds.
- 59 (l) “GTC allocations” means expenditures directed by the General Tribal Council as
60 required payments and/or benefits to the Nation’s membership and are supported by either
61 a General Tribal Council or Oneida Business Committee resolution.
- 62 (m) “Line item” means the specific account within a fund unit’s budget or category that
63 expenditures are charged to.
- 64 (n) “Manager” means the person in charge of directing, controlling and administering the
65 activities of a fund unit.
- 66 (o) “Nation” means the Oneida Nation.
- 67 (p) “Rule” means a set of requirements, including citation fees and penalty schedules,
68 enacted in accordance with the Administrative Rulemaking law based on authority
69 delegated in this law in order to implement, interpret and enforce this law.
- 70 (q) “Treasurer” means the elected Oneida Nation Treasurer or his or her designee.
71

¹ Acquisition of existing buildings and land completed by the Oneida Land Commission are not included in the definition of “Capital Improvement.”

72 **121.4. Strategic Planning**

73 121.4-1. *Triennial Strategic Plan.* Prior to December 1st of each year, the Oneida Business
74 Committee, in consultation with the Executive Managers, shall develop a triennial strategic plan
75 which includes, but is not limited to:

- 76 (a) Major policy and budgetary goals for the Nation, both long and short term;
- 77 (b) Specific strategies and planned actions for achieving each goal; and
- 78 (c) Performance targets and indicators to track progress which, to the extent available,
79 includes, but is not limited to:
 - 80 (1) Statistics and trending data for, at a minimum, the last three (3) complete fiscal
81 years; and
 - 82 (2) Performance targets for, at a minimum, the next three (3) complete fiscal years
83 moving forward.

84 121.4-2. *Fund Units' Contributions to the Triennial Strategic Plan.* Managers shall annually
85 develop, submit and maintain a triennial strategic plan for the fund unit's operations which aligns
86 with the triennial strategic plan established by the Oneida Business Committee pursuant to 121.4-
87 1. Managers shall submit the fund unit's triennial strategic plan to the CFO when the fund unit's
88 budget is due and, at a minimum, shall include the following in the plan:

- 89 (a) A statement of the fund unit's mission;
- 90 (b) Specific goals including a description of the fund unit's strategies as part of its service
91 group provided in 121.5-3(c) which aligns with the goals established in the Nation's
92 triennial strategic plan;
- 93 (c) Specific strategies for achieving each of the fund unit's goals; and
- 94 (d) Performance targets and indicators to track progress which, to the extent available,
95 includes, but is not limited to:
 - 96 (1) Statistics and trending data for, at a minimum, the last three (3) complete fiscal
97 years; and
 - 98 (2) Performance targets for, at a minimum, the next three (3) complete fiscal years
99 moving forward.

100 121.4-3. *Budget Contingency Plan.* The Oneida Business Committee shall work with the CFO,
101 executive managers and managers to create a budget contingency plan which provides a strategy
102 for the Nation to respond to extreme financial distress that could negatively impact the Nation.
103 The Oneida Business Committee shall approve, by resolution, the budget contingency plan and
104 any amendments thereto. The Oneida Business Committee is responsible for the implementation
105 of the budget contingency plan, provided that such implementation is predicated on the Oneida
106 Business Committee's determination that the Nation is under extreme financial distress. For the
107 purposes of this section, extreme financial distress includes, but is not limited to, natural or human-
108 made disasters, United States Government shutdown, Tribal shutdown (which occurs when the
109 General Tribal Council has not approved a budget for the Nation prior to the beginning of a new
110 fiscal year) and economic downturns.

- 111 (a) *Cost Savings Tools.* As part of the budget contingency plan, the Oneida Business
112 Committee may require stabilization funds, reductions of expenditures, furloughs and other
113 cost saving tools provided that such tools are in compliance with the Nation's laws,
114 specifically the Nation's employment laws, rules and policies.
- 115 (b) *Business Continuity Fund.* The Oneida Business Committee shall maintain a
116 Permanent Executive Contingency account within the ownership investment report to be
117 used to prevent default on debt and to sustain operations during times of extreme financial

118 distress. The Treasurer, in consultation with the CFO, shall establish, and the Oneida
119 Business Committee shall approve, the level of business continuity funds required in the
120 Permanent Executive Contingency account. The Treasurer shall set aside business
121 continuity funds in the Permanent Executive Contingency account until the established
122 level has been achieved. Funds in the Permanent Executive Contingency may only be used
123 for the following purposes and only to the extent that alternative funding sources are
124 unavailable:

- 125 (1) Payments to notes payable to debt service, both principal and interest, and
126 applicable service fees;
- 127 (2) Employee payroll, including all applicable taxes;
- 128 (3) Payments to vendors for gaming and retail;
- 129 (4) Payments to vendors for governmental operations;
- 130 (5) Payments to any other debt; and
- 131 (6) To sustain any of the Nation's other operations during implementation of the
132 budget contingency plan.

133 (c) *Grant Funds.* Grant funds are exempt from requirements of the budget contingency
134 plan and any cost containment initiatives as such funding is not reliant on Tribal
135 contributions. Grant funds shall be spent according to any non-negotiable grant
136 requirements and guidelines of the granting agency to include purchases, travel, training,
137 hiring grant required positions and any other requirements attached to the funds as a
138 condition of the Nation's acceptance of the grant funds.

140 **121.5. Budget Process**

141 121.5-1. *General.* The Nation shall develop, adopt, and manage an annual budget. All revenues
142 and expenditures of the Nation shall be in accordance with the annual budget adopted by the
143 Nation.

144 121.5-2. *Content of Budget.* The Nation's budget shall include, but is not limited to, the following
145 information:

- 146 (a) Estimated revenues to be received from all sources for the year which the budget covers;
- 147 (b) The individual budgets of each fund unit;
- 148 (c) A description of each line item within each fund unit's budget;
- 149 (d) The estimated expenditures by each fund unit; and
- 150 (e) Each fund unit's strategic plan showing alignment with the Nation's goals.

151 121.5-3. *Budget Adoption Procedure.* The Nation shall develop and adopt its budget according
152 to the following procedures:

153 (a) *Budget Schedule and Guidelines.* The Treasurer shall develop the necessary guidelines
154 and procedures, including specific deadlines, for the Nation's budget development process.
155 The Treasurer shall submit the guidelines for the development of the budget to the Oneida
156 Business Committee for review and approval.

157 (b) *Budget Adoption.* The final draft budget shall be approved by the Oneida Business
158 Committee through resolution prior to presentation to the General Tribal Council. The
159 Oneida Business Committee shall present the budget to the General Tribal Council with a
160 request for adoption by resolution no later than September 30th of each year. In the event
161 that the General Tribal Council does not adopt a budget by September 30th, the Oneida

162 Business Committee may adopt a continuing budget resolution(s) until such time as a
163 budget is adopted.

164 (1) *Emergency Budget Adoption.* In the event that the Nation proclaims an
165 emergency, in accordance with the Emergency Management and Homeland
166 Security law, which prevents presentation and adoption of the budget by the
167 General Tribal Council, the Oneida Business Committee shall adopt the Nation's
168 budget.

169

170 **121.6. Capital Improvements**

171 121.6-1. *Capital Improvement Plan for Government Services.* The Oneida Business Committee
172 shall develop and the General Tribal Council shall approve a capital improvement plan for
173 government services and shall reassess the plan once every five (5) years. The capital
174 improvement plan for government services shall cover a period of five (5) to ten (10) years and
175 shall include any risks and liabilities. The Oneida Business Committee shall provide a status report
176 and recommendation for any improvements that have not been completed or that have been
177 modified at the time of the reassessment.

178 121.6-2. *Capital Improvement Plan for Enterprises.* Capital improvement plans for enterprises
179 may be brought forward as needed in accordance with the capital improvement rules which the
180 Community Development Planning Committee and the Development Division shall jointly create,
181 provided that the rules shall include a provision that the Oneida Business Committee shall approve
182 all capital improvement plans.

183 121.6-3. *Capital Improvement Plan Implementation.* Capital Improvement plans shall be
184 implemented, contingent on available funding capacity, using the capital improvement rules.

185

186 **121.7. Appropriation of the Nation's Funds**

187 121.7-1. *Unexpended Capital Improvement Funds.* Unless the fund unit qualifies for an exception
188 as provided in the capital improvement rules, unexpended capital improvement funds carry over
189 to the next fiscal year's budget, provided that such funds are required to remain appropriated for
190 the same purpose as originally budgeted until the project is complete. Once a capital improvement
191 project is complete, any remaining unexpended funds shall be returned to the general fund to be
192 re-allocated in accordance with the Oneida Business Committee's priority list under 121.5-3 using
193 the regular budget process under 121.5.

194 121.7-2. *Unexpended Capital Expenditure Funds.* The CFO shall ensure that all unexpended
195 capital expenditure funds are reallocated to the fiscal year budget two (2) years out from the fiscal
196 year in which the funds were unexpended. Such unexpended funds shall be re-allocated in
197 accordance with the Oneida Business Committee's priority list under 121.5-3 using the regular
198 budget process under 121.5.

199

200 **121.8. Budget Authority**

201 121.8-1. *Authority to Expend Funds.* The Treasurer's authority to expend appropriated funds is
202 delegated to the CFO, who shall make such expenditures in accordance with the adopted budget.
203 This authority is necessarily delegated to other managers, including executive managers, of the
204 Nation who manage the budgets, pursuant to their job descriptions based on the procurement
205 manual rules developed by the Purchasing Department.

206 121.8-2. *Exhaustion of Non-Tribal Funds.* When grant funds provide for forward funding as
207 applicable to a function for which the Nation's funds have also been appropriated, those grant

208 funds shall be used before appropriating the Nation's funds unless the Nation's funds are needed
 209 to make up an otherwise shortfall in the overall fund unit budget or there is a restriction on the
 210 grant funds that provide otherwise.

211 121.8-3. In addition to the authority and responsibilities provided elsewhere in this law, the
 212 following positions and fund units shall have the authority and responsibilities as outlined below:

213 (a) *Oneida Business Committee*. Once the Nation's annual budget is adopted by the
 214 General Tribal Council, the authority of the Oneida Business Committee is limited to
 215 budget oversight except as otherwise provided in this law. However, these limitations do
 216 not prevent the Oneida Business Committee, with input from the CFO, from taking
 217 necessary action, on an emergency basis and within the scope of its authority, to protect
 218 and safeguard the resources and general welfare of the Nation and ensure compliance with
 219 applicable laws, regulations and requirements. The OBC shall ensure that the CFO
 220 performs the duties and responsibilities as assigned under this law.

221 (b) *Treasurer*. In addition to the Treasurer's Constitutional responsibilities, the Nation's
 222 Treasurer shall:

223 (1) Submit expenditure reports and other financial reports as deemed necessary by
 224 the Oneida Business Committee and/or the General Tribal Council at:

225 (A) The annual General Tribal Council meeting;

226 (B) The semi-annual General Tribal Council meeting; and

227 (C) Other such times as may be directed by the Oneida Business Committee
 228 and/or the General Tribal Council.

229 (2) Present the proposed draft budget to the General Tribal Council at the annual
 230 budget meeting as required by section 121.5-9.

231 (c) *Chief Financial Officer*. Once the Nation's budget is properly adopted, the CFO shall
 232 ensure that it is properly implemented. The CFO shall:

233 (1) Provide managers with monthly revenue and expense reports in order for the
 234 managers to track their expenditures;

235 (2) Submit, to the Oneida Business Committee, a written report of any monthly
 236 variances that are either a difference of three percent (3%) or more from the adopted
 237 annual budget or \$50,000 or more in total; and

238 (3) Conduct financial condition meetings with the Nation's management on a
 239 quarterly basis.

240 (d) *Managers*. Managers of each business unit shall:

241 (1) Ensure that their business units operate, on a day-to-day basis, in compliance
 242 with the budget adopted pursuant this law;

243 (2) Report to the CFO explanations and corrective actions for any monthly variance
 244 that are either a difference of three percent (3%) or more from the adopted annual
 245 budget or \$50,000 or more in total; and

246 (3) Submit budget review reports to the CFO on a reasonable and timely basis not
 247 to exceed thirty (30) calendar days from the end of the month.

248

249 **121.9. Budget Transfers; Amendments**

250 121.9-1. *Budget Transfers*. After the budget is adopted, transfer of funds within the budget is not
 251 permitted except as provided in section 121.8-3(a) and to allow the CFO to adjust the approved
 252 budget as required to accurately reflect the amount of grant funding actually received.

253 121.9-2. *Budget Amendments.* After the budget is adopted, amendments of the budget are not
254 permitted except as provided in section 121.8-3(a).

255

256 **121.10. Reporting**

257 121.10-1. *Monthly Reporting.* The CFO shall provide copies of the monthly Treasurer’s reports
258 and quarterly operational reports from direct reports to the Oneida Business Committee in
259 accordance with Secretary’s Oneida Business Committee packet schedule for the Oneida Business
260 Committee Meeting held for the acceptance of such reports.

261 121.10-2. *Audits.* The Internal Audit Department, annually, shall conduct independent
262 comprehensive performance audits, in accordance with the Audit Law, the Financial Accounting
263 Standards Board (FASB) and the Governmental Accounting Standards Board (GASB), of
264 randomly selected fund units or of fund units deemed necessary by the Oneida Business
265 Committee or Internal Audit Department. Each fund unit shall offer its complete cooperation to
266 the Internal Audit Department. The Oneida Business Committee may, as it deems necessary,
267 contract with an independent audit firm to conduct such audits.

268

269 **121.11. Authorizations and Signatures**

270 121.11-1. *General.* The procurement manual rules developed by the Purchasing Department shall
271 provide the sign-off process and authorities required to expend funds on behalf of the Nation.

272 121.11-2. *Fees and Charges.* Managers of programs and services requiring Tribal contribution
273 that desire to charge fees for their services shall determine the full cost of providing the program
274 and/or service and, only then, may charge fees to cover operational costs. The full cost of
275 providing a program and/or service includes all costs including operation costs, overhead such as
276 direct and indirect costs, and depreciation. Fees and charges may cover the full cost of service
277 and/or goods whenever such fee or charge would not present an undue financial burden to
278 recipient. Programs and services charging fees may offer fee waivers, provided that the
279 program/service has developed rules outlining the fee waiver eligibility and requirements.

280

281 **121.12. Enforcement**

282 121.12-1. *Compliance and Enforcement.* All employees and officials of the Nation shall comply
283 with and enforce this law to the greatest extent possible.

284 121.12-2. *Violations.* Violations of this law shall be addressed using the applicable enforcement
285 tools provided by the Nation’s laws, policies and rules, including but not limited to, those related
286 to employment with the Nation, conflicts of interest, ethics and removal from an elected position.

287 121.12-3. *Civil and/or Criminal Charges.* This law shall not be construed to preclude the Nation
288 from pursuing civil and/or criminal charges under applicable law. Violations of applicable federal
289 or state civil and/or criminal laws may be pursued in a court having jurisdiction over any such
290 matter.

291

292 *End.*

293 Adopted-BC-02-08-17-C

294 Emergency Amended – BC-11-24-20-E

295 Emergency Amended – BC-__-__-__-__



Legislative Operating Committee
May 5, 2021

Emergency Amendments to the Oneida Nation Gaming Ordinance

Submission Date: 12/2/2020	Public Meetings: n/a
LOC Sponsor: Jennifer Webster	Emergency Enacted: n/a Expires: n/a

Summary: *This item was added to the Active Files List on December 2, 2020 per the November 10, 2020 directive of the Oneida Business Committee that the Legislative Operating Committee place the Law Enforcement Ordinance and/or the Oneida Nation Gaming Ordinance on the Active Files List to address the placement of Gaming’s Internal Security Department. Following a work meeting with the Oneida Law Office, this item was designated as emergency legislation under the Legislative Procedures Act by the Legislative Operating Committee to expedite the disposal of the legal issue that exists under the current law.*

12/2/20 LOC: Motion by Jennifer Webster to add the Oneida Nation Gaming Ordinance Amendments to the Active Files List with Jennifer Webster as the sponsor; seconded by Kirby Metoxen. Motion carried unanimously.

1/7/2021: *Work Meeting.* Present: James Bittorf, Kelly McAndrews, Kristen Hooker. This work meeting was held through Microsoft Teams. The purpose of this work meeting was to discuss the issue that is driving the need for amendments to be made to the Oneida Nation Gaming Ordinance. The next step is for the drafting attorney to schedule a meeting with the Legislative Operating Committee to convey the information that was shared during that meeting and discuss the most effective manner in which to move forward.

1/14/21: *Work Meeting.* Present: Marie Summers, David Jordan, Kirby Metoxen, Daniel Guzman-King, Kristal Hill, Clorissa Santiago, Kristen Hooker. This work meeting was held through Microsoft Teams. The purpose of this meeting was to provide the Legislative Operating Committee with additional information regarding the issue that prompted this item to be added to the Active Files List by motion of the Oneida Business Committee and to have the LOC decide whether to process the amendments relating to this issue on an emergency basis moving forward. Per consensus of the LOC, the amendments will be processed as an emergency based on the risk of continued litigation that exists under the status quo.

2/19/21: *Work Meeting.* Present: David Jordan, Kirby Metoxen, Chad Fuss, Kelly McAndrews, Jonas Hill, William Cornelius, Richard VanBoxtel, Clorissa Santiago, Michelle Braaten, Katsitsiyo Danforth, Joel Maxam, Eric Boulanger, Kristal Hill, Kristen Hooker. This work meeting was held through Microsoft Teams. The purpose of this work meeting was to provide the LOC with an opportunity to hear from various stakeholders regarding the issue of placing Internal Security for Gaming under an area other than the Oneida Police Department. The next step

will be for the drafting attorney to schedule a follow-up work meeting with the LOC to have it decide where to move Internal Security so the drafting attorney can move forward with the development of emergency amendments reflective of the LOC's decision.

2/25/21: *Work Meeting.* Present: Kirby Metoxen, Jennifer Webster, Daniel Guzman-King, Marie Summers, Kristal Hill, Clorissa Santiago, Kristen Hooker. This work meeting was held through Microsoft Teams. The purpose of this work meeting was to have a discussion with the LOC in follow-up to the meeting of February 19, 2021 between the LOC and the work group on the reorganization of the Internal Security Department to an area within the Nation other than under the Oneida Police Department.

3/11/21: *Work Meeting.* Present: David Jordan, Kirby Metoxen, Daniel Guzman-King, Jennifer Webster, Marie Summers, Kristal Hill, Jo Anne House, Clorissa Santiago, Kristen Hooker. This work meeting was held through Microsoft Teams. The purpose of this work meeting was to finish the discussion regarding where to house the Internal Security Department on a temporary basis pending its permanent placement under a department other than the Oneida Police Department. The next step is for the LRO attorney to draft a memo to the stakeholders regarding the plan moving forward and to schedule a follow-up meeting with those stakeholders to have a final discussion on the issue.

4/7/21: *Work Meeting.* Present: David Jordan, Kirby Metoxen, Jennifer Webster, Daniel Guzman-King, Marie Summers, Kristen Hooker. The purpose of this work meeting was to review and discuss the submissions received in response to the memo that was sent out on March 16, 2021 per the directive of the Legislative Operating Committee during the previous work meeting of March 11, 2021. Next steps are for the Legislative Reference Office Attorney to: (1) draft a memo to the stakeholders who were sent the March 16th memo, informing them of the LOC's decision to temporarily place the Internal Security Department under the Oneida Business Committee while a more permanent placement is developed; and (2) begin processing emergency amendments to ONGO that reassign the oversight of the Internal Security Department to the Oneida Business Committee.

4/29/21: *Work Meeting.* Present: David Jordan, Kirby Metoxen, Jennifer Webster, Daniel Guzman-King, Marie Summers, Kristen Hooker, Kristal Hill, Rhiannon Metoxen. This work meeting was held through Microsoft Teams. The purpose of this work meeting was to go through the draft of emergency amendments to ONGO with the Legislative Operating Committee. The next step is for the Legislative Reference Office Attorney to prepare the emergency amendments adoption packet for an upcoming Legislative Operating Committee meeting.

Next Steps:

- Accept the Oneida Nation Gaming Ordinance Emergency Amendments and Legislative Analysis and forward to the Oneida Business Committee for consideration.



TO: Oneida Business Committee
FROM: David P. Jordan, LOC Chairperson [Signature]
DATE: May 12, 2021
RE: Oneida Nation Gaming Ordinance Emergency Amendments

Please find the following attached backup documentation for your consideration of the Oneida Nation Gaming Ordinance Emergency Amendments:

1. Resolution: Emergency Amendments to the Oneida Nation Gaming Ordinance
2. Statement of Effect: Emergency Amendments to the Oneida Nation Gaming Ordinance
3. Oneida Nation Gaming Ordinance Emergency Amendments Legislative Analysis
4. Oneida Nation Gaming Ordinance (Redline)
5. Oneida Nation Gaming Ordinance (Clean)

Overview

Emergency amendments to the Oneida Nation Gaming Ordinance (“ONGO”) are being sought to protect the Nation against exposure to litigation and/or legal claims relating to ONGO’s placement of the Gaming Security Department (“Security”) within the Nation’s organizational structure. Specifically, the emergency amendments seek to remove an avenue for potential liability that has been raised with respect to Security being placed within the Oneida Police Department under section 501.9-1 of the law. [5 O.C. 501.9-1]. The emergency amendments to ONGO will re-assign Security to the Oneida Business Committee to expeditiously dispose of any legal risks associated with its current placement.

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 ONGO are necessary for the preservation of the general welfare of the Reservation population. The emergency amendments are needed to shield the Reservation population against the legal risks that exist with respect to the current placement of Security within the Nation’s organizational structure. By re-assigning Security to the Oneida Business Committee, the legal risk is disposed of, as is the cost of having to defend claims that may be raised under the status quo, even if the claims/legal theories are without merit.

Additionally, observance of the requirements under the Legislative Procedures Act for the adoption of these amendments would be contrary to public interest. So long as Security remains under the Oneida Police Department, the potential exists for claims relating thereto to be raised

against the Nation, which, even if successfully defended against in the end, will still cost the Nation money that could be put towards a use more beneficial to the Reservation population. Given the ease within which claims can be filed, regardless of merit, the process and requirements of the Legislative Procedures Act cannot be completed in time to ensure against the amount of money that the Nation could incur in defense costs if this issue is not expeditiously resolved.

The emergency amendments to ONGO 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 Oneida Nation Gaming Ordinance.

Oneida Nation

Post Office Box 365

Phone: (920)869-2214



Oneida, WI 54155

BC Resolution

Emergency Amendments to the Oneida Nation Gaming Ordinance

- 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 Oneida Nation Gaming Ordinance (“ONGO”) was adopted by the Oneida General
10 Tribal Council through resolution GTC-07-05-04-A and subsequently amended by the
11 Oneida Business Committee through resolutions BC-10-06-04-D, BC-03-23-05-C, BC-09-
12 23-09-D, BC-06-24-14-B and BC-09-09-15-A; and
13
- 14 **WHEREAS,** the purpose of ONGO is to govern all Gaming Activities that occur on lands under the
15 jurisdiction of the Nation and all individuals or entities that engage in said Gaming Activities,
16 including those who provide goods or services to persons or entities engaged in Gaming
17 Activities; and
18
- 19 **WHEREAS,** section 501.9 of ONGO assigns certain responsibilities to the Gaming Security Department
20 (“Security”) that are meant to protect Gaming assets, patrons and Gaming Employees from
21 an activity, repeat activity or ongoing activities which could injure or jeopardize Gaming
22 assets, patrons and Gaming Employees; and
23
- 24 **WHEREAS,** section 501.9 further provides that Security is a department within the Oneida Police
25 Department and directs the Oneida Police Department, Gaming General Manager and
26 Oneida Gaming Commission to enter into an agreement, subject to ratification by the
27 Oneida Business Committee, describing their responsibilities, as well as their reporting
28 requirements, under ONGO; and
29
- 30 **WHEREAS,** the Oneida Law Office has raised a concern over possible legal issues that exists with
31 respect to ONGO’s placement of Security under the Oneida Police Department, which
32 could expose the Nation to unnecessary litigation costs, regardless of merit; and
33
- 34 **WHEREAS,** emergency amendments to ONGO are being sought to remove this legal issue and
35 possible avenue for liability by temporarily re-assigning Security to the Oneida Business
36 Committee under section 501.9-1 of the law, while a more appropriate permanent
37 placement can be established and vetted, absent the legal risks that exist under the status
38 quo; and
39
- 40 **WHEREAS,** the Legislative Procedures Act authorizes the Oneida Business Committee to enact
41 legislation on an emergency basis, to be in effect for a period of six (6) months, renewable
42 for an additional six (6) months; and
43

44 **WHEREAS,** emergency adoption of temporary legislation is allowed when necessary for the immediate
45 preservation of the public health, safety or general welfare of the Reservation population,
46 and the amendment of the legislation is required sooner than would be possible under the
47 Legislative Procedures Act; and
48

49 **WHEREAS,** emergency amendments to ONGO are necessary for the preservation of the general
50 welfare of the Reservation population to shield it against the legal risk that exists with
51 respect to the current placement of Security within the organizational structure of the
52 Nation; and
53

54 **WHEREAS,** by temporarily re-assigning Security to the Oneida Business Committee, the legal risk is
55 disposed of, as is the cost of having to defend claims that may be raised under the status
56 quo, even if said claims/legal theories are without merit; and
57

58 **WHEREAS,** observance of the requirements under the Legislative Procedures Act for adoption of this
59 amendment would be contrary to the public interest because: (1) so long as Security
60 remains under the Oneida Police Department, the potential exists for claims relating thereto
61 to be raised against the Nation, which, even if successfully defended against in the end,
62 will still cost the Nation money that could be put towards a use more beneficial to the
63 Reservation population; and (2) given the ease within which claims can be filed, regardless
64 of merit, the process and requirements of the Legislative Procedures Act cannot be
65 completed in time to ensure against the financial burden that the Nation could incur in
66 defense costs if this issue is not expeditiously resolved before a more permanent solution
67 can be established and vetted; and
68

69 **WHEREAS,** the Legislative Procedures Act does not require a public meeting or fiscal impact statement
70 when considering emergency legislation; and
71

72 **NOW THEREFORE BE IT RESOLVED,** the Oneida Business Committee hereby adopts emergency
73 amendments to the Oneida Nation Gaming Ordinance, effective immediately.



Statement of Effect

Emergency Amendments to the Oneida Nation Gaming Ordinance

Summary

This resolution adopts emergency amendments to the Oneida Nation Gaming Ordinance to protect the Nation against exposure to certain legal risks that relate to the ordinance's current placement of the Gaming Security Department within the Nation's organizational structure.

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

Date: April 30, 2021

Analysis by the Legislative Reference Office

This resolution adopts emergency amendments to the Oneida Nation Gaming Ordinance. The Oneida Nation Gaming Ordinance ("ONGO") was adopted to govern all Gaming Activities that occur on lands under the jurisdiction of the Nation and all individuals or entities that engage in said Gaming Activities, including those who provide goods or services to persons or entities engaged in Gaming Activities. [5 O.C. 501.1-1].

Section 501.9 of ONGO assigns certain responsibilities to the Gaming Security Department ("Security") that are meant to protect Gaming assets, patrons and Gaming Employees from an activity, repeat activity or ongoing activities which could injure or jeopardize Gaming assets, patrons and Gaming Employees. [5 O.C. 501.9-1]. It also states that Security "is a department within the Oneida Police Department" and directs the Oneida Police Department, Gaming General Manager and Oneida Gaming Commission to enter into an agreement, subject to approval by the Oneida Business Committee, that sets forth their responsibilities and reporting requirements under ONGO. [5 O.C. 501.9-1 and 501.9-2].

The Oneida Law Office recently raised a concern over possible legal issues that exist with respect to the placement of Security within the Oneida Police Department under section 501.9 of ONGO. Emergency amendments to this section are being sought to remove these issues by temporarily re-assigning Security to the Oneida Business Committee, while a more appropriate permanent placement can be established and vetted, absent the possible risks associated with the legal issues that currently exist.

The Legislative Procedures Act ("LPA") allows the Oneida Business Committee to take emergency action where it is necessary for the immediate preservation of the public health, safety or general welfare of the Reservation population and when enactment or amendment of legislation is required sooner than would be possible under the LPA. [1 O.C. 109.9-5].

The resolution provides that emergency amendments to ONGO are necessary for the preservation of the general welfare of the Reservation population to shield it against the legal risks that exist with respect to the current placement of Security within the Nation's organizational structure.

Specifically, by temporarily re-assigning Security to the Oneida Business Committee, the legal risk is disposed of, as is the cost of having to defend claims that may be raised under the status quo, even if said claims/legal theories are without merit.

Additionally, the resolution provides that observance of the requirements under the LPA for adoption of this amendment would be contrary to public interest because: (1) so long as Security remains under the Oneida Police Department, the potential exists for claims relating thereto to be raised against the Nation, which, even if successfully defended against in the end, will still cost the Nation money that could be put towards a use more beneficial to the Reservation population; and (2) given the ease within which claims can be filed, regardless of merit, the process and requirements of the LPA cannot be completed in time to ensure against the financial burden that the Nation could incur in defense costs if the issue is not expeditiously resolved before a more permanent solution can be established and vetted.

The emergency amendments to ONGO 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 ONEIDA NATION GAMING ORDINANCE LEGISLATIVE ANALYSIS

SECTION 1. EXECUTIVE SUMMARY

<i>Analysis by the Legislative Reference Office</i>	
Intent of the Proposed Amendments	<ul style="list-style-type: none"> ▪ To remove the legal risks associated with the Oneida Nation Gaming Ordinance’s placement of the Gaming Security Department (“Security”) under the Oneida Police Department within the Nation’s organizational structure by temporarily re-assigning Security to the Oneida Business Committee while a more appropriate permanent placement is being developed and vetted; and ▪ To make non-material changes to certain language within the Oneida Nation Gaming Ordinance that will bring it up to date with the Nation’s current customs/practices.
Purpose	<ul style="list-style-type: none"> ▪ The Oneida Nation Gaming Ordinance was established to govern: <ul style="list-style-type: none"> • all Gaming Activities that occur on lands under the jurisdiction of the Nation; • all individuals or entities that engage in said Gaming Activities; and • those who provide goods or services to such individuals or entities engaged in said Gaming Activities [5 O.C. 501.1-1].
Affected Entities	Internal Security Department; Oneida Police Department, Oneida Gaming Commission, Oneida Gaming Management, Oneida Business Committee.
Related Legislation	Legislative Procedures Act, Removal Law, Administrative Procedures Act, Internal Audit law, Vendor Licensing 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. [1 O.C. 109.9-5(b)].

SECTION 2. LEGISLATIVE DEVELOPMENT

1 **A. Background.** The Oneida Nation Gaming Ordinance (“ONGO”) was adopted by the Oneida General
 2 Tribal Council through resolution GTC-07-05-04-A and subsequently amended by the Oneida Business
 3 Committee through resolutions BC-10-06-04-D, BC-03-23-05-C, BC-09-23-09-D, BC-06-24-14-B and
 4 BC-09-09-15-A. [5 O.C. 501.2-1]. ONGO regulates all Gaming Activities under the jurisdiction of the
 5 Oneida Nation and is intended to govern the Gaming Activities of all persons, Gaming Employees,
 6 consultants, business entities, vendors, boards, committees, commissions and hearing bodies, including,
 7 but not limited to:
 8
 9 ▪ All Gaming Activities occurring on lands under the jurisdiction of the Nation;
 10 ▪ All individuals or entities engaged in Gaming Activities occurring on lands under the
 11 jurisdiction of the Nation; and

12 ▪ All individuals or entities providing goods or services to any individual or entity who is
13 engaged in Gaming Activities occurring on lands under the jurisdiction of the Nation. [5 O.C.
14 501.1-1].

15 **B. *Gaming Security Department.*** Section 501.9-1 of ONGO relates to the Gaming Security Department
16 and provides, in pertinent part, that:

17 The Gaming Security Department is a department within the Oneida Police Department.

18 The purpose of the Gaming Security Department is to protect Gaming assets, patrons and
19 Gaming Employees from an activity, repeat activity or ongoing activities that could injure
20 or jeopardize Gaming assets, patrons and Gaming Employees and report these activities to
21 the Oneida Police Department for further review and/or investigation. [5 O.C. 501.9-1].

22 Section 501.9-1 further provides that the Oneida Police Department, Gaming General Manager and
23 Oneida Gaming Commission shall enter into an agreement, subject to ratification by the Oneida
24 Business Committee, describing their responsibilities and reporting requirements under ONGO. [5 O.C.
25 501.9-2].

26 **C. *Oneida Law Office Request/Concern.*** On December 2, 2020, the Legislative Operating Committee
27 added ONGO to the Active Files List per a November 10, 2020 directive from the Oneida Business
28 Committee that it be added to address a concern raised by the Oneida Law Office over the placement
29 of Security within the Nation’s organizational structure under section 501.9-2. More specifically, the
30 concern is that the placement of Security under the Oneida Police Department has given rise to certain
31 legal claims that could expose the Nation to unnecessary litigation costs, regardless of merit or
32 prevailing party, if not disposed of in an expeditious manner. Based on this concern, the Legislative
33 Operating Committee decided to emergency amend section 501.9-2 of ONGO by temporarily re-
34 assigning Security to the Oneida Business Committee, while a more appropriate permanent placement
35 is developed and vetted within the period of time allotted for emergency amendments to be in effect
36 under the Nation’s Legislative Procedures Act.

37 **SECTION 3. CONSULTATION AND OUTREACH**

38 **A.** Representatives from the following departments or entities participated in the development of the
39 emergency amendments and this legislative analysis:

- 40 ▪ Oneida Law Office;
- 41 ▪ Oneida Police Department;
- 42 ▪ Internal Security Department;
- 43 ▪ Oneida Gaming Commission;
- 44 ▪ Gaming Management; and
- 45 ▪ Oneida Police Commission.

46 **B.** The following laws and bylaws were reviewed in the drafting of this analysis:

- 47 ▪ Oneida Nation Constitution and Bylaws;
- 48 ▪ Legislative Procedures Act;
- 49 ▪ Oneida Gaming Commission Bylaws; and
- 50 ▪ Internal Audit law.

51

52 **SECTION 4. PROCESS**

53 **A.** These amendments are being considered on an emergency basis. The Oneida Business Committee may
54 temporarily enact emergency legislation “where legislation is necessary for the immediate preservation

55 of public health, safety or general welfare of the Reservation population and enactment or amendment
56 of legislation is required sooner than would be possible under this law” [1 O.C. 109.9-5].

57 **B.** Emergency amendments are being sought to immediately preserve the general welfare of the
58 Reservation population by shielding the Nation against the legal risk that exists with respect to the
59 current placement of Security under the Oneida Police Department in section 501.9-1 of ONGO. By
60 temporarily re-assigning Security to the Oneida Business Committee, the legal risk is disposed of, as is
61 the cost of having to defend claims that may be raised under the status quo, even if said claims/legal
62 theories are without merit.

63 **C.** Additionally, observance of the requirements under the Legislative Procedures Act for the adoption of
64 these amendments would be contrary to public interest because:

- 65 ▪ So long as Security remains under the Oneida Police Department, the potential exists for claims
66 relating thereto to be raised against the Nation, which, even if successfully defended against in the
67 end, will still cost the Nation money that could be put towards a use more beneficial to the
68 Reservation population; and
- 69 ▪ Given the ease within which claims can be filed, regardless of merit, the process and requirements
70 of the Legislative Procedures Act cannot be completed in time to ensure against the financial burden
71 that the Nation could incur in defense costs if this issue is not expeditiously resolved before the
72 time it would take to develop and vet a more appropriate permanent solution.

73 **D.** Emergency amendments typically expire six (6) months after adoption, with one (1) opportunity for a
74 six (6) month extension of the emergency amendments. [1 O.C. 109.9-5(b)].

75 **E.** The following work meetings were held by the Legislative Reference Office in the development of the
76 emergency amendments to ONGO:

- 77 ▪ January 7, 2021, a work meeting was held with attorneys from the Oneida Law Office.
- 78 ▪ January 14, 2021, a work meeting was held with the Legislative Operating Committee.
- 79 ▪ February 19, 2021, a work meeting was held with the Legislative Operating Committee, as well as
80 members from the Oneida Gaming Commission, Oneida Police Department, Internal Security
81 Department, Gaming Management, Oneida Law Office and Oneida Police Commission.
- 82 ▪ February 25, 2021, a work meeting was held with the Legislative Operating Committee.
- 83 ▪ March 11, 2021, a work meeting was held with the Legislative Operating Committee and the
84 Nation’s Chief Council.
- 85 ▪ April 7, 2021, a work meeting was held with the Legislative Operating Committee.
- 86 ▪ April 29, 2021, a work meeting was held with the Legislative Operating Committee.

87 **F.** The Legislative Procedures Act does not require a public meeting or fiscal impact statement when
88 considering emergency legislation. [1 O.C. 109.9-5(a)]. However, a public meeting and fiscal impact
89 statement will eventually be required if permanent adoption of these amendments is considered.

90

91 **SECTION 5. CONTENTS OF THE LEGISLATION**

92 **A. *Re-Assignment of Security.*** Section 501.9-1 of ONGO will be amended to re-assign Security to the
93 Oneida Business Committee. Instead of stating that Security is a department within the Oneida Police
94 Department, section 501.9-1 will now state that the “Oneida Business Committee shall be responsible
95 for the supervision, as well as oversight, of the Gaming Security Department and the Gaming Security
96 Department shall report directly to the Oneida Business Committee per the process and schedule set by
97 the Oneida Business Committee; provided, all reports of the Gaming Security Department must be
98 copies to the Commission. [*Proposed Emergency Amendments, 5 O.C. 501.9-1(a)*]. And, with respect

99 to the Oneida Police Department, section 501.9-2 will now provide that “[w]hen investigations involve
100 or uncover a possible criminal or quasi-criminal activity, the Gaming Security Department shall report
101 the activity to the Oneida Police Department for further review and investigation by the Oneida Police
102 Department under its separate departmental authority. [*Proposed Emergency Amendments, 5 O.C.*
103 *501.9-2(a)*].

- 104 ▪ *Effect.* The proposed emergency amendments will remove the legal risks associated with Security’s
105 placement under section 501.9-1 of ONGO by temporarily moving it to the Oneida Business
106 Committee. This will provide the Nation with at least six (6) months, but no more than twelve (12)
107 months, to develop a more appropriate permanent placement for Security without the risk of being
108 sued or having other claims filed against it in the interim.

109 **SECTION 6. EXISTING LEGISLATION**

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

- 112 ▪ *Legislative Procedures Act.* The Legislative Procedures Act was adopted by the General Tribal
113 Council on January 7, 2013, for the purpose of providing a standard process for the adoption of
114 laws of the Nation which includes taking into account comments from members of the Nation and
115 input from agencies of the Nation. [*1 O.C. 109.1-1, 109.1-2*].

- 116 ▪ The Legislative Procedures Act provides a process for the adoption of emergency
117 legislation when the legislation is necessary for the immediate preservation of the public
118 health, safety, or general welfare of the Reservation population and the enactment or
119 amendment of legislation is required sooner than would be possible under this law. [*1 O.C.*
120 *109.9-5*].

- 121 • The Legislative Operating Committee is responsible for first reviewing the
122 emergency legislation and for forwarding the legislation to the Oneida Business
123 Committee for consideration. [*1 O.C. 109.9-5(a)*].

- 124 • The proposed emergency legislation is required to have a legislative analysis
125 completed and attached prior to being sent to the Oneida Business Committee for
126 consideration. [*1 O.C. 109.9-5(a)*].

- 127 ○ A legislative analysis is a plain language analysis describing the important
128 features of the legislation being considered and factual information to
129 enable the Legislative Operating Committee to make informed decisions
130 regarding legislation. A legislative analysis includes a statement of the
131 legislation’s terms and substance; intent of the legislation; a description of
132 the subject(s) involved, including any conflicts with Oneida or other law,
133 key issues, potential impacts of the legislation and policy considerations.
134 [*1 O.C. 109.3-1(g)*].

- 135 • Emergency legislation does not require a fiscal impact statement to be completed
136 or a public comment period to be held. [*1 O.C. 109.9-5(a)*].

- 137 • Upon the determination that an emergency exists, the Oneida Business Committee
138 can adopt emergency legislation. The emergency legislation becomes effective
139 immediately upon its approval by the Oneida Business Committee. [*1 O.C. 109.9-*
140 *5(b)*].

- 142 • Emergency legislation remains in effect for a period of up to six (6) months, with
143 an opportunity for a one-time emergency law extension of up to six (6) months. [1
144 *O.C. 109.9-5(b)*].
- 145 ▪ Adoption of these proposed emergency amendments would conform with the requirements
146 of the Legislative Procedures Act.
- 147

148 **SECTION 7. OTHER CONSIDERATIONS**

- 149 **A. *Deadline for Permanent Adoption of Amendments.*** The emergency amendments will expire six (6)
150 months after adoption, with one (1) opportunity for an extension of an additional six (6) month period.
- 151 ▪ *Conclusion:* The Legislative Operating Committee will need to consider the development and
152 adoption of permanent amendments to this Law within the next six (6) to twelve (12) months.
- 153 **B. *Fiscal Impact.*** A fiscal impact statement is not required for emergency legislation.
- 154 ▪ Under the Legislative Procedures Act, a fiscal impact statement is required for all legislation except
155 emergency legislation. [1 *O.C. 109.6-1*].

156

Title 5. Business - Chapter 501

~~ONEIDA NATION GAMING ORDINANCE~~

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Matters of interest to where they make the money

ONEIDA NATION GAMING ORDINANCE

501.1. Purpose and Policy	501.11. Licenses, Generally
501.2. Adoption, Amendment, Repeal	501.12. Gaming Employee License
501.3. Jurisdiction <u>Definitions</u>	501.13. Gaming Services Licensing and Non-Gaming Services Permitting
501.4. Definitions <u>Jurisdiction</u>	501.14. Gaming Facility License
501.5. Oneida Business Committee: Powers and Duties	501.15. Gaming Operator License
501.6. Oneida Gaming Commission	501.16. Games
501.7. Gaming Surveillance: Powers, Duties and Limitations	501.17. Allocation of Gaming Funds
501.8. [Reserved for future use.]	501.18. Audits
501.9. Gaming Security Department	501.19. Enforcement and Penalties
501.10. Background Investigations	

501.1. Purpose and Policy

501.1-1. Purpose. -The purpose of this Ordinance is to set forth the laws of the Oneida ~~Tribe of Indians of Wisconsin Nation~~ regarding all Gaming Activities conducted within the jurisdiction set forth in this Ordinance.- It is intended to govern the Gaming Activities of all persons, Gaming Employees, consultants, business entities, vendors, boards, committees, commissions and hearing bodies. -This Ordinance does not authorize the operation of Gaming by a private person or private entity for gain. -This Ordinance shall govern all Gaming Activities occurring on lands under the jurisdiction set forth in this Ordinance and all individuals or entities engaged in Gaming Activities, including those providing goods or services to any person or entity engaged in Gaming Activities.

501.1-2. Policy. -It is the policy of this Ordinance to ensure that the Oneida ~~Tribe Nation~~ is the primary beneficiary of its Gaming Operations and has the sole proprietary interest,~~and;~~ that Gaming Activities within the jurisdiction set forth in this Ordinance are conducted fairly and honestly;~~;~~ and that all internal departments, enterprises, officials and employees of the ~~Oneida Tribe Nation~~ work cooperatively to advance the best interests of the ~~Oneida Tribe Nation~~, to protect ~~the Tribe's~~ gaming resources, to protect the integrity of all Gaming Activities operated under the jurisdiction set forth in this Ordinance, and to ensure fairness of all games offered to the ~~Tribe's Nation's~~ gaming patrons.

501.2. Adoption, Amendment, Repeal

501.2-1. ~~Adoption.~~ -This Ordinance was adopted by the Oneida General Tribal Council by resolution GTC-07-05-04-A~~and;~~ amended by resolutions BC-10-06-04-D, BC-3-23-05-C, BC-9-23-09-D, BC-06-25-14-B and BC-09-09-15-A-~~;~~ and emergency amended by resolution BC- - - -

501.2-2. ~~Amendment.~~ -_____ This Ordinance may be amended or repealed by the Oneida Business Committee and/or~~the~~ Oneida General Tribal Council pursuant to the procedures set out in the Legislative Procedures Act.

501.2-3~~Severability.~~ -_____ Should a provision of this Ordinance or the application thereof to any person or circumstances be held as invalid, such invalidity shall not affect other provisions of this Ordinance which are considered to have legal force without the invalid portions.

501.2-4. In the event of a conflict between a provision of this Ordinance and a provision of another law, the provisions of this Ordinance shall control.~~Provided; provided,~~ that, this Ordinance repeals the following:

- 34 (a) BC-04-21-89-D (Adoption of the Oneida Gaming Control Ordinance);
 35 (b) ~~__GTC-03-04-91-A~~ (Establishing 7 elected Gaming Commissioners and Bingo
 36 standards);
 37 (c) ~~__GTC-07-06-92-A~~ (Amendments to Gaming SOP Manual);
 38 (d) GTC-07-06-92-B (Adoption of the Comprehensive Gaming Ordinance);
 39 (e) ~~__BC-03-16-94-A~~; (Comprehensive Gaming Ordinance Interpretation); and
 40 (f) BC-04-5-95-D (Amendments to the Comprehensive Gaming Ordinance).

41 501.2-5. This Ordinance is adopted under authority of the Constitution of the Oneida ~~Tribe of~~
 42 Indians of Wisconsin Nation.

43 501.2-6. ~~Name. This Ordinance is to be known as the Oneida Nation Gaming Ordinance or~~
 44 ~~ONGO.~~

45 501.2-7. ~~Preemptive Authority.~~ -The Oneida Gaming Commission shall be the original hearing
 46 body authorized to hear licensing decisions as set forth in this Ordinance.

47

48 **501.3. Definitions ~~Jurisdiction~~**

49 ~~501.3-1. Territorial Jurisdiction. This Ordinance extends to all land within the exterior~~
 50 ~~boundaries of the Reservation of the Tribe, as established pursuant to the 1838 Treaty with the~~
 51 ~~Oneida, 7 Stat. 566, and any lands added thereto pursuant to federal law.~~

52 ~~501.3-2. Subject Matter Jurisdiction. This Ordinance applies to all Gaming conducted within the~~
 53 ~~territorial jurisdiction of the Oneida Tribe as set forth in section 501.3-1.~~

54 ~~501.3-3. Personal Jurisdiction. 501.3-1. This Ordinance governs:~~

55 (a) ~~the Tribe;~~

56 (b) ~~tribal members; and~~

57 (c) ~~individuals and businesses leasing, occupying, or otherwise using Tribal Fee Land on~~
 58 ~~the Reservation and all Tribal Trust Land.~~

59

60 **501.4. Definitions**

61 ~~501.4-1.~~ This section shall govern the definitions of words and phrases used within this Ordinance.
 62 Words and phrases capitalized throughout this document refer to the defined words and phrases in
 63 this section. -All words or phrases not defined herein shall be used in their ordinary and everyday
 64 sense.

65 (a) “Applicant” means any person or entity who has applied for a License from the
 66 Oneida Gaming Commission or the Oneida Business Committee.

67 (b) “Background Investigation” means a standard and thorough investigation conducted
 68 by the Oneida Tribe Nation in compliance with this Ordinance, Commission regulations,
 69 Oneida Gaming Minimum Internal Controls, the IGRA and the Compact. -Such
 70 investigations may be in cooperation with federal, state, or Tribal law enforcement
 71 agencies.

72 (c) “Class I Gaming” means social games solely for prizes of minimal value or traditional
 73 forms of Indian gaming engaged in by individuals as a part of, or in connection with, Tribal
 74 ceremonies or celebrations.

75 (d) “Class II Gaming” means:

76 (1) The game of chance commonly known as bingo (whether or not electronic,
 77 computer or other technologic aids are used in connection therewith) in which:

78 (A) The game is played for prizes, including monetary prizes, with cards
 79 bearing numbers or other designations.

- 80 (B) The holder of the card covers such numbers or designations when
 81 objects, similarly numbered or designated, are drawn or electronically
 82 determined.
- 83 (C) The game is won by the first person covering a previously designated
 84 arrangement of numbers or designation on such cards, including (if played
 85 in the same location) pull-tabs, lotto, punch boards, tip jars, instant bingo
 86 and other games similar to bingo.
- 87 (2) Card games that:
- 88 (A) Are explicitly authorized by the laws of the State; or
- 89 (B) Are not explicitly prohibited by the laws of the State and are played at
 90 any location in the State, but only if such card games are played in
 91 conformity with laws and regulations (if any) of the State regarding hours
 92 or periods of operation of such card games or limitations on wagers or pot
 93 sizes in such card games. ~~Class II Gaming does not include any banking~~
 94 card games, including baccarat, chemin de fer, or blackjack (twenty-one),
 95 or electronic or electro-mechanical facsimiles of any game of chance or slot
 96 machines of any kind.
- 97 (e) “Class III Gaming” means all forms of Gaming that are not Class I or Class II
 98 Gaming.
- 99 (f) “Commission” means the Oneida Gaming Commission as established by this
 100 Ordinance.
- 101 (g) “Commissioner” means a duly elected member of the Oneida Gaming Commission.
- 102 (h) “Compact” means the 1991 Tribe-State Gaming Compact between the TribeNation
 103 and the State of Wisconsin, as amended and including any future amendments or successor
 104 compact entered into by the TribeNation and the State of Wisconsin and approved by the
 105 Secretary of the United States Department of Interior.
- 106 (i) “Compliance Certificate” means a certificate issued by an agency with the authority
 107 and responsibility to enforce applicable environmental, health or safety standards, which
 108 states that a Gaming Facility complies with these standards.
- 109 (j) “Environmental Assessment” means a document prepared and issued in compliance
 110 with the National Environmental Policy Act of 1969, 42 U.S.C. sec. 4321 *et seq.*, and all
 111 related ~~Federal~~federal regulations.
- 112 (k) “Fraud” means any act of trickery or deceit used to or intended to gain control or
 113 possession of the property of another.
- 114 (l) “Games, Gaming, or Gaming Activity” means all forms of any activity, operation, or
 115 game of chance that is considered Class II or Class III Gaming, provided that this definition
 116 does not include Class I Gaming.
- 117 (m) “Gaming Employee” means any person employed by a Gaming Operation.
- 118 (n) “Gaming Facility or Gaming Facilities” means any location or structure, stationary
 119 or movable, wherein Gaming is permitted, performed, conducted, or operated. Gaming
 120 Facility or Gaming Facilities does not include the site of a fair, carnival, exposition, or
 121 similar occasion.
- 122 (o) “Gaming Operation” means the conduct of Gaming Activities and related business
 123 activities in Gaming Facilities and areas where Gaming Employees are employed or
 124 assigned.
- 125 (p) “Gaming Operator” means the TribeNation, an enterprise owned by the TribeNation,

or such other entity of the TribeNation as the TribeNation may from time-to-time designate as the wholly-owned entity having full authority and responsibility for the operation and management of Gaming Operations.

(q) “Gaming Services” means the provision of any goods and services, except legal services and accounting services, to a Gaming Operation, including, but not limited to, equipment, transportation, food, linens, janitorial supplies, maintenance, or security services.

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

(s) “Judiciary” means the Oneida Nation Judiciary, which is the judicial system that was established by Oneida General Tribal Council resolution GTC ~~#1-01~~-07-13-B to administer the judicial authorities and responsibilities of the TribeNation.

(t) “License” means a certificate or other document that represents the grant of a revocable authorization to conduct the licensed activity. -A License must be supported by a physical document, badge, certification or other physical manifestation of the issuance of the revocable authorization to conduct the licensed activity.

(u) “Licensee” means a person or entity issued a valid License.

(v) “Nation” means the Oneida Nation.

(w) “NIGC” means the National Indian Gaming Commission.

~~(w-x)~~ “Oneida Business Committee” means the elected governing body of the Tribe exercising Nation that exercises the authority delegated ~~from it by~~ the Oneida General Tribal Council ~~of the Oneida Tribe of Indians of Wisconsin~~ under Article IV of the Constitution and By-laws ~~for of~~ the Oneida ~~Tribe of Indians of Wisconsin, approved December 21, 1936~~ Nation, as ~~thereafter may be~~ amended from time-to-time hereafter.

~~(x-y)~~ “Oneida General Tribal Council” means the Nation’s governing body, as established by the Constitution and By-laws of the Oneida ~~Tribe of Indians of Wisconsin as determined by the Tribe’s Constitution~~ Nation and as may be amended from time-to-time hereafter.

~~(y-z)~~ “Ordinance or ONGO” means the Oneida Nation Gaming Ordinance, as ~~it~~ may be amended from time-to-time ~~be amended~~ hereafter.

~~(z-aa)~~ “Regulatory Incident” means the occurrence of any event giving rise to a potential or alleged non-compliance with a gaming regulation, ordinance, law or policy involving any person or Licensee on the premises of a Gaming Facility.

~~(aa-bb)~~ “Remediation” means efforts taken to reduce the source and migration of environmental contaminants at a site.

~~(bb-cc)~~ “Reservation” means all lands within the exterior boundaries of the Reservation of the Oneida ~~Tribe of Indians of Wisconsin~~ Nation, as created pursuant to the 1838 Treaty with the Oneida, 7 Stat. 566, and any lands added thereto pursuant to federal law.

~~(ee-dd)~~ “Senior Gaming Management” means the gaming general manager, assistant gaming general managers, gaming directors and assistant gaming directors.

~~(dd-ee)~~ “State” means the State of Wisconsin, along with its authorized officials, agents and representatives.

~~(ee)~~ Tribe means the Oneida Tribe of Indians of Wisconsin.

(ff) “Tribal Fee Land” means all land to which the TribeNation holds title in fee simple.

(gg) “Tribal Trust Land” means all land to which the United States holds title for the

benefit of the ~~Tribe~~Nation pursuant to federal law.

501.4. Jurisdiction

501.4-1. Territorial Jurisdiction. This Ordinance extends to all land within the exterior boundaries of the Reservation.

501.4-2. Subject Matter Jurisdiction. This Ordinance applies to all Gaming conducted within the territorial jurisdiction of the Nation as set forth in section 501.4-1.

501.4-3. Personal Jurisdiction. This Ordinance governs:

(a) The Nation;

(b) Members of the Nation; and

(c) Individuals and businesses leasing, occupying, or otherwise using Tribal Fee Land on the Reservation and all Tribal Trust Land.

501.5. Oneida Business Committee: Powers and Duties

501.5-1. The Oneida Business Committee retains the power and duty to enter into agreements or compacts with the State under the Indian Gaming Regulatory Act.

501.5-2. The Oneida Business Committee retains the power and duty to enter into agreements with local governments and other Tribal governments for services or cooperative ventures for the Gaming Operations.

501.5-3. The Oneida Business Committee has the exclusive power and duty to enter into contracts and agreements affecting the assets of the ~~Tribe~~Nation, except for those assets that were placed under the responsibility of the Oneida Land Commission under Chapter 67; of the Real Property Law.

501.5-4. The Oneida Business Committee delegates to the Commission, ~~as set out~~ in section 501.6-14 of this Ordinance, certain authorities and responsibilities for the regulation of Gaming Activities, Gaming Operations, Gaming Operators, Gaming Employees, Gaming Facilities, Gaming Services, and the enforcement of laws and regulations, ~~as identified in this Ordinance~~.

501.5-5. The Oneida Business Committee retains the duty and responsibility to safeguard all funds generated by the Gaming Operations and all other authorities and responsibilities not delegated by a specific provision of this Ordinance.

501.5-6. The Chairperson of the ~~Tribe~~Nation must be the designated and registered agent to receive notice of violations, orders, or determinations which are issued pursuant to the Indian Gaming Regulatory Act and the Compact.

501.6. Oneida Gaming Commission

501.6-1. Establishment and Purpose.— The Oneida Business Committee has established the Oneida Gaming Commission for the purpose of regulating all Gaming Activities. —The Commission is an elected body comprised of four (4) members, provided that, the Oneida Business Committee may, upon request of the Commission, increase the number of Commissioners by resolution ~~without~~with-out requiring amendment of this Ordinance.

501.6-2. Location and Place of Business.— The Commission shall maintain its offices and principal place of business within the Reservation.

501.6-3. Duration and Attributes. —The Commission will have perpetual existence and succession in its own name, unless dissolved by ~~Tribal~~law— of the Nation. Operations of the Commission must be conducted on behalf of the ~~Tribe~~Nation for the sole benefit of the ~~Tribe~~Nation and its members. -The ~~Tribe~~Nation reserves unto itself the right to bring suit against

any person or entity in its own right, on behalf of the TribeNation, or on behalf of the Commission, whenever the TribeNation considers it necessary to protect the sovereignty, rights, and interests of the TribeNation or the Commission.

501.6-4. Sovereign Immunity of the Tribe.

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

~~(b)~~ a The TribeNation confers upon the Commission sovereign immunity from suit as set forth in the Tribe'sNation's Sovereign Immunity Ordinancelaw.

~~(e)~~ b Nothing in this Ordinance nor any action of the Commission may be construed to be ~~a~~: (1) A waiver of ~~it~~the sovereign immunity ~~or that~~ of the Tribe, Commission or ~~consent~~the Nation;

(2) Consent by the Commission or the TribeNation to the jurisdiction of the Judiciary, the United States, ~~anya~~any state, or any other tribe; ~~or consent~~

(3) Consent by the TribeNation to any suit, cause of action, case or controversy; or the levy of any judgment, lien, or attachment upon any property of the Commission or the TribeNation.

501.6-5. Requirements of Commission Membership.

(a) Qualifications. Candidates for election or appointment to the Commission must be at least twenty-one (21) years of age on the day of the election or on the day of appointment.

~~In addition, candidates~~

(1) Candidates for election to the Commission shall further meet the following qualifications within five (5) business days after a caucus for elected positions on the Commission. Candidates for appointment to the Commission shall meet the following qualifications on the day of appointment to a vacancy on the Commission under section 501.6-13 of this Ordinance:

~~(1)~~ A Be an enrolled member of the TribeNation;

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

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

(b) Conflict of Interest. No person may be considered for election or appointment as a Commissioner until the candidate has disclosed all conflicts of interest as defined ~~by~~in the OneidaNation's Conflict of Interest Policylaw.

(c) Background Investigation. No person may be considered for election or appointment as a Commissioner until a preliminary Background Investigation has been completed and the person has been found to meet all qualifications.

~~(d)~~ (1) Swearing into office is subject to a Background Investigation regarding the qualifications set forth in sections 501.6-5 and 501.6-6 upon being elected or appointed to office.

501.6-6. Unless pardoned for activities under subsections (a) and/or (d) by the TribeNation, or pardoned for an activity under subsection (a) and/or (d) by another Federally-recognized Indian Tribe for an action occurring within the jurisdiction of the Federally-recognized Indian Tribe, or pardoned for an activity under subsection (a) and/or (d) by the State or Federal government, no individual may be eligible for election or appointment to, or

264 to continue to serve on, the Commission, who:

265 (a) Has been convicted of, or entered a plea of guilty or no contest to, any of the
 266 following:¹

267 (1) Any gambling-related offense;

268 (2) Any offense involving Fraud or misrepresentation;

269 (3) Any offense involving a violation of any provision of ~~chs.Chapters~~ 562 or
 270 565, ~~Wis. Stats., of the Wisconsin Statutes,~~ any rule promulgated by the State of
 271 Wisconsin Department of Administration, Division of Gaming or any rule
 272 promulgated by the Wisconsin Racing Board;

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

275 (5) Any offense involving the violation of any provision of ~~Tribe~~the Nation's
 276 law regulating the conduct of Gaming Activities, or any rule or regulation
 277 promulgated pursuant thereto.

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

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

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

287 (e) Has been removed from any office pursuant to the ~~Oneida~~Nation's Removal Law
 288 within the past five (5) years; or

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

291 501.6-7. Term of Office.- Commissioners shall serve five (5) year terms and shall serve until a
 292 successor takes the oath of office. ~~Terms of office must be staggered.~~

293 (a) Terms of office must be staggered.

294 501.6-8. Official Oath.- Each Commissioner shall take the official oath at a regular or special
 295 Oneida Business Committee meeting prior to assuming office.

296 (a) Upon being administered the oath of office, a Commissioner shall assume the duties
 297 of office and must be issued a security card setting forth his or her title and term of office.

298 501.6-9. ~~Full-time Status. The Commission shall identify the appropriate work schedule for its~~
 299 ~~members.~~ Full-Time Status. Each Commissioner shall perform his or her duties and
 300 responsibilities on a full-time basis and shall devote his or her entire work and professional time,
 301 attention and energies to Commission business, ~~and may not.~~

302 (a) No Commissioner shall, during his or her tenure in office, be engaged in any other
 303 profession or business activity that may impede ~~the Commissioner's~~his or her ability to
 304 perform duties on behalf of the Commission or that competes with the ~~Tribe's~~Nation's
 305 interests.

306 (b) The Commission shall identify the appropriate work schedule for its members.

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

§07 501.6-10. *Bylaws.*- The Commission shall adopt bylaws subject to review and approval by the
 §08 Oneida Business Committee.

§09 501.6-11. ~~*Budget and Compensation.*~~ -The Commission shall function pursuant to an annual
 §10 budget.

§11 (a) The Oneida Business Committee shall submit the operating budget of the
 §12 Commission for approval in the same fashion as all other ~~Tribal budgets.~~ ~~Compensation~~
 §13 ~~of Commissioners is not subject to the Tribe's Comprehensive Policy Governing Boards,~~
 §14 ~~Committees, and Commissions, but must be established by the Commission in a manner~~
 §15 ~~consistent with the Commission's internal rules and bylaws.~~ ~~The Commission shall adopt~~
 §16 ~~internal rules consistent with the existing Tribal accounting practices to verify its budgetary~~
 §17 ~~expenditures.~~ budgets of the Nation.

§18 (b) Compensation of Commissioners is not subject to the Nation's Boards, Committees
 §19 and Commissions law, but must be established by the Commission in a manner consistent
 §20 with the Commission's internal rules and bylaws.

§21 (1) The Commission shall adopt internal rules consistent with the Nation's
 §22 existing accounting practices to verify its budgetary expenditures.

§23 501.6-12. *Removal.* -Removal of Commissioners must be pursuant to the ~~Oneida~~Nation's
 §24 Removal Law.

§25 501.6-13. *Vacancies.*- Any vacancy in an unexpired term of office, however caused, must be filled
 §26 by appointment by the Oneida Business Committee, of a person qualified ~~pursuant to under~~
 §27 sections 501.6-5 and 501.6-6 ~~pursuant to of this Ordinance, in accordance with the Comprehensive~~
 §28 ~~Policy Governing~~Nation's Boards, Committees and Commissions law.

§29 501.6-14. *Authority and Responsibilities.*- Subject to any restrictions contained in this Ordinance
 §30 or other applicable law, the Commission is vested with powers including, but not limited to, the
 §31 following:

§32 (a) To exercise all power and authority necessary to effectuate the gaming regulatory
 §33 purposes of this Ordinance, IGRA, Oneida Gaming Minimum Internal Controls, and the
 §34 Compact.

§35 (1) Unless otherwise indicated in this Ordinance or, Commission regulation, or
 §36 authorized by majority vote of the Commission, no Commissioner may act
 §37 independently of the Commission. ~~-Any such action may constitute grounds for~~
 §38 removal.

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

§41 ~~To draft, and approve, subject~~ Subject to review and adoption by the Oneida
 §42 Business Committee, to draft and approve regulations pursuant to this Ordinance for the
 §43 regulation of all Gaming Activity, including processes for the enforcement of such
 §44 regulations consistent with ~~Tribal law~~the laws of the Nation.

§45 (d) To draft and approve the Rules of Play and Oneida Gaming Minimum Internal
 §46 Controls; provided ~~that, the~~ Rules of Play and Oneida Gaming Minimum Internal Controls
 §47 require review and comment by Senior Gaming Management prior to approval by the
 §48 Commission and are subject to review by the Oneida Business Committee.

§49 (1) Rules of Play and Oneida Gaming Minimum Internal Controls are minimum
 §50 standards with which the Gaming Operations are required to comply and are
 §51 audited against.

§52 (2) Comments received from Senior Gaming Management must be included in

353 any submission to the Oneida Business Committee.
 354 (3) Rules of Play and Oneida Gaming Minimum Internal Controls are effective
 §55 upon adoption by the Commission. -
 §56 (4) The Commission shall provide notice of adoption of the Rules of Play and/or
 357 Oneida Gaming Minimum Internal Controls to the Oneida Business Committee at
 358 the next available regularly scheduled Oneida Business Committee meeting
 §59 following such adoption. -
 §60 (A) If the Oneida Business Committee has any concerns and/or requested
 361 revisions upon review of the Rules of Play and Oneida Gaming Minimum
 362 Internal Controls, the Commission shall work with the Oneida Business
 363 Committee to address such concerns and/or requested revisions.
 §64 ~~(A)~~ (i) Unless the Oneida Business Committee repeals the Rules of
 365 Play and/or the Oneida Gaming Minimum Internal Controls adopted
 366 by the Commission, they will remain in effect while the
 367 Commission and the Oneida Business Committee jointly work to
 368 amend the Rules of Play and/or the Oneida Gaming Minimum
 369 Internal Controls adopted by the Commission.
 §70 ~~(i)~~ ii Should the Oneida Business Committee repeal the Rules of
 371 Play and/or the Oneida Gaming Minimum Internal Controls adopted
 372 by the Commission, the Rules of Play and/or the Oneida Gaming
 373 Minimum Internal Controls that were in effect immediately previous
 374 to those repealed will be automatically reinstated and effective
 375 immediately upon the repeal of the Rules of Play and/or the Oneida
 376 Gaming Minimum Internal Controls adopted by the Commission.
 377 (B) If the Commission does not receive written notice from the Oneida
 378 Business Committee of intent to repeal or amend the Rules of Play and/or
 379 the Oneida Gaming Minimum Internal Controls within thirty (30) days of
 380 the date the Oneida Business Committee is provided notice of the Rules of
 381 Play and/or the Oneida Gaming Minimum Internal Controls adopted by the
 382 Commission, they will remain in effect as adopted by the Commission.
 §83 (C) Should the Oneida Business Committee pursue amendments to the
 384 Rules of Play and/or the Oneida Gaming Minimum Internal Controls
 385 adopted by the Commission, the amendments must be completed through
 386 one (1) of the following actions within six (6) months from the date the
 387 amendments are initiated by the Oneida Business Committee:
 388 (i) if the Commission and the Oneida Business Committee reach an
 389 agreement as to the content of the amendments, the Commission
 390 must adopt revised Rules of Play and/or the Oneida Gaming
 391 Minimum Internal Controls that have been discussed with and
 392 agreed upon by the Oneida Business Committee; or
 393 (ii) if the Commission and the Oneida Business Committee do not
 394 reach an agreement as to the content of the amendments, the Oneida
 395 Business Committee may adopt revised Rules of Play and/or the
 396 Oneida Gaming Minimum Internal Controls that incorporate the
 397 amendments it deems necessary.
 §98 (D) If revised Rules of Play and/or Oneida Gaming Minimum Internal

- 399 Controls are not adopted by either the Commission or the Oneida Business
400 Committee within six (6) months from the date the amendments are initiated
401 by the Oneida Business Committee, the Rules of Play and/or the Oneida
402 Gaming Minimum Internal Controls originally adopted by the Commission
403 will remain in effect.
- 404 -(e) To prepare proposals, including budgetary and monetary proposals, which might
405 enable the ~~Tribe~~Nation to carry out the purpose and intent of this Ordinance, and to submit
406 the same for consideration by the Oneida Business Committee; provided, however, that no
407 such proposal shall have any force or effect unless it is approved by the Oneida Business
408 Committee.
- 409 (f) To monitor and enforce all laws and regulations governing the operation and conduct
410 of all Gaming Activities, including the ongoing monitoring of Licenses, subject to this
411 Ordinance and/or regulations setting forth hearing or enforcement processes.
- 412 (g) To monitor and investigate all Gaming Operators for compliance with internal audits,
413 and external audits.
- 414 (h) To inspect, examine, and photocopy all papers, books, and records of Gaming
415 Activities and any other matters necessary to carry out the duties pursuant hereto;
416 provided, that, all photocopies of documents must be maintained in a confidential manner
417 or in the same manner as the original.
- 418 (i) To grant, deny, revoke, condition, suspend or reinstate the Licenses of Gaming
419 Employees, Gaming Services vendors, and Gaming Operators.
- 420 (j) To conduct hearings relating to Licenses issued under this Ordinance by the
421 Commission.
- 422 (k) To review all vendors doing business with the Gaming Operator to verify that such
423 persons or entities hold a valid License, where required, to do business with a Gaming
424 Operator.
- 425 (l) To retain professional advisors such as attorneys, law enforcement specialists, and
426 Gaming professionals consistent with ~~Tribal Law~~the Nation's laws and practices.
- 427 (m) To arbitrate, negotiate, or settle any dispute to which it is a party, and which relates
428 to its authorized activities.
- 429 (n) To act as the designated agent to receive all regulatory notices not included in section
430 501.5-6 of this Ordinance.
- 431 (o) To investigate all Regulatory Incidents.
- 432 (p) To issue warnings or notices of violation, in accordance with regulations, to Gaming
433 Operators and Licensees for non-compliance with the Compact, Oneida Gaming Minimum
434 Internal Controls, Rules of Play, IGRA, or this Ordinance.
- 435 (q) To make determinations regarding suitability for licensing.
- 436 (r) To establish an administrative structure by regulation to carry out its authority and
437 responsibilities.
- 438 (s) To establish, where needed, additional processes for conducting licensing hearings
439 by regulation.
- 440 (t) To establish and collect fees for processing License applications by regulation.
- 441 (u) To establish and impose a point system for findings of regulatory violations by any
442 Gaming Employee by regulation.
- 443 (v) To establish and impose a fine system for findings of regulatory violations by any
444 Gaming Services vendor or permittee by regulation.

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

447 501.6-15. Reporting Requirements. ~~The Commission shall adhere to the following reporting~~
 448 requirements:

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

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

454 (c) Quarterly, or as may be directed by the Oneida Business Committee, reports of the
 455 Commission's activities, including information regarding funding, income and expenses
 456 and any other matters to which the parties may agree, must be submitted to the Oneida
 457 Business Committee.

458 501.6-16. Oneida Gaming Commission Personnel. ~~The Commission shall hire an Executive~~
 459 Director who is responsible for hiring and managing the personnel of the Commission.

460 (a) The Executive Director shall hire such personnel as is necessary to assist the
 461 Commission to fulfill its responsibilities under this Ordinance, the IGRA, ~~and~~ the Compact,
 462 and all governing regulations, including the Oneida Gaming Minimum Internal Controls.

463 (b) The Executive Director and personnel of the Commission must be hired through the
 464 Tribe's Nation's regular personnel procedure and are subject to its personnel policies and
 465 salary schedules.

466 (1) The Executive Director and personnel shall meet the requirements set forth in
 467 section 501.12-3 of this Ordinance at hiring and during employment.

469 **501.7. Gaming Surveillance: Powers, Duties and Limitations**

470 501.7-1. Purpose. ~~The purpose of Gaming Surveillance is to observe and report Regulatory~~
 471 Incidents to the Commission and Gaming General Manager to provide for the regulation,
 472 operation, and compliance of Gaming Activities under this Ordinance.

473 (a) Gaming Surveillance is a department within the Commission's administrative
 474 structure and supervision must be identified within the organizational chart adopted by the
 475 Commission; ~~provided that,~~ nothing in the designation of supervisory responsibility may
 476 be deemed to prohibit the responsibility of Gaming Surveillance to provide information
 477 and/or video and/or audio records to the parties identified in section 501.7-3 of this
 478 Ordinance.

479 501.7-2. Gaming Surveillance shall be responsible for all Gaming surveillance activities
 480 including, but not limited to, equipment and maintenance of equipment, observation and reporting
 481 of all persons to include Gaming Employees, customers, consultants, and Gaming Services
 482 vendors.

483 501.7-3. Surveillance personnel shall provide to Senior Gaming Management, the Commission,
 484 or Gaming Security a copy of any time-recorded video and accompanying audio (if available)
 485 within twenty-four (24) hours of request.

486 501.7-4. Gaming Surveillance shall:

487 (a) Develop, implement and maintain written policies and procedures for the conduct
 488 and integrity of the Surveillance Department.

489 (b) Develop, implement and maintain additional procedures governing the use and
 490 release of the surveillance recordings or reports.

491 (c) Work cooperatively with the Gaming Security Department to carry out its official
 492 duties and to coordinate its activities in order to effectuate the protection of patrons and the
 493 assets of the Gaming Operation.

494 (d) Develop, implement and maintain written policies and procedures for
 495 implementation of duties and responsibilities identified with the Oneida Gaming Minimum
 496 Internal Controls, subject to approval by the Commission.

497
 498 **501.8. [Reserved for future use.]**
 499

500 **501.9. Gaming Security Department**

501 ~~501.9-1. *Purpose.* The Gaming Security Department is a department within the Oneida Police~~
 502 ~~Department. *Purpose.* The purpose of the Gaming Security Department is to protect Gaming~~
 503 ~~assets, patrons and Gaming Employees from an activity, repeat activity, or ongoing activities~~
 504 ~~which could injure or jeopardize Gaming assets, patrons and Gaming Employees and report these~~
 505 ~~activities to the Oneida Police Department for further review and/or investigation. Provided that,~~
 506 ~~all reports of the Gaming Security Department must be copied to the Commission.~~

507 (a) The Oneida Business Committee shall be responsible for the supervision, as well as
 508 oversight, of the Gaming Security Department and the Gaming Security Department shall
 509 report directly to the Oneida Business Committee per the process and schedule set by the
 510 Oneida Business Committee; provided, all reports of the Gaming Security Department
 511 must be copied to the Commission. 501.9-2. *Reporting.* The Oneida Police Department,
 512 Gaming General Manager and the _____

513 501.9-2. *Reporting.* The Internal Security Director, Gaming General Manager and Commission
 514 shall enter into an agreement, subject to ratification by the Oneida Business Committee, which
 515 describes describing their responsibilities and reporting requirements under this Ordinance.-

516 (a) When investigations involve or uncover a possible criminal or quasi-criminal
 517 activity, the Gaming Security Department shall report the activity to the Oneida Police
 518 Department for further review and investigation by the Oneida Police Department under
 519 its separate departmental authority.

520 501.9-3. The Gaming Security Department shall:

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

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

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

528 501.9-4. *Investigations.* This section is intended to authorize report gathering, information
 529 gathering, and preliminary review, to be conducted by the Gaming Security Department.

530
 531 **501.10. Background Investigations**

532 501.10-1. The Human Resources Department and the Commission shall enter into an agreement,
 533 subject to ratification by the Oneida Business Committee, for carrying out Background
 534 Investigations for employees as required under this Ordinance.

535 501.10-2. Background Investigations must be conducted on all persons or entities as specified
 536 under this Ordinance. -

(a) All Background Investigations must be conducted to ensure that the ~~Tribe~~Nation in its Gaming Operations may not employ or contract with persons whose prior activities, or reputation, habits and associations pose a threat to the public interest or to the effective regulation of Gaming, or create or enhance the dangers of unsuitable, unfair or illegal practices and methods in the conduct of such Gaming.

(1) The identity of any person interviewed in order to conduct a Background Investigation must be confidential.

501.11. Licenses, Generally

501.11-1. The Commission shall adopt procedures that ensure the efficient and orderly processing of all applications for a License.

(a) All Gaming Employees, Gaming Services vendors, and Gaming Operators shall apply for a License from the Commission prior to their participation in any Gaming Activity.

(b) All Gaming Facilities must be licensed by the Oneida Business Committee.

501.11-2. *Temporary License.* -All Applicants, upon receipt by the Commission of a completed application for a License and completion of a preliminary Background Investigation, may receive a temporary license for a ninety (90) day period, unless a Background Investigation of the application demonstrates grounds to disqualify the Applicant. ~~Such~~

(a) A temporary license, ~~as defined in this section,~~ permits the Licensee to engage in such activities ~~and~~ pursuant to any terms and conditions imposed and specified by the Commission. ~~The~~

(b) A temporary license is valid until either replaced by a License, the ninety (90) day temporary license period has concluded, or the temporary license is cancelled by the Commission, whichever occurs first.

501.11-3. *Revocable.* -A License is revocable only in accordance with the procedures set forth in this Ordinance.

(a) A Licensee has only those rights and protections regarding a License granted in this Ordinance.

501.11-4. All Applicants:

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

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

501.11-5. All Licensees are subject to ongoing review at least every two (2) years by the Commission.

501.11-6. *Status of Licenses.* The Commission shall notify the Gaming Operation of the status of all Licenses, whether temporary or permanent, including all Commission action to revoke, suspend, or condition a License.

501.11-7. *Commission Licensing Actions.* - The Commission may grant, deny, revoke, condition, suspend or reinstate all Licenses, except for Gaming Facilities Licenses, in accordance with this Ordinance.

(a) Authority to place conditions on a License may be exercised only upon promulgation of regulations.

501.11-8. *Noncompliance.* - The Commission may issue a notice of noncompliance when the Commission has developed regulations that identify procedures that notices of noncompliance may

§83 be issued to Licensees and permittees which provide an opportunity to correct actions.

§84 _____ (a) Such regulations must include procedures for appeal of such notices. ~~Regulations~~
 §85 ~~and~~ may include the ability to issue fines not to exceed one thousand dollars (\$1000.00)
 §86 per violation for Gaming Services vendors and permittees.
 §87

§88 **501.12. Gaming Employee License**

§89 501.12-1. *Scope of Section.*— This section applies only to Gaming Employee Licenses and
 §90 licensing actions.

§91 501.12-2. *License Application.*— Every Applicant for a License shall file with the Commission a
 §92 written application in the form prescribed by the Commission, duly executed and verified, which
 §93 must certify:

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

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

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

§03 (d) _____ Current business and residence telephone numbers.

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

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

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

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

§14 (i) _____ For each felony conviction or ongoing prosecution or conviction, the charge, the
 §15 name and address of the court involved, and the date and disposition, if any.

§16 (j) _____ For each misdemeanor or ongoing misdemeanor prosecution (excluding violations
 §17 for which jail time is not part of the potential sentence) within ten (10) years of the date of
 §18 the application, the name and address of the court involved, and the date and disposition.

§19 (k) _____ For each criminal charge (excluding charges for which jail time is not part of the
 §20 potential sentence) whether or not there is a conviction, if such criminal charge is within
 §21 ten (10) years of the date of the application and is not otherwise listed pursuant to
 §22 ~~subsections~~sub-sections (i) or (j) of this section, the criminal charge, the name and address
 §23 of the court involved and the date and disposition.

§24 (l) _____ A photograph.

§25 (m) _____ Fingerprints consistent with procedures adopted by the Commission which meet the
 §26 criteria set forth in 25 C.F.R. section 522.2(h). ~~The Commission is the agency that takes~~
 §27 ~~the fingerprints.~~

§28 _____ (1) The Commission is the agency that takes the fingerprints.

§29 (n) Any other information the Commission deems relevant for a Gaming Employee
 §30 License.

§31 (o) A statement that each Applicant has read and understands notices and the NIGC
 §32 requirements relating to:

§33 (1) The Privacy Act of 1974;

§34 (2) Fraud and False Statements Act; and

§35 (3) Fair Credit Reporting Act.

§36 501.12-3. License Qualifications. ~~No License may be granted if the Applicant:~~

§37 (a) Is under the age of eighteen (18).

§38 (b) Unless pardoned for activities under this subsection by the TribeNation, or pardoned
 §39 for activities under this subsection by another Federally-recognized Indian Tribe for an
 §40 action occurring within the jurisdiction of the Federally-recognized Indian Tribe, or
 §41 pardoned for activities under this subsection by the state or Federal government, has been
 §42 convicted of, or entered a plea of guilty or no contest to, any of the following:

§43 (1) Any gambling-related offense;

§44 (2) Any offense involving Fraud or misrepresentation;

§45 (3) Any offense involving a violation of any provision of ~~chs.Chapters~~ 562 or
 §46 565, ~~Wis. Stats.,~~ of the Wisconsin Statutes, any rule promulgated by the State of
 §47 Wisconsin Department of Administration, Division of Gaming, or any rule
 §48 promulgated by the Wisconsin Racing Board;

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

§51 (5) Any offense involving the violation of any provision of ~~Tribal~~the Nation's
 §52 law ~~regulatingthat regulates~~ the conduct of Gaming Activities, or any rule or
 §53 regulation promulgated pursuant thereto.

§54 (c) Is determined to be a person whose prior activities, criminal record, reputation, habits,
 §55 or associations pose a threat to the public interest or to the effective regulation and control
 §56 of Gaming or create or enhance the dangers of unsuitable, unfair, or illegal practices,
 §57 methods, or activities in the operation of Gaming Activities or the carrying on of the
 §58 business and financial arrangements incidental thereto.

§59 (d) Possesses a financial interest in or management responsibility for any Gaming
 §60 Activity or Gaming Services vendor, or he or she has any personal, business, or legal
 §61 relationship which places him or her in a conflict of interest as defined in this Ordinance
 §62 or the Nation's Conflict of Interest ~~Policy~~law.

§63 (e) Each person licensed as a Gaming Employee has a continuing obligation to inform
 §64 the Commission immediately upon the existence of any circumstance or the occurrence of
 §65 any event which may disqualify him or her from being licensed as a Gaming Employee.

§66 (1) Failure to report any such occurrence may result in suspension or revocation
 §67 of the Gaming Employee's License.

§68 501.12-4. Initial Eligibility Determination.

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

§71 (1) Grant a temporary license, with or without conditions, to the Applicant; or

§72 (2) Deny the License application and provide notice to the Applicant that he or
 §73 she may request a hearing regarding the decision consistent with subsection (b)
 §74 below.

675 (b) If the Commission determines that an Applicant is ineligible for a License, the
676 Commission shall notify the Applicant.

677 (1) The Commission shall set forth regulations for an Applicant to review any
678 information discovered during the preliminary Background Investigation prior to
679 scheduling a hearing under section 501.12-10. ~~The suspension or revocation~~
680 ~~hearing provisions set forth at section 501.12-9 do not apply to Initial Eligibility~~
681 ~~Determinations of this Ordinance.~~

682 (2) The suspension or revocation hearing provisions set forth at section 501.12-9
683 of this Ordinance do not apply to Initial Eligibility Determinations.

684 501.12-5. Eligibility Determination and Notification to NIGC. ~~When a Gaming Employee begins~~
685 ~~employment at a Gaming Operation, the Commission shall:~~

686 (a) Require the Gaming Employee to submit a completed application for employment
687 that contains the notices and information listed in section 501.12-2 of this Ordinance;

688 (b) Review the Background Investigation of the Gaming Employee. ~~;~~

689 (1) Within sixty (60) days after a Gaming Employee begins employment at a
690 Gaming Facility under a temporary license, the Commission shall make an
691 eligibility determination regarding whether the Gaming Employee may receive a
692 License based upon the results of the Background Investigation.

693 (c) Create an investigative report based on each Background Investigation performed. ~~;~~

694 (1) The investigative report must include the steps in conducting the Background
695 Investigation, results obtained, conclusions reached and the basis for those
696 conclusions.

697 (d) Prior to issuing a License to a Gaming Employee and within sixty (60) days after the
698 Gaming Employee begins employment at a Gaming Facility, submit a notice of results of
699 the Background Investigation to the NIGC for inclusion in the Indian Gaming Individual
700 Record System. ~~;~~ and

701 (1) The notice of results must include the following, provided that any additional
702 or alternate information must be forwarded as directed in regulations or rules
703 adopted by the NIGC:

704 (~~4~~-A) The Gaming Employee's name, date of birth, and ~~social security~~
705 ~~number.~~ Social Security Number;

706 (~~2~~-B) The date on which the Gaming Employee began employment. ~~;~~

707 (~~3~~-C) A summary of the information presented in the investigative report,
708 including:

709 (~~A~~-i) License(s) that have previously been denied;

710 (~~B~~-ii) Gaming licenses that have been revoked, even if
711 subsequently reinstated;

712 (~~C~~iii) Every known criminal charge brought against the Gaming
713 Employee within the last ten (10) years of the date of the application;

714 ~~and~~

715 (~~D~~iv) Every felony of which the Gaming Employee has been
716 convicted or any ongoing prosecution.

717 (~~4~~-a (D) A copy of the eligibility determination made under section 501.12-5
718 (~~b~~-) of this Ordinance.

719 (e) All applications, Background Investigations, investigative reports, suitability
720 determinations, findings and decisions of the Commission must be retained in the

721 Commission's files for a period of at least three (3) years from the date the Gaming
722 Employee's employment is terminated.

723 501.12-6. *License Issuance.* -The Commission may issue a License to a Gaming Employee at any
724 time after providing the NIGC with a notice of results as required under section 501.12-5(d);) of
725 this Ordinance; however, a Gaming Employee who does not have a License ninety (90) days after
726 the start of employment must have his or her employment terminated.

727 (a) The Commission shall notify the NIGC of the issuance or denial of a License to a
728 Gaming Employee within thirty (30) days after the License is issued or denied.

729 (a)-b) Any Gaming Employee License issued under this section is effective from the date
730 of issuance and must contain the Gaming Employee's photograph, the Gaming Employee's
731 name, and the date that the License became effective.

732 (1) If a Gaming Employee is promoted, transferred, reassigned, or the position is
733 reclassified, the Gaming Employee shall notify in writing the Commission, and the
734 Commission shall review the Gaming Employee's License.

735 (c) The Commission retains the right to grant, deny, revoke, condition, suspend, or
736 reinstate Licenses subject to the right to appeal the decision under the processes set forth
737 in this Ordinance.

738 501.12-7. *Requirement to Wear License.* -During working hours, all Licensees shall wear their
739 License in a conspicuous place that is plainly visible by all employees, the Nation's Gaming
740 patrons and surveillance.

741 501.12-8. *NIGC Review.*

742 (a) During a thirty (30) day period, beginning when the NIGC receives a notice of results
743 submitted pursuant to section 501.12-5(d) above, the Chairman of the NIGC may request
744 additional information from the Commission concerning the Gaming Employee.

745 (1) Such a request suspends the thirty (30) day period until the Chairman receives
746 the additional information.

747 (b) If, within the thirty (30) day period after the NIGC receives the notice of results, the
748 NIGC notifies the Commission that it has no objection to the issuance of a License, and
749 the Commission has not yet issued a License to the Gaming Employee, the Commission
750 may grant the License to the Gaming Employee.

751 (c) If, within the thirty (30) day period after the NIGC receives the notice of results, the
752 NIGC provides the Commission with a statement itemizing objections to the issuance of a
753 License, the Commission shall reconsider the application, taking into account the
754 objections itemized by the NIGC.

755 (1) The Commission shall make the final decision whether to issue a License to
756 the Gaming Employee, or if the Gaming Employee has already been licensed,
757 whether to suspend or revoke the License in accordance with section 501.12-9 of
758 this Ordinance.

759 (d) Upon receipt of notification from the NIGC that a Gaming Employee who has already
760 been licensed is not eligible for employment, the Commission shall immediately suspend
761 the License in accordance with section 501.12-9 of this Ordinance.

762 501.12-9. *Suspension or Revocation of Licenses.* -Except as provided in section 501.12-8(d) or
763 501.12-9(c);) of this Ordinance, no License may be suspended or revoked except after notice and
764 opportunity for hearing.

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

767 (1) After the issuance of a License, the Commission receives from the NIGC or
 768 other source reliable information indicating that a Gaming Employee is not eligible
 769 for a License under section 501.12-3 ~~of this Ordinance;~~ or such information would
 770 justify the denial of the renewal of any License, the Commission shall issue a
 771 written notice of suspension;

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

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

778 (B) Has knowingly promoted, played, or participated in any ~~gaming~~
 779 activity~~Gaming Activity~~ operated in violation of the Compact,
 780 ~~Tribal~~Oneida or federal law, and this Ordinance;

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

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

786 (E) Has refused to comply with any lawful directive of the ~~Tribes,~~
 787 ~~the~~Nation, Federal government, or any court of competent jurisdiction; or

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

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

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

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

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

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

801 (c) Immediate Suspension. -If, in the judgment of the Commission, the public interest,
 802 and effective regulation and control of Gaming Activities requires the immediate exclusion
 803 of a Licensee, the Commission may immediately suspend a License prior to the conduct of
 804 a hearing on the matter.

805 (1) Such an immediate suspension may take effect upon service of the notice of
 806 immediate suspension.

807 (d) Any notice of suspension or notice of immediate suspension must set forth the times
 808 and dates for when the Licensee may review his or her file and the date for a hearing on
 809 any proposed licensing action.

810 (e) Within fifteen (15) business days after a hearing, the Commission shall issue a final
 811 written licensing decision and decide whether to suspend, uphold an immediate suspension,
 812 revoke, or take other action concerning a License. -

§13 (1) If the License was suspended, conditioned or revoked based on information
 §14 from the NIGC or other source under section 501.12-8(d) or 501.12-9(a)(1~~);~~) of this
 §15 Ordinance, the Commission shall forward a copy of its decision to the NIGC within
 §16 forty-five (45) days of receiving the NIGC's or the other source's notification
 §17 indicating that a Gaming Employee is not eligible for a License.

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

§21 (g) Unless identified in this Ordinance or regulations of the Commission, the hearing
 §22 processes set forth in the ~~Tribe's administrative procedures law~~ Nation's Administrative
 §23 Procedures Act shall apply.

§24 501.12-10.- Original Hearing Body.- Any person aggrieved by a licensing decision of the
 §25 Commission may appeal the decision by filing a request for an original hearing before the
 §26 Commission.

§27 (a) The Licensee may file any such request with the Commission in writing on or before
 §28 the fifteenth (15th) day following receipt of the Commission's decision.

§29 (b) The Commission shall certify the record, developed in accordance with section
 §30 501.12-4 or 501.12-9(a~~);~~) of this Ordinance, within thirty (30) days of the date of the filing
 §31 of the request for an original hearing. ~~The~~

§32 (c) Those Commissioners serving on the original hearing body may not include the
 §33 Commissioners who participated in the licensing decision from which the original hearing
 §34 is scheduled.

§35 (d) The Commission may ~~determine~~ decide to review the decision solely on the licensing
 §36 decision record and briefs filed regarding the request for reconsideration. -

§37 (1) The Commission may also, in its sole discretion, grant oral ~~argument.~~
 §38 arguments.

§39 (e) The Commission shall issue a written decision determining whether to uphold the
 §40 Commission's licensing decision, including whether to revoke or reinstate a License,
 §41 within one hundred twenty (120) days from receipt of the request for the original hearing.

§42 (1) The Commission's decision is considered an original hearing decision and an
 §43 appeal may be made to the Judiciary as an appeal of an original hearing body.

§44 501.12-11. Notice to Oneida Business Committee. -Prior to any suspension or revocation of a
 §45 License of the ~~gaming general manager~~ Gaming General Manager, the Commission shall provide
 §46 notice to the Oneida Business Committee twenty-four (24) hours prior to the issuance of the
 §47 suspension or revocation.

§48 501.12-12. Record of Proceedings.- The Commission shall maintain a complete and accurate
 §49 record of all licensure proceedings.

§50 501.12-13. Revocation of a License is solely limited to the licensing matter.- Employment related
 §51 processes resulting from revocation of a License are determined solely through the personnel
 §52 processes and procedures of the ~~Tribe~~ Nation and are not licensing matters governed by this
 §53 Ordinance.

§54 **501.13. Gaming Services Licensing and Non-Gaming Services Permitting**

§56 501.13-1. Scope of Section. This section applies to all individuals and entities providing Gaming
 §57 Services.

§58 (a) The requirements of this Section are in addition to, and do not alter or amend any

- §59 requirements imposed by the ~~Oneida Nation's~~ Vendor Licensing ~~Law~~law.²
- §60 501.13-2. Gaming Services License or Non-Gaming Services Permit Required.
- §61 (a) Gaming Services License.- Any Gaming Services vendor providing Gaming related
- §62 contract goods or services as defined under Article VII(A) of the Compact to the Gaming
- §63 Operation shall possess a valid Gaming Services License.
- §64 (b) Non-Gaming Services Permit.- Any vendor providing non-gaming related goods or
- §65 services to the Gaming Operation shall possess a valid Non-Gaming Services permit.
- §66 (c) Determinations regarding the issuance of a License or permit under this section must
- §67 be made by the Commission which may be subject to requests for reconsideration by the
- §68 Gaming Services vendor within fourteen (14) business days of receipt by the Gaming
- §69 Services vendor of the notice of License or permit determination.
- §70 501.13-3. Approved Gaming Services Vendor List.- The Commission shall maintain an updated
- §71 and complete list of all Gaming Services vendors that possess current and valid Gaming Services
- §72 Licenses or Non-Gaming Services permits from the Commission, which is known as the Approved
- §73 License and Permit List.
- §74 (a) Gaming Operations may only do business with vendors that possess valid and current
- §75 Gaming Services Licenses or Non-Gaming Services permits and who appear on the
- §76 Approved License and Permit List.
- §77 501.13-4. Gaming Services License/Permit Application.- Every Applicant for a License or
- §78 permit shall file with the Commission a written application in the form prescribed by the
- §79 Commission, duly executed and verified, which must provide and certify the following. ~~Provided~~
- §80 ~~that; provided,~~ Non-Gaming Services vendors with less than two thousand five hundred dollars
- §81 (\$2,500.00) in services for the prior fiscal year are only required to file a notice of doing business
- §82 with the Commission.:
- §83 (a) The Applicant's name and mailing address;
- §84 (b) The names and addresses of each officer or management official of the Applicant;
- §85 (c) A copy of the Applicant's articles of incorporation and ~~by laws~~bylaws, or if not a
- §86 corporation, the Applicant's organizational documents;
- §87 (d) Identification of an agent of service for the Applicant;
- §88 (e) The name and address of each person having a direct or indirect financial interest in
- §89 the Applicant;
- §90 (f) The nature of the License or permit applied for, describing the activity to be engaged
- §91 in under the License or permit;
- §92 (g) Explicit and detailed disclosure of any criminal record, including any delinquent
- §93 taxes owed to the United States, or any state, of the Applicant, any person involved in the
- §94 organization, and any person of interest whose name appears or is required to appear on
- §95 the application;
- §96 (h) Whether the Applicant is or has been licensed by the ~~state~~State of Wisconsin Office
- §97 of Indian Gaming Regulation and Compliance and, if applicable, proof of current licensure;
- §98 (i) Whether the Applicant has been licensed in the ~~state~~State of New Jersey, Nevada, or
- §99 by any other gaming jurisdiction, including any Indian Tribe or Tribal governmental
- 900 organization and, if so, proof of such licensure and the status of any such License;
- §01 (j) Whether the Applicant has been denied a License by any gaming jurisdiction and, if

² See also Appendix 1. Vendor Licensing/Permit.

902 so, the identity of the jurisdiction, the date of such decision and the circumstances
903 surrounding that decision;

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

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

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

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

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

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

921 (1) The Privacy Act of 1974;

922 (2) False statements; and

923 (3) The Fair Credit Reporting Act.

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

926 501.13-5. *Signature on Application.*- Applications for Licenses or permits must be signed by
927 the following person:

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

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

932 (c) For a partnership, all partners.

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

934 501.13-6. *Incomplete Applications.*- Applications that do not contain all information requested,
935 including proper signatures, will be considered incomplete. -

936 (a) Incomplete applications will not be considered by the Commission.

937 (b) The Commission shall notify an Applicant if an application is incomplete and what
938 additional information is necessary to complete the application.

939 (1) If an Applicant who has submitted an incomplete application, and been
940 notified of the deficiency in that application, fails to provide the information
941 requested by the Commission, the application will be returned to the Applicant and
942 the file closed.

943 501.13-7. *Supplemental Information.* -The Commission may, in its discretion, request
944 supplemental information from the Applicant.

945 (a) Supplemental information requested by the Commission must be promptly submitted
946 by the Applicant.

947 (1) An Applicant's failure or refusal to submit supplemental information

948 requested by the Commission may constitute grounds for the denial of the
949 application.

950 501.13-8. Continuing Duty to Provide Information.- Applicants, permittees, and Licensees owe
951 a continuing duty to provide the Commission with information and materials relevant to the
952 Applicant's, permittee's, or Licensee's character or fitness to be licensed, including but not limited
953 to any change in the licensing or permitting status of the Applicant, permittee, or Licensee in any
954 foreign jurisdiction.

955 (a) An Applicant's, permittee's, or Licensee's failure to notify the Commission promptly
956 of inaccuracies on an application or new information or materials relevant to ~~the~~
957 ~~Applicant~~him or her may constitute grounds to deny, suspend or revoke a License or
958 permit.

959 501.13-9. Background Investigations. -Background Investigations for Gaming Services vendors
960 must be conducted as follows:

961 (a) Gaming Related Equipment Gaming Services Vendors under Fifty Thousand Dollars
962 (\$50,000.00) in Goods and/or Services Annually. -The Commission shall conduct the
963 Background Investigations that are sufficient to determine the eligibility for licensing of
964 all Gaming Services vendors that provide or anticipate providing under fifty thousand
965 dollars (\$50,000.00) in goods and services annually.

966 (b) Gaming Related Equipment Gaming Services Vendors over Fifty Thousand Dollars
967 (\$50,000.00) in Goods and/or Services Annually. -The Commission shall review the
968 background investigation conducted by the Wisconsin Office of Indian Gaming
969 Regulation; and shall conduct any necessary additional Background Investigation to ensure
970 that the ~~state~~State background investigation is complete and current.

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

975 (1) The random selection process must be identified by regulation of the
976 Commission.

977 501.13-10. Licensing Action in a Foreign Jurisdiction. -If the ~~states~~States of Wisconsin, New
978 Jersey, Nevada or any other gaming jurisdiction ~~refuses~~refuse to renew a License or permit, or
979 conditions, suspends, or revokes the License or permit of an Applicant, permittee, or Licensee,
980 such action may constitute grounds for similar action by the Commission.

981 501.13-11. Claim of Privilege.- At any time during the licensing or permitting process, the
982 Applicant may claim any privilege afforded by law.

983 (a) An Applicant's claim of privilege with respect to the production of requested
984 information or documents or the provision of required testimony or evidence may
985 constitute grounds for the denial, suspension or revocation of a License or permit.

986 501.13-12. Withdrawal of an Application.- An Applicant may request to withdraw an application
987 by submitting a written request to the Commission.

988 (a) The Commission retains the right, in its exclusive discretion, to grant or deny a
989 request for withdrawal.

990 (b) An Applicant who withdraws an application is precluded from ~~reapplying~~re-applying
991 for a Gaming Services License or Non-Gaming Services permit for a period of one (1) year
992 from the date the application was withdrawn.

993 501.13-13. Suspension or Revocation of Gaming Services Licenses or Permits. -Except as

provided in section 501.13-13(c);) of this Ordinance, no License or permit may be suspended or revoked except after notice and opportunity for hearing.

(a) Basis for Licensing or Permitting Action.- The Commission may suspend, modify, or revoke any Gaming Services License or Non-Gaming Services permit issued under this Ordinance if, after issuance of the License or permit, the Commission receives reliable information that would justify denial of the issuance or renewal of a License or permit, or if the Commission determines that the Licensee or permittee has:

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

(2) Knowingly promoted, played, or participated in any Gaming Activity operated in violation of the Compact, or any Tribal law of the Nation, or other applicable law;

(3) Bribed or attempted to bribe a Commissioner or any other person in an attempt to avoid or circumvent any applicable law;

(4) Falsified any books or records relating to any transaction connected with operation of a Gaming Activity;

(5) Refused to comply with a lawful directive of the Tribe Nation, the federal government, or any court of competent jurisdiction; or

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

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

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

(2) The Licensee's or permittee's right to present documents and witness testimony at the hearing and to be represented by counsel;

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

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

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

(1) Such an immediate suspension takes effect upon service of the notice of immediate suspension.

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

(e) Final Written Decision.- Within fifteen (15) business days after a hearing, the

1040 Commission shall issue a final written decision and decide whether to suspend, uphold an
 1041 immediate suspension, revoke, or take other action concerning a License or permit.

1042 (f) Default. - If a Licensee or permittee fails to appear for his or her hearing before the
 1043 Commission, that right is deemed to have been waived and the Commission will proceed
 1044 on the proposed licensing action by default.

1045 (g) Unless identified in this Ordinance or regulations of the Commission, the hearing
 1046 processes set forth in the Oneida Nation's Administrative Procedures Act shall apply.

1047 501.13-14. Original Hearing Body. - Any person aggrieved by a licensing or permitting decision
 1048 of the Commission may appeal the decision by filing a request for an original hearing before the
 1049 Commission.

1050 (a) The Applicant, Licensee or permittee may file such request with the Commission in
 1051 writing on or before the fifteenth (15th) day following the receipt of the Commission's
 1052 decision.

1053 (b) The Commission shall certify the record, developed in accordance with section
 1054 501.13-9 or 501. 13 -13(a), of this Ordinance, within thirty (30) days of the date of the
 1055 filing ~~on~~of the request for an original hearing. ~~The~~

1056 (1) ~~Those~~ Commissioners participating in the initial licensing or permitting
 1057 decision may not participate in the original hearing.

1058 (c) The Commission may determine to review the decision solely on the licensing or
 1059 permitting decision record and briefs filed regarding the request for reconsideration.

1060 (1) The Commission may also, in its sole discretion, grant oral ~~argument.~~
 1061 arguments.

1062 (d) The Commission shall issue a written decision within one hundred twenty (120) days
 1063 from receipt of the request for the original hearing.

1064 (1) The Commission's decision is considered an original hearing decision and an
 1065 appeal may be made to the Judiciary as an appeal of an original hearing body.

1067 **501.14. Gaming Facility License**

1068 501.14-1. The construction and maintenance of any Gaming Facility, and the operation of
 1069 Gaming Activities, must be conducted in a manner which adequately protects the environment and
 1070 the public health and safety, and must comply with requirements of the Compact and all other
 1071 applicable health, safety, and environmental standards.

1072 501.14-2. The Oneida Business Committee must receive, review and grant or deny any
 1073 application for licensing any Gaming Facilities located within the Reservation. Applicants shall
 1074 provide the Oneida Business Committee sufficient information to show the following:

1075 (a) The Gaming Facility meets all applicable ~~Federal and Tribal~~ health and safety
 1076 standards ~~of the Nation and Federal government.~~

1077 (1) To show compliance with applicable health and safety standards, Gaming
 1078 Operator shall submit certified copies of Compliance Certificates issued by the
 1079 agencies responsible for the enforcement of the health and safety standards.

1080 (2) If health and safety standards are not met, proof must be submitted by Gaming
 1081 Operator that the Gaming Facility is in the process of improvements which will
 1082 place the Gaming Facility in compliance with the applicable standards.

1083 (b) The Gaming Facility meets applicable ~~federal and Tribal~~ environmental standards ~~of~~
 1084 the Nation and Federal government.

1085 (1) To show compliance with applicable environmental standards, Gaming

1086 Operator shall submit certified copies of an Environmental Assessment of the
 1087 Gaming Facility which were prepared by the agency responsible for the
 1088 enforcement of applicable environmental standards.

1089 (2) If the applicable environmental standards are not met, proof must be
 1090 submitted by Gaming Operator that Remediation of the Gaming Facility is being
 1091 actively sought which will place the Gaming Facility in compliance with the
 1092 applicable standards.

1093 501.14-3. Upon receipt and review of the above information, the Oneida Business Committee
 1094 shall deliberate and either grant or deny for failure to meet the requirements of protecting the health
 1095 and safety of patrons, public and employees of a Gaming Facility License to the Applicant.

1096 (a) The Oneida Business Committee shall submit to the NIGC a copy of each Gaming
 1097 Facility License issued.

1098 501.14-4. If the Oneida Environmental, Health and Safety Department notifies the Oneida
 1099 Business Committee that a Gaming Facility will be closed by a governmental agency with proper
 1100 authority due to environmental, health or safety concerns, the Oneida Business Committee shall
 1101 suspend the License of the Gaming Facility.

1102 (a) The Oneida Business Committee shall re-License the Gaming Facility after receiving
 1103 the information required in section 501.14-2 of this Ordinance.

1104

1105 **501.15. Gaming Operator License**

1106 501.15-1. Consent to Jurisdiction. -The application for License and the conduct of Gaming
 1107 within the jurisdiction of the TribeNation is considered consent to the jurisdiction of the
 1108 TribeNation in all matters arising from the conduct of Gaming, and all matters arising under any
 1109 of the provisions of this Ordinance or other Tribal laws of the Nation.

1110 501.15-2. License Required.- No Gaming Operator may conduct Gaming Activity unless such
 1111 entity holds a valid and current Gaming Operator License issued by the Commission.

1112 501.15-3. Types of Licenses.- The Commission may issue each of the following types of Gaming
 1113 Operator Licenses:

1114 (a) Tribally-Owned or Tribally-Operated Class II.- This License is required of all
 1115 Tribally-owned or Tribally-operated Gaming Operations operating one or more Class II
 1116 Gaming Activities.

1117 (b) Tribally-Owned or Tribally-Operated Class III. -This License is required ~~for~~of all
 1118 Tribally-owned or Tribally-operated Gaming Operations operating one or more Class III
 1119 Gaming Activities.

1120 501.15-4. Gaming Operator License Qualifications.- The Commission shall issue a Gaming
 1121 Operator License to any Gaming Operation if:

1122 (a) The Gaming Operation is to be located within the Reservation, or land taken into trust
 1123 after October 17, 1988, for Gaming purposes;

1124 (b) The Gaming Activity proposed to be played at the Gaming Operation is Class II or
 1125 Class III Gaming as defined by this Ordinance and IGRA; and

1126 (c) The proposed Gaming Operation is authorized by a resolution of the Oneida Business
 1127 Committee.

1128 501.15-5. Provisions of General Applicability to All Gaming Operators.

1129 (a) Site and Gaming Operator Specified.- Each Gaming Operator License may be
 1130 applicable only to one (1) Gaming Operation and the Gaming Facility named on the
 1131 License.

1132 (b) License Not Assignable. -No Gaming Operator License may be sold, lent, assigned or
1133 otherwise transferred.

1134 (c) Regulations Posted or Available. - Each Gaming Operator must have a copy of this
1135 Ordinance and any regulations promulgated thereunder available for inspection by any
1136 person at each Gaming Facility.

1137 (d) Display of License. -Each Gaming Operator must prominently display its License at
1138 each Gaming Facility.

1139 501.15-6. Grandfathered Gaming Facilities. - All Gaming Operators operating on the effective
1140 date of July 5, 2007, are hereby granted a License under this section.

1141 501.15-7. License Application Fees and License Taxes. -No application fees or License taxes
1142 may be required by the TribeNation for a Gaming Operator License.

1143 501.15-8. Closure of a Gaming Operation. -If the Commission finds that any Gaming Operation
1144 is operating in violation of this Ordinance, or otherwise presents a threat to the public, the
1145 Commission shall immediately notify the Oneida Business Committee.

1146 (a) The Oneida Business Committee may close any Gaming Operation temporarily or
1147 permanently at any time with or without cause, at its sole discretion.

1148 **501.16. Games**

1149 501.16-1. Class II and Class III Games are hereby authorized by this Ordinance.

1150 501.16-2. Gaming Procedures. - Games operated under this Ordinance must be consistent with
1151 the Compact and any amendments thereto and the Internal Control Standards and Rules of Play of
1152 the Gaming Operation.

1153 501.16-3. Who May Not Play. -It is the policy of the TribeNation that particular Gaming
1154 Employees, employees of the Commission, particular governmental officials, and consultants who
1155 directly advise the Commission or employees at Gaming Facilities regarding gaming related
1156 activities may not participate in Gaming Activities conducted at Gaming Operations.

1157 (a) At a minimum, members of the Oneida Business Committee, the Commission, the
1158 ~~gaming general manager~~Gaming General Manager, assistant gaming general managers,
1159 directors of individual Games and assistant directors of individual Games may not
1160 participate in any Gaming Activity within the Reservation.

1161 (a)-b) The Oneida Business Committee may identify by resolution additional positions
1162 restrictions on Gaming Activity conducted at Gaming Facilities. ~~Such resolution must be~~
1163 ~~on file with the Commission.~~

1164 (b)- (1) Such resolution must be on file with the Commission.

1165 (c) The Commission and Senior Gaming Management shall each develop and maintain
1166 their own standard operating procedure identifying other positions and any applicable
1167 restrictions on Gaming Activity conducted at Gaming Facilities.

1168 (1) The standard operating procedure and the list of positions must be on file with
1169 the Commission.

1170 **501.17. Allocation of Gaming Funds**

1171 501.17-1. Net Gaming revenues may only be used for the following purposes:

1172 (a) To fund Tribal government operations, programs, or services of the Nation;

1173 (b) To provide for the general welfare of the TribeNation and its members; provided, that
1174 per capita payments may only be made pursuant to an approved revenue allocation plan;

1175 (c) To promote Tribal economic development of the Nation;

- 1178 (d) ~~__~~ To contribute to charitable organizations~~;~~
1179 (e) ~~__~~ To assist in funding operations of other local governments~~;~~
1180 (f) ~~__~~ To fund programs designed to provide education, referrals, and treatment of Gaming
1181 addiction disorders~~;~~ and
1182 (g) Any ~~__~~ For any other purpose as determined by the Oneida General Tribal Council
1183 or the Oneida Business Committee which is not inconsistent with the Oneida Nation
1184 Constitution ~~of the Tribe~~ and IGRA.

1186 **501.18. Audits**

1187 501.18-1. Annual Audit. - An annual audit of each Gaming Operation must be conducted by an
1188 independent, certified public accounting firm according to generally accepted accounting
1189 principles. ~~Copies of the annual audit must be provided to the Oneida Business Committee, the~~
1190 ~~Oneida Audit Committee, the Commission, and the NIGC by said certified public accounting firm.~~

1191 ~~(a)~~ (a) Copies of the annual audit must be provided to the Oneida Business Committee, the
1192 Nation's Audit Committee, the Commission, and the NIGC by said certified public
1193 accounting firm.

1194 (b) All contracts for supplies, services, or concessions for the Gaming Operations in
1195 excess of twenty-five thousand dollars (\$25,000.00) are subject to audit as prescribed in
1196 this section. ~~Contracts for legal services and accounting services are exempt from this~~
1197 ~~requirement of the Ordinance.~~

1198 (1) Contracts for legal services and accounting services are exempt from this
1199 requirement.

1200 501.18-2. Other Audits. -All audits, other than the annual audit under section 501.18-1 of this
1201 Ordinance, must be conducted pursuant to the Oneida Nation's Internal Audit Law or any other
1202 applicable law of the Tribe Nation, and other audits authorized under the Compact.

1203 501.18-3. Request for Audits. -Any audit, except the annual audit ~~which~~that is mandated by
1204 IGRA, may be authorized at any time by the Oneida General Tribal Council, the Oneida Business
1205 Committee or the Oneida Nation's Audit Committee.

1207 **501.19. Enforcement and Penalties**

1208 501.19-1. No individual or entity may own or operate a Gaming Facility unless specifically
1209 authorized to do so pursuant to this Ordinance.

1210 501.19-2. Violations/Prosecutions. -Violators of this Ordinance may be subject to disciplinary
1211 action ~~and, as well as~~ civil and/or criminal prosecutions.

1212 501.19-3. Remedies. - The Oneida Business Committee may authorize commencement of an
1213 action in any court of competent jurisdiction to recover losses, restitution, and forfeitures resulting
1214 from violations of this Ordinance.

1215
1216 *End.*

1219	Adopted	GTC-7-05-04-A
1220	Emergency Amended	BC-7-14-04-A
1221	Amendment	BC-10-06-04-D
1222	Emergency Amended	BC-11-03-04-A
1223	Permanent Adoption	BC-3-23-05-C
1224	Amended	BC-9-23-09-D
1225	Amended	BC-06-25-14-C (effective 11 01 2014)
1226	Emergency Amended	BC-10-08-14-C (effective 11 01 2014)

1227 Amended BC-09-09-15-A (effective 09 09 2015)
1228 Emergency Amended BC- - - -

Title 5. Business - Chapter 501
Thatiwi·?Stunya·tha Olihwa·ke
Matters of interest to where they make the money
ONEIDA NATION GAMING ORDINANCE

501.1. Purpose and Policy	501.11. Licenses, Generally
501.2. Adoption, Amendment, Repeal	501.12. Gaming Employee License
501.3. Definitions	501.13. Gaming Services Licensing and Non-Gaming Services Permitting
501.4. Jurisdiction	501.14. Gaming Facility License
501.5. Oneida Business Committee: Powers and Duties	501.15. Gaming Operator License
501.6. Oneida Gaming Commission	501.16. Games
501.7. Gaming Surveillance: Powers, Duties and Limitations	501.17. Allocation of Gaming Funds
501.8. [Reserved for future use.]	501.18. Audits
501.9. Gaming Security Department	501.19. Enforcement and Penalties
501.10. Background Investigations	

1
2 **501.1. Purpose and Policy**
3 501.1-1. *Purpose.* The purpose of this Ordinance is to set forth the laws of the Oneida Nation
4 regarding all Gaming Activities conducted within the jurisdiction set forth in this Ordinance. It is
5 intended to govern the Gaming Activities of all persons, Gaming Employees, consultants, business
6 entities, vendors, boards, committees, commissions and hearing bodies. This Ordinance does not
7 authorize the operation of Gaming by a private person or private entity for gain. This Ordinance
8 shall govern all Gaming Activities occurring on lands under the jurisdiction set forth in this
9 Ordinance and all individuals or entities engaged in Gaming Activities, including those providing
10 goods or services to any person or entity engaged in Gaming Activities.
11 501.1-2. *Policy.* It is the policy of this Ordinance to ensure that the Oneida Nation is the primary
12 beneficiary of its Gaming Operations and has the sole proprietary interest; that Gaming Activities
13 within the jurisdiction set forth in this Ordinance are conducted fairly and honestly; and that all
14 internal departments, enterprises, officials and employees of the Nation work cooperatively to
15 advance the best interests of the Nation, to protect its gaming resources, to protect the integrity of
16 all Gaming Activities operated under the jurisdiction set forth in this Ordinance, and to ensure
17 fairness of all games offered to the Nation's gaming patrons.
18
19 **501.2. Adoption, Amendment, Repeal**
20 501.2-1. This Ordinance was adopted by the Oneida General Tribal Council by resolution GTC-
21 07-05-04-A; amended by resolutions BC-10-06-04-D, BC-3-23-05-C, BC-9-23-09-D, BC-06-25-
22 14-B and BC-09-09-15-A; and emergency amended by resolution BC-__-__-__-__.
23 501.2-2. This Ordinance may be amended or repealed by the Oneida Business Committee and/or
24 Oneida General Tribal Council pursuant to the procedures set out in the Legislative Procedures
25 Act.
26 501.2-3. Should a provision of this Ordinance or the application thereof to any person or
27 circumstances be held as invalid, such invalidity shall not affect other provisions of this Ordinance
28 which are considered to have legal force without the invalid portions.
29 501.2-4. In the event of a conflict between a provision of this Ordinance and a provision of
30 another law, the provisions of this Ordinance shall control; provided, that this Ordinance repeals
31 the following:
32 (a) BC-04-21-89-D (Adoption of the Oneida Gaming Control Ordinance);
33 (b) GTC-03-04-91-A (Establishing 7 elected Gaming Commissioners and Bingo
34 standards);

- 35 (c) GTC-07-06-92-A (Amendments to Gaming SOP Manual);
 - 36 (d) GTC-07-06-92-B (Adoption of the Comprehensive Gaming Ordinance);
 - 37 (e) BC-03-16-94-A (Comprehensive Gaming Ordinance Interpretation); and
 - 38 (f) BC-04-5-95-D (Amendments to the Comprehensive Gaming Ordinance).
- 39 501.2-5. This Ordinance is adopted under authority of the Constitution of the Oneida Nation.
- 40 501.2-6. *Preemptive Authority.* The Oneida Gaming Commission shall be the original hearing
- 41 body authorized to hear licensing decisions as set forth in this Ordinance.

42

43 **501.3. Definitions**

44 501.3-1. This section shall govern the definitions of words and phrases used within this

45 Ordinance. Words and phrases capitalized throughout this document refer to the defined words

46 and phrases in this section. All words or phrases not defined herein shall be used in their ordinary

47 and everyday sense.

- 48 (a) “Applicant” means any person or entity who has applied for a License from the
- 49 Oneida Gaming Commission or the Oneida Business Committee.
- 50 (b) “Background Investigation” means a standard and thorough investigation conducted
- 51 by the Nation in compliance with this Ordinance, Commission regulations, Oneida Gaming
- 52 Minimum Internal Controls, the IGRA and the Compact. Such investigations may be in
- 53 cooperation with federal, state, or Tribal law enforcement agencies.
- 54 (c) “Class I Gaming” means social games solely for prizes of minimal value or traditional
- 55 forms of Indian gaming engaged in by individuals as a part of, or in connection with, Tribal
- 56 ceremonies or celebrations.
- 57 (d) “Class II Gaming” means:
 - 58 (1) The game of chance commonly known as bingo (whether or not electronic,
 - 59 computer or other technologic aids are used in connection therewith) in which:
 - 60 (A) The game is played for prizes, including monetary prizes, with cards
 - 61 bearing numbers or other designations.
 - 62 (B) The holder of the card covers such numbers or designations when
 - 63 objects, similarly numbered or designated, are drawn or electronically
 - 64 determined.
 - 65 (C) The game is won by the first person covering a previously designated
 - 66 arrangement of numbers or designation on such cards, including (if played
 - 67 in the same location) pull-tabs, lotto, punch boards, tip jars, instant bingo
 - 68 and other games similar to bingo.
 - 69 (2) Card games that:
 - 70 (A) Are explicitly authorized by the laws of the State; or
 - 71 (B) Are not explicitly prohibited by the laws of the State and are played at
 - 72 any location in the State, but only if such card games are played in
 - 73 conformity with laws and regulations (if any) of the State regarding hours
 - 74 or periods of operation of such card games or limitations on wagers or pot
 - 75 sizes in such card games. Class II Gaming does not include any banking
 - 76 card games, including baccarat, chemin de fer, or blackjack (twenty-one),
 - 77 or electronic or electro-mechanical facsimiles of any game of chance or slot
 - 78 machines of any kind.
- 79 (e) “Class III Gaming” means all forms of Gaming that are not Class I or Class II
- 80 Gaming.

- 81 (f) “Commission” means the Oneida Gaming Commission as established by this
82 Ordinance.
- 83 (g) “Commissioner” means a duly elected member of the Oneida Gaming Commission.
- 84 (h) “Compact” means the 1991 Tribe-State Gaming Compact between the Nation and
85 the State of Wisconsin, as amended and including any future amendments or successor
86 compact entered into by the Nation and the State of Wisconsin and approved by the
87 Secretary of the United States Department of Interior.
- 88 (i) “Compliance Certificate” means a certificate issued by an agency with the authority
89 and responsibility to enforce applicable environmental, health or safety standards, which
90 states that a Gaming Facility complies with these standards.
- 91 (j) “Environmental Assessment” means a document prepared and issued in compliance
92 with the National Environmental Policy Act of 1969, 42 U.S.C. sec. 4321 *et seq.*, and all
93 related federal regulations.
- 94 (k) “Fraud” means any act of trickery or deceit used to or intended to gain control or
95 possession of the property of another.
- 96 (l) “Games, Gaming or Gaming Activity” means all forms of any activity, operation, or
97 game of chance that is considered Class II or Class III Gaming, provided that this definition
98 does not include Class I Gaming.
- 99 (m) “Gaming Employee” means any person employed by a Gaming Operation.
- 100 (n) “Gaming Facility or Gaming Facilities” means any location or structure, stationary
101 or movable, wherein Gaming is permitted, performed, conducted or operated. Gaming
102 Facility or Gaming Facilities does not include the site of a fair, carnival, exposition or
103 similar occasion.
- 104 (o) “Gaming Operation” means the conduct of Gaming Activities and related business
105 activities in Gaming Facilities and areas where Gaming Employees are employed or
106 assigned.
- 107 (p) “Gaming Operator” means the Nation, an enterprise owned by the Nation, or such
108 other entity of the Nation as the Nation may from time-to-time designate as the wholly-
109 owned entity having full authority and responsibility for the operation and management of
110 Gaming Operations.
- 111 (q) “Gaming Services” means the provision of any goods and services, except legal
112 services and accounting services, to a Gaming Operation, including, but not limited to,
113 equipment, transportation, food, linens, janitorial supplies, maintenance, or security
114 services.
- 115 (r) “Indian Gaming Regulatory Act or IGRA” means Public Law 100-497, 102 Stat.
116 2426, 25 U.S.C. sec. 2701, *et seq.*, as amended.
- 117 (s) “Judiciary” means the Oneida Nation Judiciary, which is the judicial system that was
118 established by Oneida General Tribal Council resolution GTC-01-07-13-B to administer
119 the judicial authorities and responsibilities of the Nation.
- 120 (t) “License” means a certificate or other document that represents the grant of a
121 revocable authorization to conduct the licensed activity. A License must be supported by a
122 physical document, badge, certification or other physical manifestation of the issuance of
123 the revocable authorization to conduct the licensed activity.
- 124 (u) “Licensee” means a person or entity issued a valid License.
- 125 (v) “Nation” means the Oneida Nation.
- 126 (w) “NIGC” means the National Indian Gaming Commission.

- 127 (x) “Oneida Business Committee” means the elected governing body of the Nation that
128 exercises the authority delegated it by the Oneida General Tribal Council under Article IV
129 of the Constitution and By-laws of the Oneida Nation, as may be amended from time-to-
130 time hereafter.
- 131 (y) “Oneida General Tribal Council” means the Nation’s governing body, as established
132 by the Constitution and By-laws of the Oneida Nation and as may be amended from time-
133 to-time hereafter.
- 134 (z) “Ordinance or ONGO” means the Oneida Nation Gaming Ordinance, as may be
135 amended from time-to-time hereafter.
- 136 (aa) “Regulatory Incident” means the occurrence of any event giving rise to a potential or
137 alleged non-compliance with a gaming regulation, ordinance, law or policy involving any
138 person or Licensee on the premises of a Gaming Facility.
- 139 (bb) “Remediation” means efforts taken to reduce the source and migration of
140 environmental contaminants at a site.
- 141 (cc) “Reservation” means all lands within the exterior boundaries of the Reservation of
142 the Oneida Nation, as created pursuant to the 1838 Treaty with the Oneida 7 Stat. 566, and
143 any lands added thereto pursuant to federal law.
- 144 (dd) “Senior Gaming Management” means the gaming general manager, assistant gaming
145 general managers, gaming directors and assistant gaming directors.
- 146 (ee) “State” means the State of Wisconsin, along with its authorized officials, agents and
147 representatives.
- 148 (ff) “Tribal Fee Land” means all land to which the Nation holds title in fee simple.
- 149 (gg) “Tribal Trust Land” means all land to which the United States holds title for the
150 benefit of the Nation pursuant to federal law.

151
152 **501.4. Jurisdiction**

153 501.4-1. *Territorial Jurisdiction.* This Ordinance extends to all land within the exterior
154 boundaries of the Reservation.

155 501.4-2. *Subject Matter Jurisdiction.* This Ordinance applies to all Gaming conducted within
156 the territorial jurisdiction of the Nation as set forth in section 501.4-1.

157 501.4-3. *Personal Jurisdiction.* This Ordinance governs:

- 158 (a) The Nation;
159 (b) Members of the Nation; and
160 (c) Individuals and businesses leasing, occupying, or otherwise using Tribal Fee Land
161 on the Reservation and all Tribal Trust Land.

162
163 **501.5. Oneida Business Committee: Powers and Duties**

164 501.5-1. The Oneida Business Committee retains the power and duty to enter into agreements
165 or compacts with the State under the Indian Gaming Regulatory Act.

166 501.5-2. The Oneida Business Committee retains the power and duty to enter into agreements
167 with local governments and other Tribal governments for services or cooperative ventures for the
168 Gaming Operations.

169 501.5-3. The Oneida Business Committee has the exclusive power and duty to enter into
170 contracts and agreements affecting the assets of the Nation, except for those assets that were placed
171 under the responsibility of the Oneida Land Commission under Chapter 67 of the Real Property
172 law.

173 501.5-4. The Oneida Business Committee delegates to the Commission, in section 501.6-14 of
 174 this Ordinance, certain authorities and responsibilities for the regulation of Gaming Activities,
 175 Gaming Operations, Gaming Operators, Gaming Employees, Gaming Facilities, Gaming Services,
 176 and the enforcement of laws and regulations.

177 501.5-5. The Oneida Business Committee retains the duty and responsibility to safeguard all
 178 funds generated by the Gaming Operations and all other authorities and responsibilities not
 179 delegated by a specific provision of this Ordinance.

180 501.5-6. The Chairperson of the Nation must be the designated and registered agent to receive
 181 notice of violations, orders, or determinations which are issued pursuant to the Indian Gaming
 182 Regulatory Act and the Compact.

183

184 **501.6. Oneida Gaming Commission**

185 501.6-1. *Establishment and Purpose.* The Oneida Business Committee has established the
 186 Oneida Gaming Commission for the purpose of regulating all Gaming Activities. The Commission
 187 is an elected body comprised of four (4) members, provided that, the Oneida Business Committee
 188 may, upon request of the Commission, increase the number of Commissioners by resolution with-
 189 out requiring amendment of this Ordinance.

190 501.6-2. *Location and Place of Business.* The Commission shall maintain its offices and
 191 principal place of business within the Reservation.

192 501.6-3. *Duration and Attributes.* The Commission will have perpetual existence and succession
 193 in its own name, unless dissolved by a law of the Nation. Operations of the Commission must be
 194 conducted on behalf of the Nation for the sole benefit of the Nation and its members. The Nation
 195 reserves unto itself the right to bring suit against any person or entity in its own right, on behalf of
 196 the Nation, or on behalf of the Commission, whenever the Nation considers it necessary to protect
 197 the sovereignty, rights, and interests of the Nation or the Commission.

198 501.6-4. *Sovereign Immunity of the Nation.* All inherent sovereign rights of the Nation with
 199 respect to the existence and activities of the Commission are hereby expressly reserved.

200 (a) The Nation confers upon the Commission sovereign immunity from suit as set forth
 201 in the Nation's Sovereign Immunity law.

202 (b) Nothing in this Ordinance nor any action of the Commission may be construed to be:
 203 (1) A waiver of the sovereign immunity of the Commission or the Nation;
 204 (2) Consent by the Commission or the Nation to the jurisdiction of the Judiciary,
 205 the United States, a state or any other tribe; or
 206 (3) Consent by the Nation to any suit, cause of action, case or controversy; or the
 207 levy of any judgment, lien, or attachment upon any property of the Commission or
 208 the Nation.

209 501.6-5. *Requirements of Commission Membership.*

210 (a) *Qualifications.* Candidates for election or appointment to the Commission must be at
 211 least twenty-one (21) years of age on the day of the election or on the day of appointment.

212 (1) Candidates for election to the Commission shall further meet the following
 213 qualifications within five (5) business days after a caucus for elected positions on
 214 the Commission. Candidates for appointment to the Commission shall meet the
 215 following qualifications on the day of appointment to a vacancy on the Commission
 216 under section 501.6-13 of this Ordinance:

217 (A) Be an enrolled member of the Nation;

218 (B) Have a minimum of three (3) years of education experience,

219 employment experience and/or regulatory experience in Gaming
 220 Operations related to Gaming Activity, Gaming law, Gaming control or
 221 regulation, or Gaming accounting or of any combination of the foregoing;
 222 and

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

224 (b) *Conflict of Interest.* No person may be considered for election or appointment as a
 225 Commissioner until the candidate has disclosed all conflicts of interest as defined in the
 226 Nation's Conflict of Interest law.

227 (c) *Background Investigation.* No person may be considered for election or appointment
 228 as a Commissioner until a preliminary Background Investigation has been completed and
 229 the person has been found to meet all qualifications.

230 (1) Swearing into office is subject to a Background Investigation regarding the
 231 qualifications set forth in sections 501.6-5 and 501.6-6 upon being elected or
 232 appointed to office.

233 501.6-6. Unless pardoned for activities under subsections (a) and/or (d) by the Nation, or
 234 pardoned for an activity under subsections (a) and/or (d) by another Federally-recognized Indian
 235 Tribe for an action occurring within the jurisdiction of the Federally-recognized Indian Tribe, or
 236 pardoned for an activity under subsections (a) and/or (d) by the State or Federal government, no
 237 individual may be eligible for election or appointment to, or to continue to serve on, the
 238 Commission, who:

239 (a) Has been convicted of, or entered a plea of guilty or no contest to, any of the
 240 following:¹

241 (1) Any gambling-related offense;

242 (2) Any offense involving Fraud or misrepresentation;

243 (3) Any offense involving a violation of any provision of Chapters 562 or 565 of
 244 the Wisconsin Statutes, any rule promulgated by the State of Wisconsin Department
 245 of Administration, Division of Gaming or any rule promulgated by the Wisconsin
 246 Racing Board;

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

249 (5) Any offense involving the violation of any provision of the Nation's law
 250 regulating the conduct of Gaming Activities, or any rule or regulation promulgated
 251 pursuant thereto.

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

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

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

261 (e) Has been removed from any office pursuant to the Nation's Removal Law within the

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

- 262 past five (5) years; or
263 (f) Is a sitting Commissioner whose term is not concluded at the time of that election or
264 appointment action.
- 265 501.6-7. *Term of Office.* Commissioners shall serve five (5) year terms and shall serve until a
266 successor takes the oath of office.
- 267 (a) Terms of office must be staggered.
- 268 501.6-8. *Official Oath.* Each Commissioner shall take the official oath at a regular or special
269 Oneida Business Committee meeting prior to assuming office.
- 270 (a) Upon being administered the oath of office, a Commissioner shall assume the duties
271 of office and must be issued a security card setting forth his or her title and term of office.
- 272 501.6-9. *Full-Time Status.* Each Commissioner shall perform his or her duties and
273 responsibilities on a full-time basis and shall devote his or her entire work and professional time,
274 attention and energies to Commission business.
- 275 (a) No Commissioner shall, during his or her tenure in office, be engaged in any other
276 profession or business activity that may impede his or her ability to perform duties on
277 behalf of the Commission or that competes with the Nation's interests.
- 278 (b) The Commission shall identify the appropriate work schedule for its members.
- 279 501.6-10. *Bylaws.* The Commission shall adopt bylaws subject to review and approval by the
280 Oneida Business Committee.
- 281 501.6-11. *Budget and Compensation.* The Commission shall function pursuant to an annual
282 budget.
- 283 (a) The Oneida Business Committee shall submit the operating budget of the
284 Commission for approval in the same fashion as all other budgets of the Nation.
- 285 (b) Compensation of Commissioners is not subject to the Nation's Boards, Committees
286 and Commissions law, but must be established by the Commission in a manner consistent
287 with the Commission's internal rules and bylaws.
- 288 (1) The Commission shall adopt internal rules consistent with the Nation's
289 existing accounting practices to verify its budgetary expenditures.
- 290 501.6-12. *Removal.* Removal of Commissioners must be pursuant to the Nation's Removal Law.
- 291 501.6-13. *Vacancies.* Any vacancy in an unexpired term of office, however caused, must be filled
292 by appointment by the Oneida Business Committee, of a person qualified under sections 501.6-5
293 and 501.6-6 of this Ordinance, in accordance with the Nation's Boards, Committees and
294 Commissions law.
- 295 501.6-14. *Authority and Responsibilities.* Subject to any restrictions contained in this Ordinance
296 or other applicable law, the Commission is vested with powers including, but not limited to, the
297 following:
- 298 (a) To exercise all power and authority necessary to effectuate the gaming regulatory
299 purposes of this Ordinance, IGRA, Oneida Gaming Minimum Internal Controls, and the
300 Compact.
- 301 (1) Unless otherwise indicated in this Ordinance, Commission regulation, or
302 authorized by majority vote of the Commission, no Commissioner may act
303 independently of the Commission. Any such action may constitute grounds for
304 removal.
- 305 (b) To promote and ensure the integrity, security, honesty and fairness of the regulation
306 and administration of Gaming.
- 307 (c) Subject to review and adoption by the Oneida Business Committee, to draft and

308 approve regulations pursuant to this Ordinance for the regulation of all Gaming Activity,
309 including processes for the enforcement of such regulations consistent with the laws of the
310 Nation.

311 (d) To draft and approve the Rules of Play and Oneida Gaming Minimum Internal
312 Controls; provided, the Rules of Play and Oneida Gaming Minimum Internal Controls
313 require review and comment by Senior Gaming Management prior to approval by the
314 Commission and are subject to review by the Oneida Business Committee.

315 (1) Rules of Play and Oneida Gaming Minimum Internal Controls are minimum
316 standards with which the Gaming Operations are required to comply and are
317 audited against.

318 (2) Comments received from Senior Gaming Management must be included in
319 any submission to the Oneida Business Committee.

320 (3) Rules of Play and Oneida Gaming Minimum Internal Controls are effective
321 upon adoption by the Commission.

322 (4) The Commission shall provide notice of adoption of the Rules of Play and/or
323 Oneida Gaming Minimum Internal Controls to the Oneida Business Committee at
324 the next available regularly scheduled Oneida Business Committee meeting
325 following such adoption.

326 (A) If the Oneida Business Committee has any concerns and/or requested
327 revisions upon review of the Rules of Play and Oneida Gaming Minimum
328 Internal Controls, the Commission shall work with the Oneida Business
329 Committee to address such concerns and/or requested revisions.

330 (i) Unless the Oneida Business Committee repeals the Rules of
331 Play and/or the Oneida Gaming Minimum Internal Controls adopted
332 by the Commission, they will remain in effect while the
333 Commission and the Oneida Business Committee jointly work to
334 amend the Rules of Play and/or the Oneida Gaming Minimum
335 Internal Controls adopted by the Commission.

336 (ii) Should the Oneida Business Committee repeal the Rules of
337 Play and/or the Oneida Gaming Minimum Internal Controls adopted
338 by the Commission, the Rules of Play and/or the Oneida Gaming
339 Minimum Internal Controls that were in effect immediately previous
340 to those repealed will be automatically reinstated and effective
341 immediately upon the repeal of the Rules of Play and/or the Oneida
342 Gaming Minimum Internal Controls adopted by the Commission.

343 (B) If the Commission does not receive written notice from the Oneida
344 Business Committee of intent to repeal or amend the Rules of Play and/or
345 the Oneida Gaming Minimum Internal Controls within thirty (30) days of
346 the date the Oneida Business Committee is provided notice of the Rules of
347 Play and/or the Oneida Gaming Minimum Internal Controls adopted by the
348 Commission, they will remain in effect as adopted by the Commission.

349 (C) Should the Oneida Business Committee pursue amendments to the
350 Rules of Play and/or the Oneida Gaming Minimum Internal Controls
351 adopted by the Commission, the amendments must be completed through
352 one (1) of the following actions within six (6) months from the date the
353 amendments are initiated by the Oneida Business Committee:

- 354 (i) if the Commission and the Oneida Business Committee reach an
355 agreement as to the content of the amendments, the Commission
356 must adopt revised Rules of Play and/or the Oneida Gaming
357 Minimum Internal Controls that have been discussed with and
358 agreed upon by the Oneida Business Committee; or
359 (ii) if the Commission and the Oneida Business Committee do not
360 reach an agreement as to the content of the amendments, the Oneida
361 Business Committee may adopt revised Rules of Play and/or the
362 Oneida Gaming Minimum Internal Controls that incorporate the
363 amendments it deems necessary.
- 364 (D) If revised Rules of Play and/or Oneida Gaming Minimum Internal
365 Controls are not adopted by either the Commission or the Oneida Business
366 Committee within six (6) months from the date the amendments are initiated
367 by the Oneida Business Committee, the Rules of Play and/or the Oneida
368 Gaming Minimum Internal Controls originally adopted by the Commission
369 will remain in effect.
- 370 (e) To prepare proposals, including budgetary and monetary proposals, which might
371 enable the Nation to carry out the purpose and intent of this Ordinance, and to submit the
372 same for consideration by the Oneida Business Committee; provided, however, that no
373 such proposal shall have any force or effect unless it is approved by the Oneida Business
374 Committee.
- 375 (f) To monitor and enforce all laws and regulations governing the operation and conduct
376 of all Gaming Activities, including the ongoing monitoring of Licenses, subject to this
377 Ordinance and/or regulations setting forth hearing or enforcement processes.
- 378 (g) To monitor and investigate all Gaming Operators for compliance with internal audits,
379 and external audits.
- 380 (h) To inspect, examine, and photocopy all papers, books, and records of Gaming
381 Activities and any other matters necessary to carry out the duties pursuant hereto; provided,
382 that all photocopies of documents must be maintained in a confidential manner or in the
383 same manner as the original.
- 384 (i) To grant, deny, revoke, condition, suspend or reinstate the Licenses of Gaming
385 Employees, Gaming Services vendors, and Gaming Operators.
- 386 (j) To conduct hearings relating to Licenses issued under this Ordinance by the
387 Commission.
- 388 (k) To review all vendors doing business with the Gaming Operator to verify that such
389 persons or entities hold a valid License, where required, to do business with a Gaming
390 Operator.
- 391 (l) To retain professional advisors such as attorneys, law enforcement specialists, and
392 Gaming professionals consistent with the Nation's laws and practices.
- 393 (m) To arbitrate, negotiate, or settle any dispute to which it is a party, and which relates
394 to its authorized activities.
- 395 (n) To act as the designated agent to receive all regulatory notices not included in section
396 501.5-6 of this Ordinance.
- 397 (o) To investigate all Regulatory Incidents.
- 398 (p) To issue warnings or notices of violation, in accordance with regulations, to Gaming
399 Operators and Licensees for non-compliance with the Compact, Oneida Gaming Minimum

400 Internal Controls, Rules of Play, IGRA, or this Ordinance.

401 (q) To make determinations regarding suitability for licensing.

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

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

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

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

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

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

413 501.6-15. *Reporting Requirements.* The Commission shall adhere to the following reporting
414 requirements:

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

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

420 (c) Quarterly, or as may be directed by the Oneida Business Committee, reports of the
421 Commission's activities, including information regarding funding, income and expenses
422 and any other matters to which the parties may agree, must be submitted to the Oneida
423 Business Committee.

424 501.6-16. *Oneida Gaming Commission Personnel.* The Commission shall hire an Executive
425 Director who is responsible for hiring and managing the personnel of the Commission.

426 (a) The Executive Director shall hire such personnel as is necessary to assist the
427 Commission to fulfill its responsibilities under this Ordinance, the IGRA, the Compact and
428 all governing regulations, including the Oneida Gaming Minimum Internal Controls.

429 (b) The Executive Director and personnel of the Commission must be hired through the
430 Nation's regular personnel procedure and are subject to its personnel policies and salary
431 schedules.

432 (1) The Executive Director and personnel shall meet the requirements set forth in
433 section 501.12-3 of this Ordinance at hiring and during employment.

434

435 **501.7. Gaming Surveillance: Powers, Duties and Limitations**

436 501.7-1. *Purpose.* The purpose of Gaming Surveillance is to observe and report Regulatory
437 Incidents to the Commission and Gaming General Manager to provide for the regulation,
438 operation, and compliance of Gaming Activities under this Ordinance.

439 (a) Gaming Surveillance is a department within the Commission's administrative
440 structure and supervision must be identified within the organizational chart adopted by the
441 Commission; provided, nothing in the designation of supervisory responsibility may be
442 deemed to prohibit the responsibility of Gaming Surveillance to provide information and/or
443 video and/or audio records to the parties identified in section 501.7-3 of this Ordinance.

444 501.7-2. Gaming Surveillance shall be responsible for all Gaming surveillance activities
445 including, but not limited to, equipment and maintenance of equipment, observation and reporting

446 of all persons to include Gaming Employees, customers, consultants, and Gaming Services
447 vendors.

448 501.7-3. Surveillance personnel shall provide to Senior Gaming Management, the Commission,
449 or Gaming Security a copy of any time-recorded video and accompanying audio (if available)
450 within twenty-four (24) hours of request.

451 501.7-4. Gaming Surveillance shall:

452 (a) Develop, implement and maintain written policies and procedures for the conduct
453 and integrity of the Surveillance Department.

454 (b) Develop, implement and maintain additional procedures governing the use and
455 release of the surveillance recordings or reports.

456 (c) Work cooperatively with the Gaming Security Department to carry out its official
457 duties and to coordinate its activities in order to effectuate the protection of patrons and the
458 assets of the Gaming Operation.

459 (d) Develop, implement and maintain written policies and procedures for
460 implementation of duties and responsibilities identified with the Oneida Gaming Minimum
461 Internal Controls, subject to approval by the Commission.

462

463 **501.8. [Reserved for future use.]**

464

465 **501.9. Gaming Security Department**

466 501.9-1. *Purpose.* The purpose of the Gaming Security Department is to protect Gaming assets,
467 patrons and Gaming Employees from an activity, repeat activity, or ongoing activities which could
468 injure or jeopardize Gaming assets, patrons and Gaming Employees.

469 (a) The Oneida Business Committee shall be responsible for the supervision, as well as
470 oversight, of the Gaming Security Department and the Gaming Security Department shall
471 report directly to the Oneida Business Committee per the process and schedule set by the
472 Oneida Business Committee; provided, all reports of the Gaming Security Department
473 must be copied to the Commission.

474 501.9-2. *Reporting.* The Internal Security Director, Gaming General Manager and Commission
475 shall enter into an agreement, subject to ratification by the Oneida Business Committee, describing
476 their responsibilities and reporting requirements under this Ordinance.

477 (a) When investigations involve or uncover a possible criminal or quasi-criminal
478 activity, the Gaming Security Department shall report the activity to the Oneida Police
479 Department for further review and investigation by the Oneida Police Department under
480 its separate departmental authority.

481 501.9-3. The Gaming Security Department shall:

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

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

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

489 501.9-4. *Investigations.* This section is intended to authorize report gathering, information
490 gathering, and preliminary review, to be conducted by the Gaming Security Department.

491

492 **501.10. Background Investigations**

493 501.10-1. The Human Resources Department and the Commission shall enter into an agreement,
494 subject to ratification by the Oneida Business Committee, for carrying out Background
495 Investigations for employees as required under this Ordinance.

496 501.10-2. Background Investigations must be conducted on all persons or entities as specified
497 under this Ordinance.

498 (a) All Background Investigations must be conducted to ensure that the Nation in its
499 Gaming Operations may not employ or contract with persons whose prior activities, or
500 reputation, habits and associations pose a threat to the public interest or to the effective
501 regulation of Gaming, or create or enhance the dangers of unsuitable, unfair or illegal
502 practices and methods in the conduct of such Gaming.

503 (1) The identity of any person interviewed in order to conduct a Background
504 Investigation must be confidential.
505

506 **501.11. Licenses, Generally**

507 501.11-1. The Commission shall adopt procedures that ensure the efficient and orderly processing
508 of all applications for a License.

509 (a) All Gaming Employees, Gaming Services vendors and Gaming Operators shall apply
510 for a License from the Commission prior to their participation in any Gaming Activity.

511 (b) All Gaming Facilities must be licensed by the Oneida Business Committee.

512 501.11-2. *Temporary License.* All Applicants, upon receipt by the Commission of a completed
513 application for a License and completion of a preliminary Background Investigation, may receive
514 a temporary license for a ninety (90) day period, unless a Background Investigation of the
515 application demonstrates grounds to disqualify the Applicant.

516 (a) A temporary license permits the Licensee to engage in such activities pursuant to any
517 terms and conditions imposed and specified by the Commission.

518 (b) A temporary license is valid until either replaced by a License, the ninety (90) day
519 temporary license period has concluded, or the temporary license is cancelled by the
520 Commission, whichever occurs first.

521 501.11-3. *Revocable.* A License is revocable only in accordance with the procedures set forth in
522 this Ordinance.

523 (a) A Licensee has only those rights and protections regarding a License granted in this
524 Ordinance.

525 501.11-4. All Applicants:

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

528 (b) Consent to the jurisdiction of the Nation and are subject to all applicable Oneida,
529 Federal, and State laws, regulations and/or policies.

530 501.11-5. All Licensees are subject to ongoing review at least every two (2) years by the
531 Commission.

532 501.11-6. *Status of Licenses.* The Commission shall notify the Gaming Operation of the status of
533 all Licenses, whether temporary or permanent, including all Commission action to revoke, suspend
534 or condition a License.

535 501.11-7. *Commission Licensing Actions.* The Commission may grant, deny, revoke, condition,
536 suspend or reinstate all Licenses, except for Gaming Facilities Licenses, in accordance with this
537 Ordinance.

538 (a) Authority to place conditions on a License may be exercised only upon promulgation
539 of regulations.

540 501.11-8. *Noncompliance.* The Commission may issue a notice of noncompliance when the
541 Commission has developed regulations that identify procedures that notices of noncompliance may
542 be issued to Licensees and permittees which provide an opportunity to correct actions.

543 (a) Such regulations must include procedures for appeal of such notices and may include
544 the ability to issue fines not to exceed one thousand dollars (\$1000.00) per violation for
545 Gaming Services vendors and permittees.

546

547 **501.12. Gaming Employee License**

548 501.12-1. *Scope of Section.* This section applies only to Gaming Employee Licenses and licensing
549 actions.

550 501.12-2. *License Application.* Every Applicant for a License shall file with the Commission a
551 written application in the form prescribed by the Commission, duly executed and verified, which
552 must certify:

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

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

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

562 (d) Current business and residence telephone numbers.

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

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

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

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

573 (i) For each felony conviction or ongoing prosecution or conviction, the charge, the
574 name and address of the court involved, and the date and disposition, if any.

575 (j) For each misdemeanor or ongoing misdemeanor prosecution (excluding violations
576 for which jail time is not part of the potential sentence) within ten (10) years of the date of
577 the application, the name and address of the court involved, and the date and disposition.

578 (k) For each criminal charge (excluding charges for which jail time is not part of the
579 potential sentence) whether or not there is a conviction, if such criminal charge is within
580 ten (10) years of the date of the application and is not otherwise listed pursuant to sub-
581 sections (i) or (j) of this section, the criminal charge, the name and address of the court
582 involved and the date and disposition.

583 (l) A photograph.

584 (m) Fingerprints consistent with procedures adopted by the Commission which meet the
585 criteria set forth in 25 C.F.R. section 522.2(h).

586 (1) The Commission is the agency that takes the fingerprints.

587 (n) Any other information the Commission deems relevant for a Gaming Employee
588 License.

589 (o) A statement that each Applicant has read and understands notices and the NIGC
590 requirements relating to:

591 (1) The Privacy Act of 1974;

592 (2) Fraud and False Statements Act; and

593 (3) Fair Credit Reporting Act.

594 501.12-3. *License Qualifications.* No License may be granted if the Applicant:

595 (a) Is under the age of eighteen (18).

596 (b) Unless pardoned for activities under this subsection by the Nation, or pardoned for
597 activities under this subsection by another Federally-recognized Indian Tribe for an action
598 occurring within the jurisdiction of the Federally-recognized Indian Tribe, or pardoned for
599 activities under this subsection by the state or Federal government, has been convicted of,
600 or entered a plea of guilty or no contest to, any of the following:

601 (1) Any gambling-related offense;

602 (2) Any offense involving Fraud or misrepresentation;

603 (3) Any offense involving a violation of any provision of Chapters 562 or 565 of
604 the Wisconsin Statutes, any rule promulgated by the State of Wisconsin Department
605 of Administration, Division of Gaming, or any rule promulgated by the Wisconsin
606 Racing Board;

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

609 (5) Any offense involving the violation of any provision of the Nation's law that
610 regulates the conduct of Gaming Activities, or any rule or regulation promulgated
611 pursuant thereto.

612 (c) Is determined to be a person whose prior activities, criminal record, reputation, habits
613 or associations pose a threat to the public interest or to the effective regulation and control
614 of Gaming or create or enhance the dangers of unsuitable, unfair or illegal practices,
615 methods or activities in the operation of Gaming Activities or the carrying on of the
616 business and financial arrangements incidental thereto.

617 (d) Possesses a financial interest in or management responsibility for any Gaming
618 Activity or Gaming Services vendor, or he or she has any personal, business, or legal
619 relationship which places him or her in a conflict of interest as defined in this Ordinance
620 or the Nation's Conflict of Interest law.

621 (e) Each person licensed as a Gaming Employee has a continuing obligation to inform
622 the Commission immediately upon the existence of any circumstance or the occurrence of
623 any event which may disqualify him or her from being licensed as a Gaming Employee.

624 (1) Failure to report any such occurrence may result in suspension or revocation
625 of the Gaming Employee's License.

626 501.12-4. *Initial Eligibility Determination.*

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

629 (1) Grant a temporary license, with or without conditions, to the Applicant; or

- 630 (2) Deny the License application and provide notice to the Applicant that he or
 631 she may request a hearing regarding the decision consistent with subsection (b)
 632 below.
- 633 (b) If the Commission determines that an Applicant is ineligible for a License, the
 634 Commission shall notify the Applicant.
- 635 (1) The Commission shall set forth regulations for an Applicant to review any
 636 information discovered during the preliminary Background Investigation prior to
 637 scheduling a hearing under section 501.12-10 of this Ordinance.
- 638 (2) The suspension or revocation hearing provisions set forth at section 501.12-9
 639 of this Ordinance do not apply to Initial Eligibility Determinations.
- 640 501.12-5. *Eligibility Determination and Notification to NIGC.* When a Gaming Employee begins
 641 employment at a Gaming Operation, the Commission shall:
- 642 (a) Require the Gaming Employee to submit a completed application for employment
 643 that contains the notices and information listed in section 501.12-2 of this Ordinance;
- 644 (b) Review the Background Investigation of the Gaming Employee;
- 645 (1) Within sixty (60) days after a Gaming Employee begins employment at a
 646 Gaming Facility under a temporary license, the Commission shall make an
 647 eligibility determination regarding whether the Gaming Employee may receive a
 648 License based upon the results of the Background Investigation.
- 649 (c) Create an investigative report based on each Background Investigation performed;
- 650 (1) The investigative report must include the steps in conducting the Background
 651 Investigation, results obtained, conclusions reached and the basis for those
 652 conclusions.
- 653 (d) Prior to issuing a License to a Gaming Employee and within sixty (60) days after the
 654 Gaming Employee begins employment at a Gaming Facility, submit a notice of results of
 655 the Background Investigation to the NIGC for inclusion in the Indian Gaming Individual
 656 Record System; and
- 657 (1) The notice of results must include the following, provided that any additional
 658 or alternate information must be forwarded as directed in regulations or rules
 659 adopted by the NIGC:
- 660 (A) The Gaming Employee's name, date of birth, and Social Security
 661 Number;
- 662 (B) The date on which the Gaming Employee began employment;
- 663 (C) A summary of the information presented in the investigative report,
 664 including:
- 665 (i) License(s) that have previously been denied;
- 666 (ii) Gaming licenses that have been revoked, even if subsequently
 667 reinstated;
- 668 (iii) Every known criminal charge brought against the Gaming
 669 Employee within the last ten (10) years of the date of the application;
 670 and
- 671 (iv) Every felony of which the Gaming Employee has been
 672 convicted or any ongoing prosecution.
- 673 (D) A copy of the eligibility determination made under section 501.12-5
 674 (b) of this Ordinance.
- 675 (e) All applications, Background Investigations, investigative reports, suitability

676 determinations, findings and decisions of the Commission must be retained in the
677 Commission's files for a period of at least three (3) years from the date the Gaming
678 Employee's employment is terminated.

679 501.12-6. *License Issuance.* The Commission may issue a License to a Gaming Employee at any
680 time after providing the NIGC with a notice of results as required under section 501.12-5(d) of this
681 Ordinance; however, a Gaming Employee who does not have a License ninety (90) days after the
682 start of employment must have his or her employment terminated.

683 (a) The Commission shall notify the NIGC of the issuance or denial of a License to a
684 Gaming Employee within thirty (30) days after the License is issued or denied.

685 (b) Any Gaming Employee License issued under this section is effective from the date
686 of issuance and must contain the Gaming Employee's photograph, the Gaming Employee's
687 name, and the date that the License became effective.

688 (1) If a Gaming Employee is promoted, transferred, reassigned, or the position is
689 reclassified, the Gaming Employee shall notify in writing the Commission, and the
690 Commission shall review the Gaming Employee's License.

691 (c) The Commission retains the right to grant, deny, revoke, condition, suspend, or
692 reinstate Licenses subject to the right to appeal the decision under the processes set forth
693 in this Ordinance.

694 501.12-7. *Requirement to Wear License.* During working hours, all Licensees shall wear their
695 License in a conspicuous place that is plainly visible by all employees, the Nation's Gaming
696 patrons and surveillance.

697 501.12-8. *NIGC Review.*

698 (a) During a thirty (30) day period, beginning when the NIGC receives a notice of results
699 submitted pursuant to section 501.12-5(d) above, the Chairman of the NIGC may request
700 additional information from the Commission concerning the Gaming Employee.

701 (1) Such a request suspends the thirty (30) day period until the Chairman receives
702 the additional information.

703 (b) If, within the thirty (30) day period after the NIGC receives the notice of results, the
704 NIGC notifies the Commission that it has no objection to the issuance of a License, and
705 the Commission has not yet issued a License to the Gaming Employee, the Commission
706 may grant the License to the Gaming Employee.

707 (c) If, within the thirty (30) day period after the NIGC receives the notice of results, the
708 NIGC provides the Commission with a statement itemizing objections to the issuance of a
709 License, the Commission shall reconsider the application, taking into account the
710 objections itemized by the NIGC.

711 (1) The Commission shall make the final decision whether to issue a License to
712 the Gaming Employee, or if the Gaming Employee has already been licensed,
713 whether to suspend or revoke the License in accordance with section 501.12-9 of
714 this Ordinance.

715 (d) Upon receipt of notification from the NIGC that a Gaming Employee who has already
716 been licensed is not eligible for employment, the Commission shall immediately suspend
717 the License in accordance with section 501.12-9 of this Ordinance.

718 501.12-9. *Suspension or Revocation of Licenses.* Except as provided in section 501.12-8(d) or
719 501.12-9(c) of this Ordinance, no License may be suspended or revoked except after notice and
720 opportunity for hearing.

721 (a) *Basis for Licensing Action.* The Commission may suspend, condition, or revoke any

722 License issued under this Ordinance if:

723 (1) After the issuance of a License, the Commission receives from the NIGC or
 724 other source reliable information indicating that a Gaming Employee is not eligible
 725 for a License under section 501.12-3 of this Ordinance; or such information would
 726 justify the denial of the renewal of any License, the Commission shall issue a
 727 written notice of suspension.

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

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

734 (B) Has knowingly promoted, played, or participated in any Gaming
 735 Activity operated in violation of the Compact, Oneida or federal law, and
 736 this Ordinance;

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

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

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

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

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

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

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

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

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

757 (c) *Immediate Suspension.* If, in the judgment of the Commission, the public interest and
 758 effective regulation and control of Gaming Activities requires the immediate exclusion of
 759 a Licensee, the Commission may immediately suspend a License prior to the conduct of a
 760 hearing on the matter.

761 (1) Such an immediate suspension may take effect upon service of the notice of
 762 immediate suspension.

763 (d) Any notice of suspension or notice of immediate suspension must set forth the times
 764 and dates for when the Licensee may review his or her file and the date for a hearing on
 765 any proposed licensing action.

766 (e) Within fifteen (15) business days after a hearing, the Commission shall issue a final
 767 written licensing decision and decide whether to suspend, uphold an immediate suspension,

- 768 revoke, or take other action concerning a License.
- 769 (1) If the License was suspended, conditioned or revoked based on information
- 770 from the NIGC or other source under section 501.12-8(d) or 501.12-9(a)(1) of this
- 771 Ordinance, the Commission shall forward a copy of its decision to the NIGC within
- 772 forty-five (45) days of receiving the NIGC's or the other source's notification
- 773 indicating that a Gaming Employee is not eligible for a License.
- 774 (f) If a Licensee fails to appear for his or her hearing before the Commission, that right
- 775 is deemed to have been waived and the Commission will proceed on the proposed licensing
- 776 action by default.
- 777 (g) Unless identified in this Ordinance or regulations of the Commission, the hearing
- 778 processes set forth in the Nation's Administrative Procedures Act shall apply.
- 779 501.12-10. *Original Hearing Body.* Any person aggrieved by a licensing decision of the
- 780 Commission may appeal the decision by filing a request for an original hearing before the
- 781 Commission.
- 782 (a) The Licensee may file any such request with the Commission in writing on or before
- 783 the fifteenth (15th) day following receipt of the Commission's decision.
- 784 (b) The Commission shall certify the record, developed in accordance with section
- 785 501.12-4 or 501.12-9(a) of this Ordinance, within thirty (30) days of the date of the filing
- 786 of the request for an original hearing.
- 787 (c) Those Commissioners serving on the original hearing body may not include the
- 788 Commissioners who participated in the licensing decision from which the original hearing
- 789 is scheduled.
- 790 (d) The Commission may decide to review the decision solely on the licensing decision
- 791 record and briefs filed regarding the request for reconsideration.
- 792 (1) The Commission may also, in its sole discretion, grant oral arguments.
- 793 (e) The Commission shall issue a written decision determining whether to uphold the
- 794 Commission's licensing decision, including whether to revoke or reinstate a License,
- 795 within one hundred twenty (120) days from receipt of the request for the original hearing.
- 796 (1) The Commission's decision is considered an original hearing decision and an
- 797 appeal may be made to the Judiciary as an appeal of an original hearing body.
- 798 501.12-11. *Notice to Oneida Business Committee.* Prior to any suspension or revocation of a
- 799 License of the Gaming General Manager, the Commission shall provide notice to the Oneida
- 800 Business Committee twenty-four (24) hours prior to the issuance of the suspension or revocation.
- 801 501.12-12. *Record of Proceedings.* The Commission shall maintain a complete and accurate
- 802 record of all licensure proceedings.
- 803 501.12-13. Revocation of a License is solely limited to the licensing matter. Employment related
- 804 processes resulting from revocation of a License are determined solely through the personnel
- 805 processes and procedures of the Nation and are not licensing matters governed by this Ordinance.
- 806
- 807 **501.13. Gaming Services Licensing and Non-Gaming Services Permitting**
- 808 501.13-1. *Scope of Section.* This section applies to all individuals and entities providing Gaming
- 809 Services.
- 810 (a) The requirements of this Section are in addition to, and do not alter or amend any

- 811 requirements imposed by the Nation’s Vendor Licensing law.²
812 501.13-2. *Gaming Services License or Non-Gaming Services Permit Required.*
813 (a) *Gaming Services License.* Any Gaming Services vendor providing Gaming related
814 contract goods or services as defined under Article VII(A) of the Compact to the Gaming
815 Operation shall possess a valid Gaming Services License.
816 (b) *Non-Gaming Services Permit.* Any vendor providing non-gaming related goods or
817 services to the Gaming Operation shall possess a valid Non-Gaming Services permit.
818 (c) Determinations regarding the issuance of a License or permit under this section must
819 be made by the Commission which may be subject to requests for reconsideration by the
820 Gaming Services vendor within fourteen (14) business days of receipt by the Gaming
821 Services vendor of the notice of License or permit determination.
- 822 501.13-3. *Approved Gaming Services Vendor List.* The Commission shall maintain an updated
823 and complete list of all Gaming Services vendors that possess current and valid Gaming Services
824 Licenses or Non-Gaming Services permits from the Commission, which is known as the Approved
825 License and Permit List.
- 826 (a) Gaming Operations may only do business with vendors that possess valid and current
827 Gaming Services Licenses or Non-Gaming Services permits and who appear on the
828 Approved License and Permit List.
- 829 501.13-4. *Gaming Services License/Permit Application.* Every Applicant for a License or
830 permit shall file with the Commission a written application in the form prescribed by the
831 Commission, duly executed and verified, which must provide and certify the following; provided,
832 Non-Gaming Services vendors with less than two thousand five hundred dollars (\$2,500.00) in
833 services for the prior fiscal year are only required to file a notice of doing business with the
834 Commission:
- 835 (a) The Applicant’s name and mailing address;
836 (b) The names and addresses of each officer or management official of the Applicant;
837 (c) A copy of the Applicant’s articles of incorporation and bylaws, or if not a corporation,
838 the Applicant’s organizational documents;
839 (d) Identification of an agent of service for the Applicant;
840 (e) The name and address of each person having a direct or indirect financial interest in
841 the Applicant;
842 (f) The nature of the License or permit applied for, describing the activity to be engaged
843 in under the License or permit;
844 (g) Explicit and detailed disclosure of any criminal record, including any delinquent
845 taxes owed to the United States, or any state, of the Applicant, any person involved in the
846 organization, and any person of interest whose name appears or is required to appear on
847 the application;
848 (h) Whether the Applicant is or has been licensed by the State of Wisconsin Office of
849 Indian Gaming Regulation and Compliance and, if applicable, proof of current licensure;
850 (i) Whether the Applicant has been licensed in the State of New Jersey, Nevada or by
851 any other gaming jurisdiction, including any Indian Tribe or Tribal governmental
852 organization and, if so, proof of such licensure and the status of any such License;
853 (j) Whether the Applicant has been denied a License by any gaming jurisdiction and, if

² See also Appendix 1. Vendor Licensing/Permit.

854 so, the identity of the jurisdiction, the date of such decision and the circumstances
855 surrounding that decision;

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

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

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

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

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

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

873 (1) The Privacy Act of 1974;

874 (2) False statements; and

875 (3) The Fair Credit Reporting Act.

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

878 501.13-5. *Signature on Application.* Applications for Licenses or permits must be signed by the
879 following person:

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

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

884 (c) For a partnership, all partners.

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

886 501.13-6. *Incomplete Applications.* Applications that do not contain all information requested,
887 including proper signatures, will be considered incomplete.

888 (a) Incomplete applications will not be considered by the Commission.

889 (b) The Commission shall notify an Applicant if an application is incomplete and what
890 additional information is necessary to complete the application.

891 (1) If an Applicant who has submitted an incomplete application, and been
892 notified of the deficiency in that application, fails to provide the information
893 requested by the Commission, the application will be returned to the Applicant and
894 the file closed.

895 501.13-7. *Supplemental Information.* The Commission may, in its discretion, request
896 supplemental information from the Applicant.

897 (a) Supplemental information requested by the Commission must be promptly submitted
898 by the Applicant.

899 (1) An Applicant's failure or refusal to submit supplemental information

900 requested by the Commission may constitute grounds for the denial of the
901 application.

902 501.13-8. *Continuing Duty to Provide Information.* Applicants, permittees, and Licensees owe
903 a continuing duty to provide the Commission with information and materials relevant to the
904 Applicant's, permittee's, or Licensee's character or fitness to be licensed, including but not limited
905 to any change in the licensing or permitting status of the Applicant, permittee, or Licensee in any
906 foreign jurisdiction.

907 (a) An Applicant's, permittee's, or Licensee's failure to notify the Commission promptly
908 of inaccuracies on an application or new information or materials relevant to him or her
909 may constitute grounds to deny, suspend or revoke a License or permit.

910 501.13-9. *Background Investigations.* Background Investigations for Gaming Services vendors
911 must be conducted as follows:

912 (a) *Gaming Related Equipment Gaming Services Vendors under Fifty Thousand Dollars*
913 *(\$50,000.00) in Goods and/or Services Annually.* The Commission shall conduct the
914 Background Investigations that are sufficient to determine the eligibility for licensing of
915 all Gaming Services vendors that provide or anticipate providing under fifty thousand
916 dollars (\$50,000.00) in goods and services annually.

917 (b) *Gaming Related Equipment Gaming Services Vendors over Fifty Thousand Dollars*
918 *(\$50,000.00) in Goods and/or Services Annually.* The Commission shall review the
919 background investigation conducted by the Wisconsin Office of Indian Gaming Regulation
920 and shall conduct any necessary additional Background Investigation to ensure that the
921 State background investigation is complete and current.

922 (c) *Other Non-Gaming Related Goods and/or Services Gaming Services Vendors.* The
923 Commission shall conduct Background Investigations on a sufficient number of randomly
924 selected applications in order to verify the accuracy of all applications.

925 (1) The random selection process must be identified by regulation of the
926 Commission.

927 501.13-10. *Licensing Action in a Foreign Jurisdiction.* If the States of Wisconsin, New Jersey,
928 Nevada or any other gaming jurisdiction refuse to renew a License or permit, or conditions,
929 suspends or revokes the License or permit of an Applicant, permittee or Licensee, such action may
930 constitute grounds for similar action by the Commission.

931 501.13-11. *Claim of Privilege.* At any time during the licensing or permitting process, the
932 Applicant may claim any privilege afforded by law.

933 (a) An Applicant's claim of privilege with respect to the production of requested
934 information or documents or the provision of required testimony or evidence may
935 constitute grounds for the denial, suspension or revocation of a License or permit.

936 501.13-12. *Withdrawal of an Application.* An Applicant may request to withdraw an application
937 by submitting a written request to the Commission.

938 (a) The Commission retains the right, in its exclusive discretion, to grant or deny a
939 request for withdrawal.

940 (b) An Applicant who withdraws an application is precluded from re-applying for a
941 Gaming Services License or Non-Gaming Services permit for a period of one (1) year from
942 the date the application was withdrawn.

943 501.13-13. *Suspension or Revocation of Gaming Services Licenses or Permits.* Except as
944 provided in section 501.13-13(c) of this Ordinance, no License or permit may be suspended or
945 revoked except after notice and opportunity for hearing.

- 946 (a) *Basis for Licensing or Permitting Action.* The Commission may suspend, modify, or
947 revoke any Gaming Services License or Non-Gaming Services permit issued under this
948 Ordinance if, after issuance of the License or permit, the Commission receives reliable
949 information that would justify denial of the issuance or renewal of a License or permit, or
950 if the Commission determines that the Licensee or permittee has:
- 951 (1) Knowingly made a materially false or misleading statement in any application
952 for a License or permit, in any amendment thereto, or in response to a request by
953 the Commission for supplemental information or in connection with any
954 investigation of the Commission;
 - 955 (2) Knowingly promoted, played or participated in any Gaming Activity operated
956 in violation of the Compact, any law of the Nation, or other applicable law;
 - 957 (3) Bribed or attempted to bribe a Commissioner or any other person in an
958 attempt to avoid or circumvent any applicable law;
 - 959 (4) Falsified any books or records relating to any transaction connected with
960 operation of a Gaming Activity;
 - 961 (5) Refused to comply with a lawful directive of the Nation, the federal
962 government, or any court of competent jurisdiction; or
 - 963 (6) Been convicted of or entered a plea of guilty or no contest to a crime involving
964 the sale of illegal narcotics or controlled substances.
- 965 (b) *Suspension Notice.* The Commission shall provide a Licensee or permittee with
966 written notice of suspension, which must, at a minimum, notify the Licensee or permittee
967 of the following:
- 968 (1) The Licensee's or permittee's right to conduct a file review prior to any
969 hearing regarding the notice of suspension, and to make copies of any documents
970 in that file;
 - 971 (2) The Licensee's or permittee's right to present documents and witness
972 testimony at the hearing and to be represented by counsel;
 - 973 (3) The specific grounds upon which the suspension is based, including citations
974 to relevant sections of this Ordinance, the IGRA, any applicable regulations and/or
975 the Compact; and
 - 976 (4) The time and place set by the Commission for the Licensee's or permittee's
977 file review and hearing.
- 978 (c) *Immediate Suspension.* If, in the judgment of the Commission, the public interest and
979 effective regulation and control of others require the immediate exclusion of a Licensee or
980 permittee, the Commission may immediately suspend a License or permit prior to a hearing
981 on the matter.
- 982 (1) Such an immediate suspension takes effect upon service of the notice of
983 immediate suspension.
- 984 (d) *File Review and Hearing.* Any notice of suspension or notice of immediate
985 suspension must set forth the time and date for the Licensee or permittee to conduct a file
986 review and for a hearing.
- 987 (e) *Final Written Decision.* Within fifteen (15) business days after a hearing, the
988 Commission shall issue a final written decision and decide whether to suspend, uphold an
989 immediate suspension, revoke, or take other action concerning a License or permit.
- 990 (f) *Default.* If a Licensee or permittee fails to appear for his or her hearing before the
991 Commission, that right is deemed to have been waived and the Commission will proceed

992 on the proposed licensing action by default.

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

995 501.13-14. *Original Hearing Body*. Any person aggrieved by a licensing or permitting decision
996 of the Commission may appeal the decision by filing a request for an original hearing before the
997 Commission.

998 (a) The Applicant, Licensee or permittee may file such request with the Commission in
999 writing on or before the fifteenth (15th) day following the receipt of the Commission's
1000 decision.

1001 (b) The Commission shall certify the record, developed in accordance with section
1002 501.13-9 or 501.13-13(a) of this Ordinance, within thirty (30) days of the date of the filing
1003 of the request for an original hearing.

1004 (1) Those Commissioners participating in the initial licensing or permitting
1005 decision may not participate in the original hearing.

1006 (c) The Commission may determine to review the decision solely on the licensing or
1007 permitting decision record and briefs filed regarding the request for reconsideration.

1008 (1) The Commission may also, in its sole discretion, grant oral arguments.

1009 (d) The Commission shall issue a written decision within one hundred twenty (120) days
1010 from receipt of the request for the original hearing.

1011 (1) The Commission's decision is considered an original hearing decision and an
1012 appeal may be made to the Judiciary as an appeal of an original hearing body.

1013

1014 **501.14. Gaming Facility License**

1015 501.14-1. The construction and maintenance of any Gaming Facility, and the operation of
1016 Gaming Activities, must be conducted in a manner which adequately protects the environment and
1017 the public health and safety, and must comply with requirements of the Compact and all other
1018 applicable health, safety, and environmental standards.

1019 501.14-2. The Oneida Business Committee must receive, review and grant or deny any
1020 application for licensing any Gaming Facilities located within the Reservation. Applicants shall
1021 provide the Oneida Business Committee sufficient information to show the following:

1022 (a) The Gaming Facility meets all applicable health and safety standards of the Nation
1023 and Federal government.

1024 (1) To show compliance with applicable health and safety standards, Gaming
1025 Operator shall submit certified copies of Compliance Certificates issued by the
1026 agencies responsible for the enforcement of the health and safety standards.

1027 (2) If health and safety standards are not met, proof must be submitted by Gaming
1028 Operator that the Gaming Facility is in the process of improvements which will
1029 place the Gaming Facility in compliance with the applicable standards.

1030 (b) The Gaming Facility meets applicable environmental standards of the Nation and
1031 Federal government.

1032 (1) To show compliance with applicable environmental standards, Gaming
1033 Operator shall submit certified copies of an Environmental Assessment of the
1034 Gaming Facility which were prepared by the agency responsible for the
1035 enforcement of applicable environmental standards.

1036 (2) If the applicable environmental standards are not met, proof must be
1037 submitted by Gaming Operator that Remediation of the Gaming Facility is being

1038 actively sought which will place the Gaming Facility in compliance with the
1039 applicable standards.

1040 501.14-3. Upon receipt and review of the above information, the Oneida Business Committee
1041 shall deliberate and either grant or deny for failure to meet the requirements of protecting the health
1042 and safety of patrons, public and employees of a Gaming Facility License to the Applicant.

1043 (a) The Oneida Business Committee shall submit to the NIGC a copy of each Gaming
1044 Facility License issued.

1045 501.14-4. If the Oneida Environmental, Health and Safety Department notifies the Oneida
1046 Business Committee that a Gaming Facility will be closed by a governmental agency with proper
1047 authority due to environmental, health or safety concerns, the Oneida Business Committee shall
1048 suspend the License of the Gaming Facility.

1049 (a) The Oneida Business Committee shall re-License the Gaming Facility after receiving
1050 the information required in section 501.14-2 of this Ordinance.

1051

1052 **501.15. Gaming Operator License**

1053 501.15-1. *Consent to Jurisdiction.* The application for License and the conduct of Gaming
1054 within the jurisdiction of the Nation is considered consent to the jurisdiction of the Nation in all
1055 matters arising from the conduct of Gaming, and all matters arising under any of the provisions of
1056 this Ordinance or other laws of the Nation.

1057 501.15-2. *License Required.* No Gaming Operator may conduct Gaming Activity unless such
1058 entity holds a valid and current Gaming Operator License issued by the Commission.

1059 501.15-3. *Types of Licenses.* The Commission may issue each of the following types of Gaming
1060 Operator Licenses:

1061 (a) *Tribally-Owned or Tribally-Operated Class II.* This License is required of all
1062 Tribally-owned or Tribally-operated Gaming Operations operating one or more Class II
1063 Gaming Activities.

1064 (b) *Tribally-Owned or Tribally-Operated Class III.* This License is required of all
1065 Tribally-owned or Tribally-operated Gaming Operations operating one or more Class III
1066 Gaming Activities.

1067 501.15-4. *Gaming Operator License Qualifications.* The Commission shall issue a Gaming
1068 Operator License to any Gaming Operation if:

1069 (a) The Gaming Operation is to be located within the Reservation, or land taken into trust
1070 after October 17, 1988, for Gaming purposes;

1071 (b) The Gaming Activity proposed to be played at the Gaming Operation is Class II or
1072 Class III Gaming as defined by this Ordinance and IGRA; and

1073 (c) The proposed Gaming Operation is authorized by a resolution of the Oneida Business
1074 Committee.

1075 501.15-5. *Provisions of General Applicability to All Gaming Operators.*

1076 (a) *Site and Gaming Operator Specified.* Each Gaming Operator License may be
1077 applicable only to one (1) Gaming Operation and the Gaming Facility named on the
1078 License.

1079 (b) *License Not Assignable.* No Gaming Operator License may be sold, lent, assigned or
1080 otherwise transferred.

1081 (c) *Regulations Posted or Available.* Each Gaming Operator must have a copy of this
1082 Ordinance and any regulations promulgated thereunder available for inspection by any
1083 person at each Gaming Facility.

1084 (d) *Display of License.* Each Gaming Operator must prominently display its License at
1085 each Gaming Facility.

1086 501.15-6. *Grandfathered Gaming Facilities.* All Gaming Operators operating on the effective
1087 date of July 5, 2007, are hereby granted a License under this section.

1088 501.15-7. *License Application Fees and License Taxes.* No application fees or License taxes
1089 may be required by the Nation for a Gaming Operator License.

1090 501.15-8. *Closure of a Gaming Operation.* If the Commission finds that any Gaming Operation
1091 is operating in violation of this Ordinance, or otherwise presents a threat to the public, the
1092 Commission shall immediately notify the Oneida Business Committee.

1093 (a) The Oneida Business Committee may close any Gaming Operation temporarily or
1094 permanently at any time with or without cause, at its sole discretion.

1095

1096 **501.16. Games**

1097 501.16-1. Class II and Class III Games are hereby authorized by this Ordinance.

1098 501.16-2. *Gaming Procedures.* Games operated under this Ordinance must be consistent with
1099 the Compact and any amendments thereto and the Internal Control Standards and Rules of Play of
1100 the Gaming Operation.

1101 501.16-3. *Who May Not Play.* It is the policy of the Nation that particular Gaming Employees,
1102 employees of the Commission, particular governmental officials, and consultants who directly
1103 advise the Commission or employees at Gaming Facilities regarding gaming related activities may
1104 not participate in Gaming Activities conducted at Gaming Operations.

1105 (a) At a minimum, members of the Oneida Business Committee, the Commission, the
1106 Gaming General Manager, assistant gaming general managers, directors of individual
1107 Games and assistant directors of individual Games may not participate in any Gaming
1108 Activity within the Reservation.

1109 (b) The Oneida Business Committee may identify by resolution additional positions
1110 restrictions on Gaming Activity conducted at Gaming Facilities.

1111 (1) Such resolution must be on file with the Commission.

1112 (c) The Commission and Senior Gaming Management shall each develop and maintain
1113 their own standard operating procedure identifying other positions and any applicable
1114 restrictions on Gaming Activity conducted at Gaming Facilities.

1115 (1) The standard operating procedure and the list of positions must be on file with
1116 the Commission.

1117

1118 **501.17. Allocation of Gaming Funds**

1119 501.17-1. Net Gaming revenues may only be used for the following purposes:

1120 (a) To fund government operations, programs, or services of the Nation;

1121 (b) To provide for the general welfare of the Nation and its members; provided, that per
1122 capita payments may only be made pursuant to an approved revenue allocation plan;

1123 (c) To promote economic development of the Nation;

1124 (d) To contribute to charitable organizations;

1125 (e) To assist in funding operations of other local governments;

1126 (f) To fund programs designed to provide education, referrals, and treatment of Gaming
1127 addiction disorders; and

1128 (g) For any other purpose as determined by the Oneida General Tribal Council or the
1129 Oneida Business Committee which is not inconsistent with the Oneida Nation Constitution

1130 and IGRA.

1131

1132 **501.18. Audits**

1133 501.18-1. *Annual Audit.* An annual audit of each Gaming Operation must be conducted by an
 1134 independent, certified public accounting firm according to generally accepted accounting
 1135 principles.

1136 (a) Copies of the annual audit must be provided to the Oneida Business Committee, the
 1137 Nation’s Audit Committee, the Commission, and the NIGC by said certified public
 1138 accounting firm.

1139 (b) All contracts for supplies, services, or concessions for the Gaming Operations in
 1140 excess of twenty-five thousand dollars (\$25,000.00) are subject to audit as prescribed in
 1141 this section of the Ordinance.

1142 (1) Contracts for legal services and accounting services are exempt from this
 1143 requirement.

1144 501.18-2. *Other Audits.* All audits, other than the annual audit under section 501.18-1 of this
 1145 Ordinance, must be conducted pursuant to the Nation’s Internal Audit law or any other applicable
 1146 law of the Nation, and other audits authorized under the Compact.

1147 501.18-3. *Request for Audits.* Any audit, except the annual audit that is mandated by IGRA,
 1148 may be authorized at any time by the Oneida General Tribal Council, the Oneida Business
 1149 Committee or the Nation’s Audit Committee.

1150

1151 **501.19. Enforcement and Penalties**

1152 501.19-1. No individual or entity may own or operate a Gaming Facility unless specifically
 1153 authorized to do so pursuant to this Ordinance.

1154 501.19-2. *Violations/Prosecutions.* Violators of this Ordinance may be subject to disciplinary
 1155 action, as well as civil and/or criminal prosecutions.

1156 501.19-3. *Remedies.* The Oneida Business Committee may authorize commencement of an
 1157 action in any court of competent jurisdiction to recover losses, restitution, and forfeitures resulting
 1158 from violations of this Ordinance.

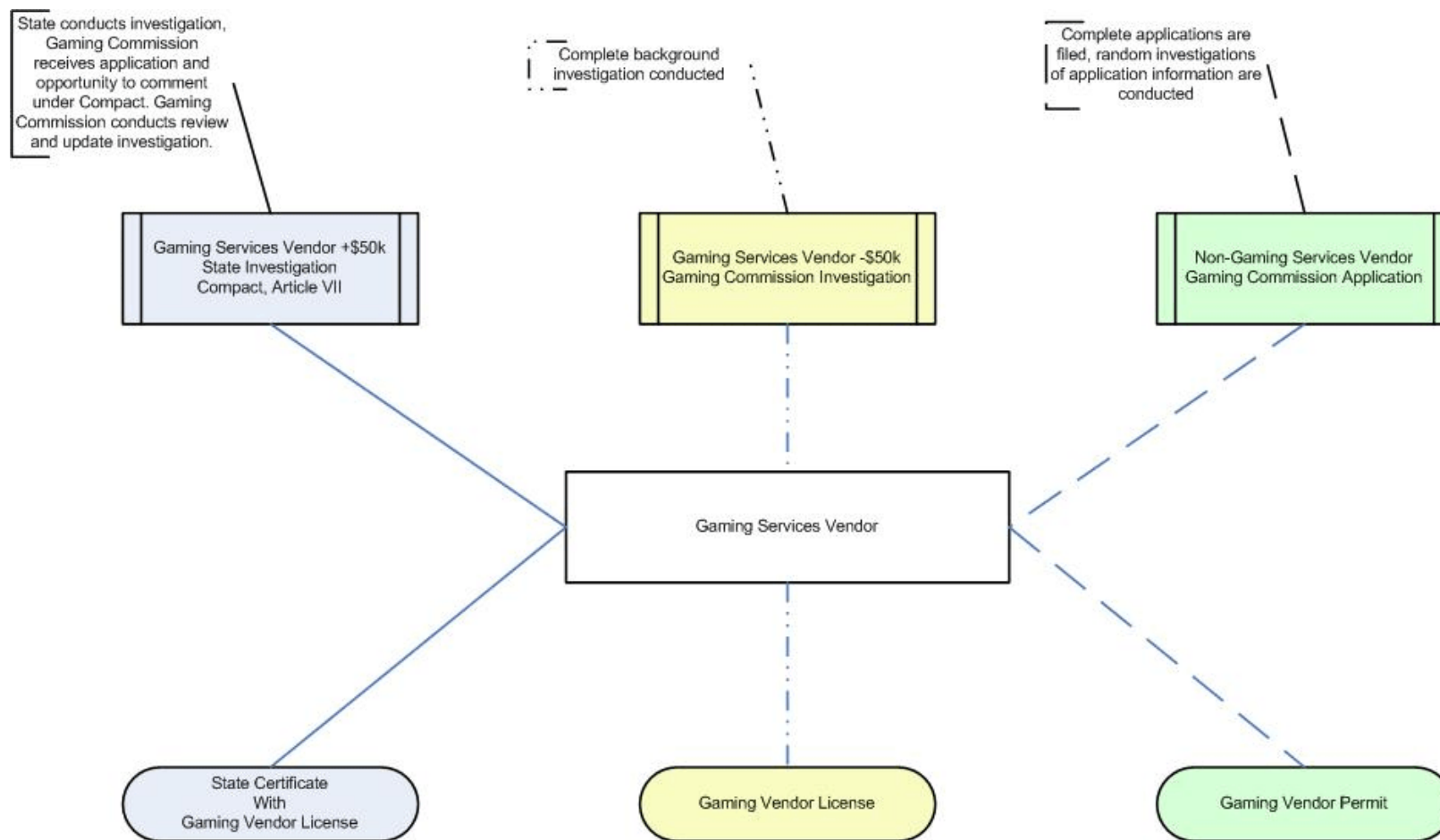
1159

1160 *End.*

~~1161~~

1163	Adopted	GTC-7-05-04-A
1164	Emergency Amended	BC-7-14-04-A
1165	Amendment	BC-10-06-04-D
1166	Emergency Amended	BC-11-03-04-A
1167	Permanent Adoption	BC-3-23-05-C
1168	Amended	BC-9-23-09-D
1169	Amended	BC-06-25-14-C (effective 11 01 2014)
1170	Emergency Amended	BC-10-08-14-C (effective 11 01 2014)
1171	Amended	BC-09-09-15-A (effective 09 09 2015)
1172	Emergency Amended	BC-__-__-__-__

Appendix 1. Vendor License/Permit





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



AGENDA REQUEST FORM

- 1) Request Date: 4/29/2021
- 2) Contact Person(s): Lisa Liggins
Dept: BC
Phone Number: x 4421 Email: lliggins@oneidanation.org
- 3) Agenda Title: Consider emergency repeal of the Budget Management & Control law
- 4) Detailed description of the item and the reason/justification it is being brought before the LOC:
See attached memo.

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

- 1) Excerpt from the 4/28 BC packet
- 2) _____
- 3) _____
- 4) _____

- 5) Please list any laws, policies or resolutions that might be affected:
Budget Management and Control law
- 6) Please list all other departments or person(s) you have brought your concern to:
BC
- 7) Do you consider this request urgent? Yes No
If yes, please indicate why:
BC action on 4/28 to bring back emergency amendments to 5/12 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: *Lisa Liggins*

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



Memorandum

To: LOC

From: Lisa Liggins, Secretary

CC: BC Officers

Date: April 29, 2021

Re: Consideration of an emergency repeal of the Budget Management and Control law

Based on the discussion at the April 28, 2021, regular BC meeting, I'm requesting the LOC consider providing two options to the Business Committee at the May 12, 2021, regular Business Committee meeting: the requested emergency amendments and an emergency repeal of the Budget Management and Control law. I am concerned the proposed emergency amendments to the law are so extensive that they effectually change the law in its entirety.

I am requesting that the LOC prepare an emergency repeal resolution and include a resolve which directs the Treasurer to present a resolution at the May 26, 2021, BC meeting, which documents the general framework for the FY-22 budget development process, which could include, but is not limited to:

- Budget calendar
 - This has already been issued
- At least one virtual community input/discussion meeting
- Line item guidance
- New position definition, guidance, and review process

I also request a resolve be included which provides that a draft of the FY-22 budget development process resolution be submitted to the May 18, 2021, BC work session for review and input.

Providing the Business Committee with an option to repeal, with the two additional provisions requested, will provide an opportunity for the Business Committee to reach a consensus oriented solution. This second option will provide transparency for the organization as well as address the concerns shared at the April 28, 2021, regular BC meeting regarding a lack of framework in the event the law is repealed. More

importantly, the membership will have a clear understanding of how this budget is being developed and be able to provide their insight into how the Nation's funds are being spent.

Considerations regarding the Budget Management and Control Law

Business Committee Agenda Request

1. Meeting Date Requested: 04/28/21

2. General Information:

Session: Open Executive – must qualify under §107.4-1.
 Justification: *Choose reason for Executive.*

3. Supporting Documents:

- | | | |
|--|--|---|
| <input type="checkbox"/> Bylaws | <input type="checkbox"/> Fiscal Impact Statement | <input type="checkbox"/> Presentation |
| <input type="checkbox"/> Contract Document(s) | <input type="checkbox"/> Law | <input type="checkbox"/> Report |
| <input checked="" type="checkbox"/> Correspondence | <input type="checkbox"/> Legal Review | <input type="checkbox"/> Resolution |
| <input type="checkbox"/> Draft GTC Notice | <input type="checkbox"/> Minutes | <input type="checkbox"/> Rule (adoption packet) |
| <input type="checkbox"/> Draft GTC Packet | <input type="checkbox"/> MOU/MOA | <input type="checkbox"/> Statement of Effect |
| <input type="checkbox"/> E-poll results/back-up | <input type="checkbox"/> Petition | <input type="checkbox"/> Travel Documents |
| <input type="checkbox"/> Other: <i>Describe</i> | | |

4. Budget Information:

- | | | |
|--|--|-------------------------------------|
| <input type="checkbox"/> Budgeted | <input type="checkbox"/> Budgeted – Grant Funded | <input type="checkbox"/> Unbudgeted |
| <input checked="" type="checkbox"/> Not Applicable | <input type="checkbox"/> Other: <i>Describe</i> | |

5. Submission:

Authorized Sponsor: Lisa Liggins, Secretary

Primary Requestor: _____

Additional Requestor: (Name, Title/Entity)

Additional Requestor: (Name, Title/Entity)

Submitted By: CWILSON1



Memorandum

To: Oneida Business Committee

From: Lisa Liggins, Secretary

Date: April 20, 2021

Re: Considerations regarding the Budget Management and Control law

This memorandum is intended to provide the Business Committee my concerns and requested considerations regarding the Budget Management and Control law.

At the April 20, 2021, Business Committee (BC) Work Session, I shared the attached correspondence outlining my concerns regarding our compliance with the Budget Management and Control law. Also provided was a copy of resolution BC-09-25-19-D *Guidance to Implement Good Governance Principles for Conducting Public Affairs and Managing Public Resources*.

At the BC Work Session I was asked to provide specific examples of concern. Please the listing below.

- 121.4-3 Budget Contingency Plan.
 - The Nation transitioned at the end of FY-2020 from a Tier V level of decline, the highest in the adopted Budget Contingency Plan (attached), to no tier at the beginning of FY-2021. This occurred while we are in the midst of an ongoing pandemic. We have been warned by our Financial professionals that is important to recognize the continued lower demand in consumer related sectors including Gaming, which is our primary source of revenue. We have also been notified that the economic recovery is expected to be lengthy due to a variety of factors (i.e. business supply-chain activity).
- 121.5-2. Community Input Budget Meeting.
 - The law requires one (1) meeting to be held prior to December 1st, with packet of questions/comments/responses to the BC in January.

- This concern has been partially addressed in 2nd resolve of BC Resolution # 11-24-20-F.
- 121.5-4. Annual Proposed Budgets.
 - The law requires the CFO to propose budget guidelines, with specific budget increase/decrease to the OBC for approval by the OBC in order to begin the budgeting process. These were not submitted for approved prior to the April 6, 2021, Budget Kick-off Meeting.
 - Additionally, the Budget Kick-off Presentation from April 6, 2021, indicates that line item guidance will be determined after Gaming and Retail have completed budgets (scheduled for April 23, 2021) and that guidance on positions will be shared in the near future.
 - As of today, no guidance provided regarding employment levels, new employees, travel, etc. has been provided.
- 121.5-8 Community Meetings.
 - These meetings on proposed budget are not included in the budget development deadlines or calendar.
- 121.9 Budget Transfers; Amendments
 - This section requires CFO input and recommendations which have not been presented unless specifically asked for and have been provided verbally. We have no documentation of any impact or input.
- One of the key ideas in the Budget Management and Control law appears to be transparency and input by members regarding the government's budget.
 - While FY-2021 may have been an exception, thus far, the FY-2022 Budget Process has not been transparent or responsive (again, see the Good Governance Principle resolution). In the published FY-22 budget calendar, there is a lack of opportunities for community input, and, although they could be forthcoming, there has been no indication those are being developed to be incorporated into the budget process.

I understand that the LOC has been asked to consider amendments to the Budget Management and Control law. The LRO has indicated that when they began discussing amendments to the Budget Management and Control law with the LOC it became obvious that comprehensive amendments were needed to transition this law from a process driven law to a policy driven law. Additionally, the LRO indicated there was a determination that this law should address broader financial policies of the Nation that go beyond simply just the budget process.

I fully support the initiative to make the appropriate corrections to create a policy driven law. In the meantime, in adherence with the oath of office, compliance with the current, process driven law, however arduous it may be, cannot be overlooked.

As such I'm requesting the BC consider either:

- an emergency repeal of the Budget Management and Control law due to the fact that the processes and procedures, specifically the deadlines for the various steps of the budget process, contained in the law are not currently being followed; or
- emergency amendments to the Budget Management and Control law to remove much of the budget process/deadlines and leave it simply at a budget should be adopted by September 30th.

Thank you.

From: [Lisa A. Liggins](#)
To: [BC Work Session](#)
Subject: FY-22 Budget and the Budget Management and Control law
Date: Friday, April 16, 2021 2:00:27 PM
Attachments: [09-25-19-D Guidance to Implement Good Governance Principles for Conducting Public Affairs and Managing Public Resources.pdf](#)

Goal - Determine how best to move forward (i.e. legislative changes, resolution to document compliance/interpretations)

I have a concern with the FY-22 Budget process and need to comply with the current law. I understand that the LOC has been asked to consider amendments to the law, however, we need to make sure we are complying with the law as it currently stands. It is a process-intensive law and there are provisions and specific timelines provided. I'm suggesting that we either amend the law for FY-22 or document how the provisions have been complied with to the best of our ability. All this in order to ensure we are upholding resolution BC-09-25-10-D, namely Transparency and Accountability.

Oneida Nation

Post Office Box 365

Phone: (920)869-2214



Oneida, WI 54155

BC Resolution # 09-25-19-D

Guidance to Implement Good Governance Principles for Conducting Public Affairs and Managing Public Resources

- WHEREAS,** the Oneida Nation is a federally recognized Indian government and a treaty tribe recognized by the laws of the United States of America; and
- WHEREAS,** the Oneida General Tribal Council is the governing body of the Oneida Nation; and
- WHEREAS,** the Oneida Business Committee has been delegated the authority of Article IV, Section 1, of the Oneida Tribal Constitution by the Oneida General Tribal Council; and
- WHEREAS,** the Oneida Business Committee has the fiscal responsibility of preparing a comprehensive spending plan for review and approval by the General Tribal Council, and
- WHEREAS,** the Oneida Business Committee adopted resolution # BC-09-27-17-B, *Setting the Strategic Plan for the 2017-2020 Term of the Oneida Business Committee*, which identified that the foundation for building a strategic plan is built on Trust, Value-Based Budgeting, Sovereignty Protection, Change Management, and Communication; and
- WHEREAS,** On February 8, 2018, the Oneida Business Committee adopted the *Budget Management and Control - Twahwistatye?nitha?*, Chapter 121, which implements a budgeting process focused on value-based budgeting wherein budget increases and budget cuts are allocated based on a priority list approved by the Oneida Business Committee; and
- WHEREAS,** Chapter 121, “Budget Management and Control - Twahwistatye?nitha?” requires a three (3) year (Triennial) strategic planning cycle, and
- WHEREAS,** Section 121.4-1(a through c) directs that the triennial strategic plan shall at minimum include:
- (a) Major policy and budgetary goals for the Nation, both long and short term;
 - (b) Specific strategies and planned actions for achieving each goal; and
 - (c) Performance targets and indicators to track progress which, to the extent available, includes, but is not limited to:
 - (1) Statistics and trending data for, at a minimum, the last three (3) complete fiscal years; and
 - (2) Performance targets for, at a minimum, the next three (3) complete fiscal years moving forward; and
- WHEREAS,** Chapter 121, “Budget Management and Control - Twahwistatye?nitha?” lists 13 service groups which encompasses all units within the Nation to complete Triennial Strategic Plans in section 121.5-3(a):
- (1) Protection and Preservation of Natural Resources
 - (2) Protection and Preservation of Oneida Culture and Language

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Guidance to Implement Good Governance Principles for Conducting Public Affairs and Managing Public Resources
Page 2 of 3

- (3) Education and Literacy
- (4) Health Care
- (5) Economic Enterprises
- (6) Building and Property Maintenance
- (7) Human Services
- (8) Public Safety
- (9) Housing
- (10) Utilities, Wells, Wastewater and Septic
- (11) Planning, Zoning and Development
- (12) Membership Administration
- (13) Government Administration; and

WHEREAS, each service group identified a “lead” person to organize, communicate, and report on behalf of each service group; and

WHEREAS, each service group should look to the greater good to incorporate “Good Governance Principles” to collectively:

1. Clear the path for Tribal operations,
2. Fulfill our constitutional responsibility to conserve and develop our common resources,
3. Promote the welfare of ourselves and our descendants; and

NOW THEREFORE BE IT RESOLVED, the Oneida Business Committee affirms the Good Governance principles as tools to support the value of each service groups outcomes, and

NOW THEREFORE BE IT FINALLY RESOLVED, the Oneida Business Committee adopts the following Good Governance principles and definitions:

Rule of Law: Ensuring the rules are known and applied equally to all with clear appeal (if needed) and are enforced by an impartial regulatory body, for the full protection of Oneida Nation stakeholders.

Transparency: Open communication about actions taken and decisions made ensuring access to information is clear.

Responsiveness: Availability to the public and timeous reaction to the needs and opinions of the public.

Consensus Oriented: Consultation is required to understand diverse interests (Membership, Employee, Community) in order to reach a broad consensus of what is in the best interest of the Nation and how this can be achieved in a sustainable and prudent manner.

Equity and Inclusiveness: Providing the opportunity for the Nation’s stakeholders to maintain, enhance, or generally improve their well-being which provides the most compelling message regarding its reason for existence and value to the Nation.

Effectiveness and Efficiency: Processes implemented by the Nation producing favorable results which meets the needs of Membership, Employees, Community, while making the best use of resources – human, technological, financial, natural and environmental.

Accountability: The acknowledgement and assumption of responsibility for decisions and actions as well as the applicable rules of law.

Participation: Fostering a system in which the public feels that they are part of decision-making processes, including freedom of expression and assiduous concern for the best interests of the Tribe and community in general.

CERTIFICATION

I, the undersigned, as Secretary of the Oneida Business Committee, hereby certify that the Oneida Business Committee is composed of 9 members of whom 5 members constitute a quorum; 7 members were present at a meeting duly called, noticed and held on the 25th day of September, 2019; that the

BC Resolution # 09-25-19-D
Guidance to Implement Good Governance Principles for Conducting Public Affairs and Managing Public Resources
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forgoing resolution was duly adopted at such meeting by a vote of 6 members for, 0 members against, and 0 members not voting*; and that said resolution has not been rescinded or amended in any way.



Lisa Summers, Secretary
Oneida Business Committee

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

Oneida Nation

Post Office Box 365

Phone: (920)869-2214



Oneida, WI 54155

BC Resolution # 09-13-17-A**Adoption of Budget Contingency Plan in Conformance with the Budget Control and Management and Control Law**

- WHEREAS,** the Oneida Nation is a federally recognized Indian government and a treaty tribe recognized by the laws of the United States of America; and
- WHEREAS,** the Oneida General Tribal Council is the governing body of the Oneida Nation; and
- WHEREAS,** the Oneida Business Committee has been delegated the authority of Article IV, Section 1, of the Oneida Tribal Constitution by the Oneida General Tribal Council; and
- WHEREAS,** the Oneida Business Committee adopted resolution # BC-10-08-08-A, *Adopting Expenditure Authorization and Reporting Requirements*, which set forth requirements for reporting to the General Tribal Council regarding expenditures and budget related actions; and
- WHEREAS,** the Oneida Business Committee adopted resolution # BC-02-11-15-A, *Budget Initiative for Fiscal Years 2016, 2017, and 2018*, which identified the goals of “promoting economic stability, good governance, social progress and a rising standard of living for all enrolled Oneidas” and set the following budget goal:
 The end in mind is “Sustainability.” Assessment guidelines will be the path for the Tribal organization to develop a Fiscal Year 2016 budget so that we may begin to implement strategies for growth in Fiscal Year 2017 and Fiscal Year 2018 to support the Oneida Tribe overall, *Resolve #1*; and
- WHEREAS,** the Oneida Business Committee has continued to support the assessment, implement, and review by adoption of resolutions regarding the budget development such as resolution # BC-12-09-15-A, *Guidance for Implementing Fiscal Year 2016 Budget and Developing Fiscal Year 2017 and Fiscal Year 2018 Budget*,
 that tribal operations, at all levels, are expected to know and understand the objectives and budget initiatives for guiding actions during Fiscal Year 2016 and developing the Fiscal Year 2017 and 2018 budgets; and more specifically tribal operations are directed to create a more effective workforce based on Strategic Workforce Planning proposal as approved by the Oneida Business Committee on October 22, 2014, *Resolve #1*
 the Oneida Business Committee continues to support Fiscal Year 2017 as a “Year of Action” and directs the organization to continue implementing their Fiscal Year 2016 transition and efficiency plans, while focusing on Community Development, New Revenues, Reducing Debt, and Improving Employment Programs, *Resolve # 2*; and
- WHEREAS,** the Oneida Business Committee recommitted to development of a budget and finance law for the Oneida Nation to guide how budgets are developed and expenditures are authorized; and

WHEREAS, the Oneida Business Committee adopted resolution # BC-02-08-17-C, *Adoption of the Budget Management and Control Law*, with an implementation date of October 1, 2017, which sets forth directives and guidance regarding short term and long term financial planning through budgeting and contingency planning; and

WHEREAS, the Budget Management and Control Law, in section 121.4-3, requires the development of a Budget Contingency Plan "which provides a strategy for the Nation to respond to extreme financial distress that could negatively impact the Nation;" and


WHEREAS, the Treasurer has worked with the Chief Financial Officer, the Assistant Chief Financial Officer, Division Directors, and the Finance Committee to identify contingency planning options and goals to present to the Oneida Business Committee for review and approval to comply with section 121.4-3 in anticipation of the implementation date of the Budget Management and Control Law; and

NOW THEREFORE BE IT RESOLVED, Tribal operations are required to develop contingency plans for their respective areas, and update them by the first (1st) of March on an annual basis. Contingency plans shall be developed by Tribal operations and by each subsection of the operations supervised by the direct report or appropriate Chairperson of Tribal Boards, Committees, and Commissions. Each direct report or appropriate Chairperson shall be responsible for receiving, reviewing, approving, and maintaining the contingency plans for each subsection of the operations supervised by the direct report or appropriate Chairperson. Direct reports or appropriate Chairperson shall submit their high-level contingency plans to the officers of the Oneida Business Committee.

BE IT FURTHER RESOLVED, the Oneida Business Committee does hereby adopt the attached *Budget Contingency Plan*.

CERTIFICATION

I, the undersigned, as Secretary of the Oneida Business Committee, hereby certify that the Oneida Business Committee is composed of 9 members of whom 5 members constitute a quorum; 5 members were present at a meeting duly called, noticed and held on the 13th day of September, 2017; that the forgoing resolution was duly adopted at such meeting by a vote of 4 members for, 0 members against, and 0 members not voting; and that said resolution has not been rescinded or amended in any way.



Lisa Summers, Tribal Secretary
Oneida Business Committee

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



The purpose of the Budget Contingency Plan is to establish a guideline and general approach to respond to financial distress and conditions that could negatively impact the Oneida Nation's fiscal health. The primary goals established in this plan will be the foundation and basis for budgetary decision-making. This plan includes a systematic response to financial distress, as opposed to reactionary decision-making that could have a long-term negative impact to the Nation.

PRIMARY GOALS

The primary goals of the Nation's Budget Contingency Plan are as follows:

- To protect the integrity and sovereignty of the Nation
- Preserve the Nation's solvency
- Maintain a balanced budget
- Preserve the Nation's core services, according to the Budget Management Control Act 121.5-3 (a)
- To ensure there is reliable communication

The Nation will strive to continue providing a balance of services within its financial ability. The plan will include the continued ability to achieve the Nation's mission to strengthen and protect our people, reclaim our land and enhance the environment by exercising our sovereignty. This will be achieved through fiscal responsibility, attentive planning, and continuous improvement.

IDENTIFIED TRIGGERS

The execution of the plan will be anticipated by the identified triggers that influence financial distress circumstances. These circumstances are defined in the Budget Management and Control Act 121.4-3 (c): Natural disasters, human-made disasters, United States government shutdown, Tribal shut down, and economic downturns.

- Natural Disasters
 - Tornadoes
 - Blizzards
 - Extreme weather conditions
 - Ice
 - Any environmental event having an impact on revenue generators
- Human-made Disasters
 - Computers
 - Software breaches
 - Hostage
 - Electricity

- Pandemic
- Water supply becomes contaminated through man made or the land fill fails
- External government influences or changes in policy shift, for example taxation of Gaming
 - United States Government Shutdown
 - Grants – Tribal contribution is impacted
 - Discretionary spending
 - Repeal of Affordable Care Act, change in federal policy
- Tribal Shutdown
 - BC/GTC mandates
- Economic Downturns
 - Gross domestic product declines 3 consecutive quarters
 - Regional downturn
 - Sectors impacting gross domestic product

KEY FUNDAMENTALS

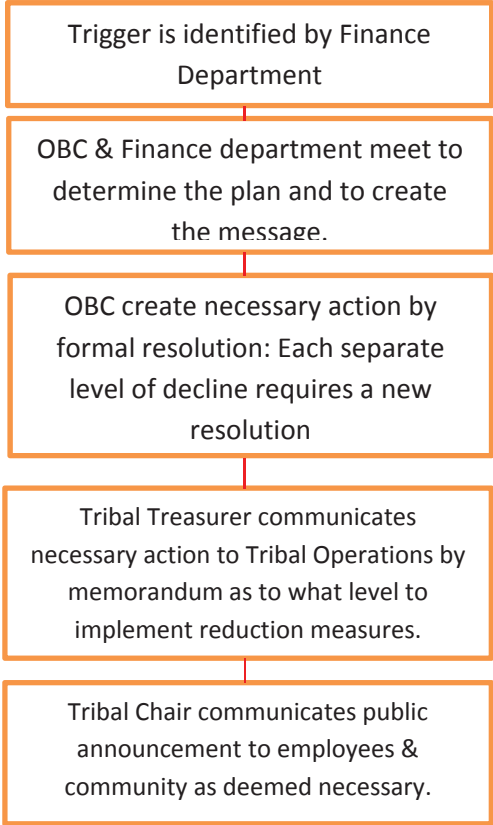
1. Utilize Permanent Executive Contingency Fund
Objective: To assess the type of fiscal challenge. The type of challenge (temporary or permanent) will determine the strategy used based on the CFO's professional assessment
 - a. The type of financial distress will determine the level of utilization of the Permanent Executive Contingency Fund. The following purposes, and only to the extent that alternative funding sources are unavailable are:
 - i. Payments to notes payable to debt service, both principal and interest, and applicable service fees;
 - ii. (2) Employee payroll, including all applicable taxes;
 - iii. (3) Payments to vendors for gaming and retail;
 - iv. (4) Payments to vendors for governmental operations;
 - v. (5) Payments to any other debt; and
 - vi. (6) To sustain any of the Nation's other operations during implementation of the budget contingency plan.
2. Identify Budget Balancing Options
 - a. In the long-term, there are typically two basic budget balancing options:
 - i. Identify alternative funding resources
 - ii. Reduce expenditures
 - b. In the short-term, use of the Executive Permanent Contingency Fund is an option, but is not a long-term solution

3. Strategy – An agreement of the reviewed processes will be established between the Tribal Operations and the CFO’s office. Tribal Operations are responsible for identifying expenditure reduction options that are:
 - i. Realistic and ongoing
 - ii. Reflect the least service impacts
 - iii. Maintain essential needs
4. Preparing Operating Expenditure Reduction Measures
 - a. Reduction measures will be based on priorities. The priorities have been identified as:
 - i. Safety
 - ii. Health
 - iii. Regulatory
5. Capital Improvement (CI) Plan Projects & Capital Expenditures (Cap Ex)
 - a. CI projects needed to maintain existing infrastructure will have a higher priority
 - b. Cap Ex identified as priority
 - c. IT & Technology projects identified as priority
6. Provide Ongoing Monitoring of the Nation’s Fiscal Health
 - a. In effort to keep the lines of communication open for the employees and community, the Finance Office will provide ongoing reporting and monitoring on a quarterly basis or more frequently if the need arises
7. Employee Connection
 - a. Communication efforts shall be made with the employees and community
 - b. This approach is being used as Oneida Nation believes in treating employees with respect which means keeping the employees abreast about the Nation’s plans that could potentially affect them

APPROVAL AND IMPLEMENTATION

The Oneida Business Committee approved this plan for implementation on September 13, 2017. The CFO’s office will closely monitor this plan to ensure the Nation is achieving its goals. The Oneida Business Committee, with the advice from the CFO’s office is responsible for preparing the recommended action plan whereas the O.B.C. shall create necessary action by formal resolution and each separate level of decline shall require a new resolution.

BUDGET REDUCTIONS COMMUNICATION PROCESS



<u>Level of Decline</u>	<u>Definition of Reductions</u> (all actions are with the advisement of the CFO's office)
Tier I	1% - Delaying expenses, deferment
Tier II	2% - Cost containments
Tier III	3% - Tribal Operations & OBC identify and preserve specific core services
Tier IV	4% - Tribal Operations & OBC identify and preserve specific core services
Tier V	5% - The OBC identify mandatory cuts across the Nation

May 2021

May 2021							June 2021						
Su	Mo	Tu	We	Th	Fr	Sa	Su	Mo	Tu	We	Th	Fr	Sa
						1			1	2	3	4	5
2	3	4	5	6	7	8	6	7	8	9	10	11	12
9	10	11	12	13	14	15	13	14	15	16	17	18	19
16	17	18	19	20	21	22	20	21	22	23	24	25	26
23	24	25	26	27	28	29	27	28	29	30			
30	31												

SUNDAY	MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SATURDAY
Apr 25	26	27	28	29	30	May 1
2	3	4 10:00am Budget Management and Control Law Amendments Work Meeting (Microsoft	5 8:30am LOC Prep (BC_Conf_Room) - Clorissa N. Santiago 9:00am LOC Meeting (BC_Conf_Roo	6	7	8
9	10	11 10:00am LOC Work Session (Microsoft Teams Meeting) - Clorissa N. Santiago	12 8:30am Oneida Business Committee Meeting	13	14	15
16	17 1:30pm Children's Code Amendments Work Meeting - ICW (Microsoft	18	19 8:30am LOC Prep (BC_Conf_Room) - Clorissa N. Santiago 9:00am LOC Meeting (BC_Conf_Roo	20	21	22
23	24	25	26 8:30am Oneida Business Committee Meeting	27 9:00am LOC Work Session (Microsoft Teams Meeting) - Clorissa N. Santiago	28 8:00am Oneida Code Talkers Day	29
30	31	Jun 1	2	3	4	5