



LEGISLATIVE OPERATING COMMITTEE MEETING AGENDA

Business Committee Conference Room - 2nd Floor Norbert Hill Center

May 5, 2021

3:00 p.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. 66)

IV. New Submissions

1. Budget Management and Control Law Emergency Repeal (pg. 135)

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 CLOSES 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.

SECTION 2. LEGISLATIVE DEVELOPMENT

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

SECTION 3. CONSULTATION AND OUTREACH

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

- 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.

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

SECTION 4. PROCESS

A. This Law has followed the process set forth in the Legislative Procedures Act (LPA).

- On October 7, 2020, the Legislative Operating Committee added the Public Peace law to its Active Files List.
- On April 21, 2021, the Legislative Operating Committee approved the draft and legislative analysis for this Law.
- On May 5, 2021, the Legislative Operating Committee will consider scheduling a public comment period to be held for this proposed Law.

B. At the time this legislative analysis was developed the following work meetings had been held regarding the development of this Law:

- December 16, 2020: LOC work meeting held with representatives from the Oneida Police Department, TAP, Comprehensive Housing Division, and Oneida Business Committee.
- January 15, 2021: LOC work meeting held with representatives from the Oneida Police Department, TAP, Comprehensive Housing Division, Oneida Law Office, Oneida Business Committee, and Strategic Planner.
- January 28, 2021: LOC work meeting.
- February 11, 2021: LOC work meeting.
- March 17, 2021: LOC work meeting held with representatives from the Oneida Police Department, TAP, Comprehensive Housing Division, Oneida Law Office, and Oneida Business Committee.

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

SECTION 5. CONTENTS OF THE LEGISLATION

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

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

- *Civil Infractions Against Property* [3 O.C. 309.5].
 - Damage to Property;
 - Reckless Damage or Destruction;
 - Trespass;
 - Theft;
 - Retail Theft;
 - Loitering;
 - Fraud; and
 - Negligent Handling of Burning Material.
- *Civil Infractions Against the Peace* [3 O.C. 309.6].
 - Disorderly Conduct;
 - Carrying a Prohibited Weapon;
 - Gang Related Activity;
 - Throwing or Shooting Projectiles;
 - Obstructing Streets and Sidewalks;
 - Nuisance;
 - Maintaining a Chronic Nuisance House; and
 - Interfering with Lawful Arrest or Resisting Arrest.
- *Civil Infractions Against Government* [3 O.C. 309.7].
 - Disrupting a Meeting or Government Function;
 - Breach of Confidentiality; and
 - Threatening an Official.
- *Civil Infractions Against the Person* [3 O.C. 309.8].
 - Assault;
 - Harassment;
 - Abuse of Individuals at Risk; and
 - Truancy.

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

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

- *Counseling and/or other programs.* An individual may be ordered to participate in counseling and/or any other program relevant and available to the Nation. [3 O.C. 309.11-2(c)].
- *Restitution.* An individual may be ordered to pay restitution, which may include the repayment of any improperly received benefit, or any other payment which is intended to make another whole after suffering losses as a result of the actions of the individual. [3 O.C. 309.11-2(d)].
- *Any other penalty as deemed appropriate by the Trial Court.* The Trial Court is given discretion and flexibility to utilize any other penalty that may be deemed appropriate based on the facts and details of each specific case. [3 O.C. 309.11-2(e)].

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

SECTION 6. EXISTING LEGISLATION

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

- *Citations law.* The Citations law provides a consistent process for handling citations of the Nation in order to ensure equal and fair treatment to all persons who come before the Judiciary to have their citations resolved. [8 O.C. 807.1-2]. The Citations law provides how a citation action is started – such as who has the authority to issue a citation, the requirements of the form of the citation, and how a citation is served and filed; stipulations for the settlement of a citation; and the citation hearing procedures. [8 O.C. 807].
 - This Law provides that a citation for a violation of this Law shall be processed in accordance with the procedure contained in the Nation's laws and policies governing citations. [3 O.C. 302.10-2]. The Citations law is the Nation's law governing citations.
 - Any citations issued by the Oneida Police Department for a violation of this Law must comply with the requirements and procedures of the Citations law. [3 O.C. 309.11-1(b)].

- 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];

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

SECTION 8. ENFORCEMENT AND ACCOUNTABILITY

A. **Enforcement.** The Oneida Police Department is delegated enforcement authority under this Law.

- The Oneida Police Department has the authority to investigate complaints involving civil infractions under this Law, and to issue citations for violations of this Law. [3 O.C. 309.4-3(a)-(b), 309.11-1].

B. **Citation Schedule Resolution.** The Oneida Business Committee is delegated the authority to adopt through resolution a citation schedule which sets forth specific fine amounts for violations of this Law. [3 O.C. 309.11-2(a)].

SECTION 9. OTHER CONSIDERATIONS

A. **Public Peace Law Citation Schedule.** This Law provides that the Oneida Business Committee shall hereby be delegated the authority to adopt through resolution a citation schedule which sets forth specific fine amounts for violations of this Law. [3 O.C. 309.11-2(a)]. A citation schedule will need to be developed and adopted.

- **Conclusion.** The Legislative Operating Committee will need to work with the affected entities to develop a citation schedule resolution that can be presented to the Oneida Business Committee for consideration at the time the adoption of this Law is considered.

B. **Fiscal Impact.** Under the Legislative Procedures Act, a fiscal impact statement is required for all legislation except emergency legislation [1 O.C. 109.6-1]. Oneida Business Committee resolution BC-10-28-20-A titled, “*Further Interpretation of ‘Fiscal Impact Statement’ in the Legislative Procedures Act*,” provides further clarification on who the Legislative Operating Committee may direct complete a fiscal impact statement at various stages of the legislative process, as well as timeframes for completing the fiscal impact statement.

- **Conclusion.** The Legislative Operating Committee will need to direct that a fiscal impact statement be completed for the proposed Law.

Title 3. Health & Public Safety - Chapter 309

PUBLIC PEACE

309.1. Purpose and Policy
309.2. Adoption, Amendment, Repeal
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309.9. Civil Infractions Involving Alcohol, Tobacco, and Drugs
309.10. Civil Infractions Affecting Health and Safety
309.11. Enforcement and Penalties

309.1. Purpose and Policy

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

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

309.2. Adoption, Amendment, Repeal

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

309.2-2. This law may be amended or repealed by the Oneida Business Committee and/or General Tribal Council pursuant to the procedures set out in the Legislative Procedures Act.

309.2-3. Should a provision of this law or the application thereof to any person or circumstances be held as invalid, such invalidity shall not affect other provisions of this law which are considered to have legal force without the invalid portions.

309.2-4. In the event of a conflict between a provision of this law and a provision of another law, the provisions of this law shall control.

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

309.3. Definitions

309.3-1. This section shall govern the definitions of words and phrases used within this law. All words not defined herein shall be used in their ordinary and everyday sense.

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

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

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

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

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

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

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

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

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

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

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

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

(l) “Judiciary” means the Oneida Nation Judiciary, which is the judicial system that was established by Oneida General Tribal Council resolution GTC-01-07-13-B, and then later authorized to administer the judicial authorities and responsibilities of the Nation by Oneida General Tribal Council resolution GTC-03-19-17-A.

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

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

(o) “Nation” means the Oneida Nation.

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

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

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

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

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

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

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

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

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

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

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

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

309.4. Jurisdiction and Authority

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

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

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

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

(b) issue citations for violations of this law.

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

309.5. Civil Infractions Against Property

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

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

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

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

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

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

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

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

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

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

309.6. Civil Infractions Against the Peace

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

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

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

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

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

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

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

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

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

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

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

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

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

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

309.7. Civil Infractions Against Government

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

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

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

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

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

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

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

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

309.8. Civil Infractions Against the Person

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

(a) causes bodily harm to another;

(b) threatens another with imminent bodily harm;

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

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

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

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

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

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

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

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

(e) knowingly permits a telephone or electronic device under his or her control to be used by a person to commit an infraction under this section; or

(f) intentionally subjects another to sexual harassment.

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

(a) physical abuse;

(b) emotional abuse;

(c) sexual abuse;

(d) unreasonable confinement or restraint;

(e) financial exploitation; and/or

(f) deprivation of a basic need for food, shelter, clothing, or personal or health care, including deprivation resulting from the failure to provide or arrange for a basic need by a person who has assumed responsibility for meeting the need voluntarily or by contract, agreement, or court order.

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

309.9. Civil Infractions Involving Alcohol, Tobacco, and Drugs

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

309.10. Civil Infractions Affecting Health and Safety

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

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

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

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

309.11. Enforcement and Penalties

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

End.

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 LOC's 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?"

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



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

- A. Background.** The Budget Management and Control law ("the Law") was adopted by the Oneida Business Committee through resolution BC-02-08-17-C and then most recently amended on an emergency basis through resolution BC-11-24-20-E. 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].
- B. Request for Emergency Amendments.** At the April 28, 2021, Oneida Business Committee meeting the Nation's Secretary provided a memorandum which expressed concerns regarding the Nation's lack of compliance with the Law and requested that the Oneida Business Committee make one of the following considerations: an emergency repeal of the 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 Law to remove much of the budget process and/or deadlines and revise the Law so it simply states a budget should be adopted by September 30th. The Oneida Business Committee then adopted a motion directing the Legislative Operating Committee to develop emergency amendments to the Law to address this issue.
- C. COVID-19 Pandemic.** The world is currently facing a pandemic of COVID-19. The COVID-19 outbreak originated in Wuhan, China and has spread to many other countries throughout the world, including the United States. The COVID-19 pandemic has resulted in high rates of infection and

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

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

- On March 12, 2020, Chairman Tehassi Hill signed a “*Declaration of Public Health State of Emergency*” regarding COVID-19 which declared the Public Health State of Emergency for the Nation until April 12, 2020, and set into place the necessary authority should action need to be taken and allowed the Nation to seek reimbursement of emergency management actions that may result in unexpected expenses.
- The Public Health State of Emergency has since been extended until May 12, 2021, by the Oneida Business Committee through the adoption of resolutions BC-03-28-20-A, BC-05-06-20-A, BC-06-10-20-A, BC-07-08-20-A, BC-08-06-20-A, BC-09-09-20-A, BC-10-08-20-A, BC-11-10-20-A, BC-12-09-20-D, BC-01-07-21-A, BC-02-10-21-A, and BC-03-10-21-D.

▪ *COVID-19 Core Decision Making Team.*

- On March 17, 2020, the Oneida Business Committee adopted emergency amendments to the Emergency Management and Homeland Security law to create and delegate authority to a COVID-19 Core Decision Making Team (“COVID-19 Team”). [BC-03-17-20-E - 3 O.C. 302.10].
 - When a public health emergency has been declared, the COVID-19 Team has the authority to declare exceptions to the Nation’s laws, policies, procedures, regulations, or standard operating procedures during the emergency period which will be of immediate impact for the purposes of protecting the health, safety, and general welfare of the Nation’s community, members, and employees. [BC-03-17-20-E - 3 O.C. 302.10-2].
 - These declarations remain in effect for the duration of the Public Health State of Emergency. [BC-03-17-20-E - 3 O.C. 302.10-3].
 - On March 10, 2021, the Oneida Business Committee adopted permanent amendments to the Emergency Management and Homeland Security law, now known as the Emergency Management law, through the adoption of resolution BC-03-10-21-A which incorporated an emergency core decision time with the authority to make emergency declarations on a permanent basis/

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

- On March 24, 2020, the Nation’s COVID-19 Core Decision Making Team issued a “*Safer at Home*” declaration which ordered all individuals present within the Oneida Reservation to stay at home or at their place of residence, with certain exceptions allowed. This declaration prohibited all public gatherings of any number of people.
- On April 21, 2020, the COVID-19 Core Decision Making Team issued an “*Updated Safer at Home*” declaration which allowed for gaming and golf operations to resume.
- On May 19, 2020, the COVID-19 Core Decision Making Team issued a “*Safer at Home Declaration, Amendment, Open for Business*” which directs that individuals within the Oneida Reservation should continue to stay at home, businesses can re-open under certain safer business practices, and social distancing should be practiced by all persons.
- On June 10, 2020, the COVID-19 Core Decision Making Team issued a “*Stay Safer at Home*” declaration which lessened the restrictions of the “*Safer at Home Declaration*,

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

- On July 17, 2020, the COVID-19 Team issued a “*Safe Re-Opening Governmental Offices*” which sets minimum standards for the safe re-opening of a building or recall of employees to work.
- *COVID-19 Core Decision Making Team Declaration: Suspension of Public Meetings under the Legislative Procedures Act.*
 - On March 27, 2020, the Nation’s COVID-19 Core Decision Making Team issued a “*Suspension of Public Meetings under the Legislative Procedures Act*” declaration which suspended the Legislative Procedures Act’s requirement to hold a public meeting during the public comment period, but allows members of the community to still participate in the legislative process by submitting written comments, questions, data, or input on proposed legislation to the Legislative Operating Committee via e-mail during the public comment period.

SECTION 3. CONSULTATION AND OUTREACH

- A. Representatives from the following departments or entities participated in the development of this Law and legislative analysis:
 - Oneida Business Committee.
- B. The Legislative Operating Committee has held the following work meetings specific to the proposed emergency amendments to this Law:
 - April 29, 2021: LOC work meeting.

SECTION 4. PROCESS

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

- 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.

C. Emergency legislation typically expires six (6) months after adoption, with one (1) opportunity for a six (6) month extension of the emergency legislation. [1 O.C. 109.9-5(b)].

D. The Legislative Procedures Act does not require a public meeting or fiscal impact statement when considering emergency legislation. [1 O.C. 109.9-5(a)]. However, a public meeting and fiscal impact statement will eventually be required when considering permanent adoption of this Law.

SECTION 5. CONTENTS OF THE LEGISLATION

A. **Removal of the Budget Process.** The proposed emergency amendment to the Law 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. [1 O.C. 121.5-3(a)]. The Law then requires that the Treasurer 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)]. Previously, the Law contained great detail as to the various steps of the budget process and their deadlines, which included: community input budget meetings, establishment of a priority list by the Oneida Business Committee, development of annual proposed budgets, review of the draft budget, final draft budget, and community meetings. The Law still provides that the final draft budget shall be approved by the Oneida Business Committee through resolution prior to presentation to the General Tribal Council, which shall occur with a request for adoption by resolution no later than September 30th of each year. [1 O.C. 121.5-3(b)]. The Law also still provides that 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. [1 O.C. 121.5-3(b)]. The emergency budget adoption provision adopted by the Oneida Business Committee through resolution BC-11-24-20-E, which provides that in the event that the Nation proclaims an emergency, in accordance with the Emergency Management law, which prevents presentation and adoption of the budget by the General Tribal Council, the Oneida Business Committee shall adopt the Nation's budget, also still remains in the law. [1 O.C. 121.5-3(b)(1)].

- **Effect.** The proposed emergency amendment to the Law address the Nation's non-compliance with the Law and provides flexibility 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 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.

SECTION 6. EXISTING LEGISLATION

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

- 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.

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.

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

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

121.4. Strategic Planning

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

- (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.

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

- (a) A statement of the fund unit's mission;
- (b) Specific goals including a description of the fund unit's strategies as part of its service group provided in 121.5-3(c) which aligns with the goals established in the Nation's triennial strategic plan;
- (c) Specific strategies for achieving each of the fund unit's goals; and
- (d) 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.

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

(a) *Cost Savings Tools.* As part of the budget contingency plan, the Oneida Business Committee may require stabilization funds, reductions of expenditures, furloughs and other cost saving tools provided that such tools are in compliance with the Nation's laws, specifically the Nation's employment laws, rules and policies.

(b) *Business Continuity Fund.* The Oneida Business Committee shall maintain a Permanent Executive Contingency account within the ownership investment report to be used to prevent default on debt and to sustain operations during times of extreme financial

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

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

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

121.5. Budget Process

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

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

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

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

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

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

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

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

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

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

- ~~(1) Protection and Preservation of Natural Resources~~
- ~~(2) Protection and Preservation of Oneida Culture and Language~~
- ~~(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~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

~~121.5-7. *Final Draft Budget.* The Oneida Business Committee shall work with fund unit managers and the CFO to compile a~~
Budget Adoption. The final draft budget shall be approved by the Oneida Business Committee through resolution prior to be presented presentation to the General Tribal Council. The Oneida Business Committee shall approve, by resolution, the final 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.

(a) *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.

121.8. Budget Authority

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

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

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

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

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

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

(A) The annual General Tribal Council meeting;

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

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

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

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

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

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

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

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

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

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

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

121.9. Budget Transfers; Amendments

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

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

121.10. Reporting

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

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

121.11. Authorizations and Signatures

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

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

121.12. Enforcement

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

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

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

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

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 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.”

121.4. Strategic Planning

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

- (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.

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

- (a) A statement of the fund unit's mission;
- (b) Specific goals including a description of the fund unit's strategies as part of its service group provided in 121.5-3(c) which aligns with the goals established in the Nation's triennial strategic plan;
- (c) Specific strategies for achieving each of the fund unit's goals; and
- (d) 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.

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

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

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

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

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

121.5. Budget Process

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

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

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

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

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

(b) *Budget Adoption.* The final draft budget shall be approved by the Oneida Business Committee through resolution prior to presentation to the General Tribal Council. 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.

(1) *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.

121.8. Budget Authority

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

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

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

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

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

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

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

(A) The annual General Tribal Council meeting;

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

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

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

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

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

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

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

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

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

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

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

121.9. Budget Transfers; Amendments

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

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

121.10. Reporting

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

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

121.11. Authorizations and Signatures

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

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

121.12. Enforcement

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

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

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

End.

Adopted-BC-02-08-17-C

Emergency Amended – BC-11-24-20-E

Emergency Amended – BC-__-__-__-__

Oneida Nation

Post Office Box 365



Phone: (920)869-2214

Oneida, WI 54155

HANDOUT

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.
73

74 **BE IT FINALLY RESOLVED,** the Treasurer shall present a resolution at the May 18, 2021, Oneida
75 Business Committee work session for review, and then at the May 26, 2021, Oneida Business Committee
76 meeting for consideration of adoption which provides the general framework for the Fiscal Year 2022 budget
77 development process, which shall include, but is not limited to, information such as the budget calendar,
78 opportunities for community input and discussion, line item guidance, and new position definition, guidance,
79 and review process.



HANDOUT

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)].

This resolution also directs that the Treasurer shall present a resolution at the May 18, 2021, Oneida Business Committee work session for review, and then at the May 26, 2021, Oneida Business Committee meeting for consideration of adoption which provides the general framework for the Fiscal Year 2022 budget development process, which shall include, but is not limited to, information such as the budget calendar, opportunities for community input and discussion, line item guidance, and new position definition, guidance, and review process. This directive is in compliance with the proposed emergency amendments to the Law which require that the Treasurer develop the necessary guidelines and procedures, including specific deadlines, for the Nation's budget development process, and that those guidelines be submitted to the Oneida Business Committee for review and approval. [1 O.C. 121.5-3(a)].

Conclusion

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



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 
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

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

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

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

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

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

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

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

SECTION 3. CONSULTATION AND OUTREACH

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

- Oneida Law Office;
- Oneida Police Department;
- Internal Security Department;
- Oneida Gaming Commission;
- Gaming Management; and
- Oneida Police Commission.

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

- Oneida Nation Constitution and Bylaws;
- Legislative Procedures Act;
- Oneida Gaming Commission Bylaws; and
- Internal Audit law.

SECTION 4. PROCESS

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

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

- B.** Emergency amendments are being sought to immediately preserve the general welfare of the Reservation population by shielding the Nation against the legal risk that exists with respect to the current placement of Security under the Oneida Police Department in section 501.9-1 of ONGO. 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.
- C.** Additionally, observance of the requirements under the Legislative Procedures Act for the adoption of these amendments would be contrary to public interest because:
- 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
 - 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 financial burden that the Nation could incur in defense costs if this issue is not expeditiously resolved before the time it would take to develop and vet a more appropriate permanent solution.
- D.** Emergency amendments typically expire six (6) months after adoption, with one (1) opportunity for a six (6) month extension of the emergency amendments. [1 O.C. 109.9-5(b)].
- E.** The following work meetings were held by the Legislative Reference Office in the development of the emergency amendments to ONGO:
- January 7, 2021, a work meeting was held with attorneys from the Oneida Law Office.
 - January 14, 2021, a work meeting was held with the Legislative Operating Committee.
 - February 19, 2021, a work meeting was held with the Legislative Operating Committee, as well as members from the Oneida Gaming Commission, Oneida Police Department, Internal Security Department, Gaming Management, Oneida Law Office and Oneida Police Commission.
 - February 25, 2021, a work meeting was held with the Legislative Operating Committee.
 - March 11, 2021, a work meeting was held with the Legislative Operating Committee and the Nation’s Chief Council.
 - April 7, 2021, a work meeting was held with the Legislative Operating Committee.
 - April 29, 2021, a work meeting was held with the Legislative Operating Committee.
- F.** The Legislative Procedures Act does not require a public meeting or fiscal impact statement when considering emergency legislation. [1 O.C. 109.9-5(a)]. However, a public meeting and fiscal impact statement will eventually be required if permanent adoption of these amendments is considered.

SECTION 5. CONTENTS OF THE LEGISLATION

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

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

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

SECTION 6. EXISTING LEGISLATION

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

- *Legislative Procedures Act.* The Legislative Procedures Act was adopted by the General Tribal Council on January 7, 2013, for the purpose of providing a standard process for the adoption of laws of the Nation which includes taking into account comments from members of the Nation and input from agencies of the Nation. [1 O.C. 109.1-1, 109.1-2].
 - The Legislative Procedures Act provides a process for the adoption of emergency legislation when the legislation is necessary for the immediate preservation of the public health, safety, or general welfare of the Reservation population and the enactment or amendment of legislation is required sooner than would be possible under this law. [1 O.C. 109.9-5].
 - The Legislative Operating Committee is responsible for first reviewing the emergency legislation and for forwarding the legislation to the Oneida Business Committee for consideration. [1 O.C. 109.9-5(a)].
 - The proposed emergency legislation is required to have a legislative analysis completed and attached prior to being sent to the Oneida Business Committee for consideration. [1 O.C. 109.9-5(a)].
 - A legislative analysis is a plain language analysis describing the important features of the legislation being considered and factual information to enable the Legislative Operating Committee to make informed decisions regarding legislation. A legislative analysis includes a statement of the legislation’s terms and substance; intent of the legislation; a description of the subject(s) involved, including any conflicts with Oneida or other law, key issues, potential impacts of the legislation and policy considerations. [1 O.C. 109.3-1(g)].
 - Emergency legislation does not require a fiscal impact statement to be completed or a public comment period to be held. [1 O.C. 109.9-5(a)].
 - Upon the determination that an emergency exists, the Oneida Business Committee can adopt emergency legislation. The emergency legislation becomes effective immediately upon its approval by the Oneida Business Committee. [1 O.C. 109.9-5(b)].

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

SECTION 7. OTHER CONSIDERATIONS

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

Title 5. Business - Chapter 501
ONEIDA NATION GAMING ORDINANCE

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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
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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~~sits 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.~~ 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.~~ 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.~~ 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:

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

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

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

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

501.3. Definitions~~Jurisdiction~~

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

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

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

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

501.4. Definitions

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

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

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

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

(d) “Class II Gaming” means:

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

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

(B) The holder of the card covers such numbers or designations when objects, similarly numbered or designated, are drawn or electronically determined.

(C) The game is won by the first person covering a previously designated arrangement of numbers or designation on such cards, including (if played in the same location) pull-tabs, lotto, punch boards, tip jars, instant bingo and other games similar to bingo.

(2) Card games that:

(A) Are explicitly authorized by the laws of the State; or

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

(e) “Class III Gaming” means all forms of Gaming that are not Class I or Class II ~~Gaming~~.

(f) “Commission” means the Oneida Gaming Commission as established by this Ordinance.

(g) “Commissioner” means a duly elected member of the Oneida Gaming Commission.

(h) “Compact” means the 1991 Tribe-State Gaming Compact between the ~~TribeNation~~ and the State of Wisconsin, as amended and including any future amendments or successor compact entered into by the ~~TribeNation~~ and the State of Wisconsin and approved by the Secretary of the United States Department of Interior.

(i) “Compliance Certificate” means a certificate issued by an agency with the authority and responsibility to enforce applicable environmental, health or safety standards, which states that a Gaming Facility complies with these standards.

(j) “Environmental Assessment” means a document prepared and issued in compliance with the National Environmental Policy Act of 1969, 42 U.S.C. sec. 4321 *et seq.*, and all related ~~Federal~~federal regulations.

(k) “Fraud” means any act of trickery or deceit used to or intended to gain control or possession of the property of another.

(l) “Games, Gaming, or Gaming Activity” means all forms of any activity, operation, or game of chance that is considered Class II or Class III Gaming, provided that this definition does not include Class I Gaming.

(m) “Gaming Employee” means any person employed by a Gaming Operation.

(n) “Gaming Facility or Gaming Facilities” means any location or structure, stationary or movable, wherein Gaming is permitted, performed, conducted, or operated. Gaming Facility or Gaming Facilities does not include the site of a fair, carnival, exposition, or similar occasion.

(o) “Gaming Operation” means the conduct of Gaming Activities and related business activities in Gaming Facilities and areas where Gaming Employees are employed or assigned.

(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~~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 ~~its~~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, ~~any~~a 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:

~~(4)~~ 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

to continue to serve on, the Commission, who:

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

(1) Any gambling-related offense;

(2) Any offense involving Fraud or misrepresentation;

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

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

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

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

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

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

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

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

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

(a) Terms of office must be staggered.

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

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

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

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

(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.

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

501.6-11. *-Budget and Compensation.* —The Commission shall function pursuant to an annual budget.

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

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

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

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

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

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

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

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

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

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

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

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

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

any submission to the Oneida Business Committee.

(3) Rules of Play and Oneida Gaming Minimum Internal Controls are effective upon adoption by the Commission. -

(4) The Commission shall provide notice of adoption of the Rules of Play and/or Oneida Gaming Minimum Internal Controls to the Oneida Business Committee at the next available regularly scheduled Oneida Business Committee meeting following such adoption. -

(A) If the Oneida Business Committee has any concerns and/or requested revisions upon review of the Rules of Play and Oneida Gaming Minimum Internal Controls, the Commission shall work with the Oneida Business Committee to address such concerns and/or requested revisions.

~~(A)~~ (i) Unless the Oneida Business Committee repeals the Rules of Play and/or the Oneida Gaming Minimum Internal Controls adopted by the Commission, they will remain in effect while the Commission and the Oneida Business Committee jointly work to amend the Rules of Play and/or the Oneida Gaming Minimum Internal Controls adopted by the Commission.

~~(i)~~ ii Should the Oneida Business Committee repeal the Rules of Play and/or the Oneida Gaming Minimum Internal Controls adopted by the Commission, the Rules of Play and/or the Oneida Gaming Minimum Internal Controls that were in effect immediately previous to those repealed will be automatically reinstated and effective immediately upon the repeal of the Rules of Play and/or the Oneida Gaming Minimum Internal Controls adopted by the Commission.

(B) If the Commission does not receive written notice from the Oneida Business Committee of intent to repeal or amend the Rules of Play and/or the Oneida Gaming Minimum Internal Controls within thirty (30) days of the date the Oneida Business Committee is provided notice of the Rules of Play and/or the Oneida Gaming Minimum Internal Controls adopted by the Commission, they will remain in effect as adopted by the Commission.

(C) Should the Oneida Business Committee pursue amendments to the Rules of Play and/or the Oneida Gaming Minimum Internal Controls adopted by the Commission, the amendments must be completed through one (1) of the following actions within six (6) months from the date the amendments are initiated by the Oneida Business Committee:

(i) if the Commission and the Oneida Business Committee reach an agreement as to the content of the amendments, the Commission must adopt revised Rules of Play and/or the Oneida Gaming Minimum Internal Controls that have been discussed with and agreed upon by the Oneida Business Committee; or

(ii) if the Commission and the Oneida Business Committee do not reach an agreement as to the content of the amendments, the Oneida Business Committee may adopt revised Rules of Play and/or the Oneida Gaming Minimum Internal Controls that incorporate the amendments it deems necessary.

(D) If revised Rules of Play and/or Oneida Gaming Minimum Internal

Controls are not adopted by either the Commission or the Oneida Business Committee within six (6) months from the date the amendments are initiated by the Oneida Business Committee, the Rules of Play and/or the Oneida Gaming Minimum Internal Controls originally adopted by the Commission will remain in effect.

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

(f) To monitor and enforce all laws and regulations governing the operation and conduct of all Gaming Activities, including the ongoing monitoring of Licenses, subject to this Ordinance and/or regulations setting forth hearing or enforcement processes.

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

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

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

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

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

(l) To retain professional advisors such as attorneys, law enforcement specialists, and Gaming professionals consistent with ~~Tribal law~~the Nation's laws and practices.

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

(n) To act as the designated agent to receive all regulatory notices not included in section 501.5-6 of this Ordinance.

(o) To investigate all Regulatory Incidents.

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

(q) To make determinations regarding suitability for licensing.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

501.7. Gaming Surveillance: Powers, Duties and Limitations

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

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

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

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

501.7-4. Gaming Surveillance shall:

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

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

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

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

501.8. [Reserved for future use.]

501.9. Gaming Security Department

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

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

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

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

501.9-3. The Gaming Security Department shall:

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

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

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

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

501.10. Background Investigations

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

501.10-2. Background Investigations must be conducted on all persons or entities as specified 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

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

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

501.12. Gaming Employee License

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

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

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

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

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

(d) Current business and residence telephone numbers.

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

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

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

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

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

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

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

(l) A photograph.

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

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

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

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

(1) The Privacy Act of 1974;

(2) Fraud and False Statements Act; and

(3) Fair Credit Reporting Act.

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

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

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

(1) Any gambling-related offense;

(2) Any offense involving Fraud or misrepresentation;

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

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

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

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

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

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

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

501.12-4. Initial Eligibility Determination.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

and

~~(Div) Every felony of which the Gaming Employee has been convicted or any ongoing prosecution.~~

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

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

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

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

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

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

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

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

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

501.12-8. *NIGC Review.*

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

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

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

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

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

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

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

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

- (1) After the issuance of a License, the Commission receives from the NIGC or other source reliable information indicating that a Gaming Employee is not eligible for a License under section 501.12-3 ~~of this Ordinance;~~ or such information would justify the denial of the renewal of any License, the Commission shall issue a written notice of suspension;
- (2) The Commission issues a written notice of suspension demonstrating that the Licensee:
- (A) Has knowingly made a materially false or misleading statement in any application for a License, in any amendment thereto, or in response to a request by the Commission for supplemental information or in connection with any investigation of the Commission;
 - (B) Has knowingly promoted, played, or participated in any ~~gaming activity~~ Gaming Activity operated in violation of the Compact, Tribal Oneida or federal law, and this Ordinance;
 - (C) ~~Has bribed or,~~ attempted to bribe, or has received a bribe from, a Commissioner or any other person in an attempt to avoid or circumvent any applicable law;
 - (D) Has falsified any books or records relating to any transaction connected with the operation of a Gaming Activity;
 - (E) Has refused to comply with any lawful directive of the ~~Tribe,~~ the Nation, Federal government, or any court of competent jurisdiction; or
 - (F) Has been convicted of, or entered a plea of guilty or no contest to, a crime involving the sale of illegal narcotics or controlled substances.
- (b) Suspension Notice. - The Commission's notice of suspension must be in writing and must, at a minimum, notify the Licensee of the following:
- (1) The Licensee's right to review a file prior to any hearing regarding the notice of suspension, and to make copies of any documents contained in that file;
 - (2) The Licensee's right to request a hearing on the proposed licensing action, to present documents and witness testimony at that hearing, ~~and~~ to be represented by counsel;
 - (3) The specific grounds upon which the proposed licensing action is based, including citations to relevant sections of this Ordinance, the IGRA, ~~and~~ any applicable ~~Regulations~~ regulations and/or the Compact; and
 - (4) The time and place set by the Commission for the Licensee's hearing.
- (c) Immediate Suspension. - If, in the judgment of the Commission, the public interest, and effective regulation and control of Gaming Activities requires the immediate exclusion of a Licensee, the Commission may immediately suspend a License prior to the conduct of a hearing on the matter.
- (1) Such an immediate suspension may take effect upon service of the notice of immediate suspension.
- (d) Any notice of suspension or notice of immediate suspension must set forth the times and dates for when the Licensee may review his or her file and the date for a hearing on any proposed licensing action.
- (e) Within fifteen (15) business days after a hearing, the Commission shall issue a final written licensing decision and decide whether to suspend, uphold an immediate suspension, revoke, or take other action concerning a License. -

§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
§55 **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.

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

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

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

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

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

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

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

(1) The Privacy Act of 1974;

(2) False statements; and

(3) The Fair Credit Reporting Act.

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

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

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

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

(c) For a partnership, all partners.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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 TribeNation, 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

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

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

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

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

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

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

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

(c) The Commission may determine to review the decision solely on the licensing or permitting decision record and briefs filed regarding the request for reconsideration.

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

(d) The Commission shall issue a written decision within one hundred twenty (120) days from receipt of the request for the original hearing.

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

501.14. Gaming Facility License

501.14-1. The construction and maintenance of any Gaming Facility, and the operation of Gaming Activities, must be conducted in a manner which adequately protects the environment and the public health and safety, and must comply with requirements of the Compact and all other applicable health, safety, and environmental standards.

501.14-2. The Oneida Business Committee must receive, review and grant or deny any application for licensing any Gaming Facilities located within the Reservation. Applicants shall provide the Oneida Business Committee sufficient information to show the following:

(a) The Gaming Facility meets all applicable ~~Federal and Tribal~~ health and safety standards of the Nation and Federal government.

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

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

(b) The Gaming Facility meets applicable ~~federal and Tribal~~ environmental standards of the Nation and Federal government.

(1) To show compliance with applicable environmental standards, Gaming

Operator shall submit certified copies of an Environmental Assessment of the Gaming Facility which were prepared by the agency responsible for the enforcement of applicable environmental standards.

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

501.14-3. Upon receipt and review of the above information, the Oneida Business Committee shall deliberate and either grant or deny for failure to meet the requirements of protecting the health and safety of patrons, public and employees of a Gaming Facility License to the Applicant.

(a) The Oneida Business Committee shall submit to the NIGC a copy of each Gaming Facility License issued.

501.14-4. If the Oneida Environmental, Health and Safety Department notifies the Oneida Business Committee that a Gaming Facility will be closed by a governmental agency with proper authority due to environmental, health or safety concerns, the Oneida Business Committee shall suspend the License of the Gaming Facility.

(a) The Oneida Business Committee shall re-License the Gaming Facility after receiving the information required in section 501.14-2 of this Ordinance.

501.15. Gaming Operator License

501.15-1. Consent to Jurisdiction. -The application for License and the conduct of Gaming within the jurisdiction of the ~~Tribal~~TribeNation is considered consent to the jurisdiction of the ~~Tribal~~TribeNation in all matters arising from the conduct of Gaming, and all matters arising under any of the provisions of this Ordinance or other ~~Tribal~~laws of the Nation.

501.15-2. License Required. - No Gaming Operator may conduct Gaming Activity unless such entity holds a valid and current Gaming Operator License issued by the Commission.

501.15-3. Types of Licenses. - The Commission may issue each of the following types of Gaming Operator Licenses:

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

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

501.15-4. Gaming Operator License Qualifications. - The Commission shall issue a Gaming Operator License to any Gaming Operation if:

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

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

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

501.15-5. Provisions of General Applicability to All Gaming Operators.

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

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

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

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

501.15-6. Grandfathered Gaming Facilities. - All Gaming Operators operating on the effective date of July 5, 2007, are hereby granted a License under this section.

501.15-7. License Application Fees and License Taxes. -No application fees or License taxes may be required by the ~~Tribe~~Nation for a Gaming Operator License.

501.15-8. Closure of a Gaming Operation. - If the Commission finds that any Gaming Operation is operating in violation of this Ordinance, or otherwise presents a threat to the public, the Commission shall immediately notify the Oneida Business Committee.

(a) The Oneida Business Committee may close any Gaming Operation temporarily or permanently at any time with or without cause, at its sole discretion.

501.16. Games

501.16-1. Class II and Class III Games are hereby authorized by this Ordinance.

501.16-2. Gaming Procedures. - Games operated under this Ordinance must be consistent with the Compact and any amendments thereto and the Internal Control Standards and Rules of Play of the Gaming Operation.

501.16-3. Who May Not Play. -It is the policy of the ~~Tribe~~Nation that particular Gaming Employees, employees of the Commission, particular governmental officials, and consultants who directly advise the Commission or employees at Gaming Facilities regarding gaming related activities may not participate in Gaming Activities conducted at Gaming Operations.

(a) At a minimum, members of the Oneida Business Committee, the Commission, the ~~gaming general manager~~Gaming General Manager, assistant gaming general managers, directors of individual Games and assistant directors of individual Games may not participate in any Gaming Activity within the Reservation.

~~(a)-b)~~ The Oneida Business Committee may identify by resolution additional positions restrictions on Gaming Activity conducted at Gaming Facilities. ~~Such resolution must be on file with the Commission.~~

~~(b)-~~ (1) Such resolution must be on file with the Commission.

(c) The Commission and Senior Gaming Management shall each develop and maintain their own standard operating procedure identifying other positions and any applicable restrictions on Gaming Activity conducted at Gaming Facilities.

(1) The standard operating procedure and the list of positions must be on file with the Commission.

501.17. Allocation of Gaming Funds

501.17-1. Net Gaming revenues may only be used for the following purposes:

(a) To fund ~~Tribal~~ government operations, programs, or services ~~of the Nation;~~

(b) To provide for the general welfare of the ~~Tribe~~Nation and its members; provided, that per capita payments may only be made pursuant to an approved revenue allocation plan;

(c) To promote ~~Tribal~~ economic development ~~of the Nation;~~

- (d) ~~__~~ To contribute to charitable organizations~~;~~
(e) ~~__~~ To assist in funding operations of other local governments~~;~~
(f) ~~__~~ To fund programs designed to provide education, referrals, and treatment of Gaming addiction disorders~~;~~ and
(g) ~~Any~~ For any other purpose as determined by the Oneida General Tribal Council or the Oneida Business Committee which is not inconsistent with the Oneida Nation Constitution ~~of the Tribe~~ and IGRA.

501.18. Audits

501.18-1. Annual Audit. - An annual audit of each Gaming Operation must be conducted by an independent, certified public accounting firm according to generally accepted accounting principles. ~~Copies of the annual audit must be provided to the Oneida Business Committee, the Oneida Audit Committee, the Commission, and the NIGC by said certified public accounting firm.~~

~~(a)~~ (a) Copies of the annual audit must be provided to the Oneida Business Committee, the Nation's Audit Committee, the Commission, and the NIGC by said certified public accounting firm.

(b) All contracts for supplies, services, or concessions for the Gaming Operations in excess of twenty-five thousand dollars (\$25,000.00) are subject to audit as prescribed in this section. ~~Contracts for legal services and accounting services are exempt from this requirement of the Ordinance.~~

(1) Contracts for legal services and accounting services are exempt from this requirement.

501.18-2. Other Audits. -All audits, other than the annual audit under section 501.18-1 of this Ordinance, must be conducted pursuant to the Oneida Nation's Internal Audit Law ~~law~~ or any other applicable law of the TribeNation, and other audits authorized under the Compact.

501.18-3. Request for Audits. -Any audit, except the annual audit ~~which that~~ is mandated by IGRA, may be authorized at any time by the Oneida General Tribal Council, the Oneida Business Committee or the Oneida Nation's Audit Committee.

501.19. Enforcement and Penalties

501.19-1. No individual or entity may own or operate a Gaming Facility unless specifically authorized to do so pursuant to this Ordinance.

501.19-2. Violations/Prosecutions. -Violators of this Ordinance may be subject to disciplinary action ~~and, as well as~~ civil and/or criminal prosecutions.

501.19-3. Remedies. - The Oneida Business Committee may authorize commencement of an action in any court of competent jurisdiction to recover losses, restitution, and forfeitures resulting from violations of this Ordinance.

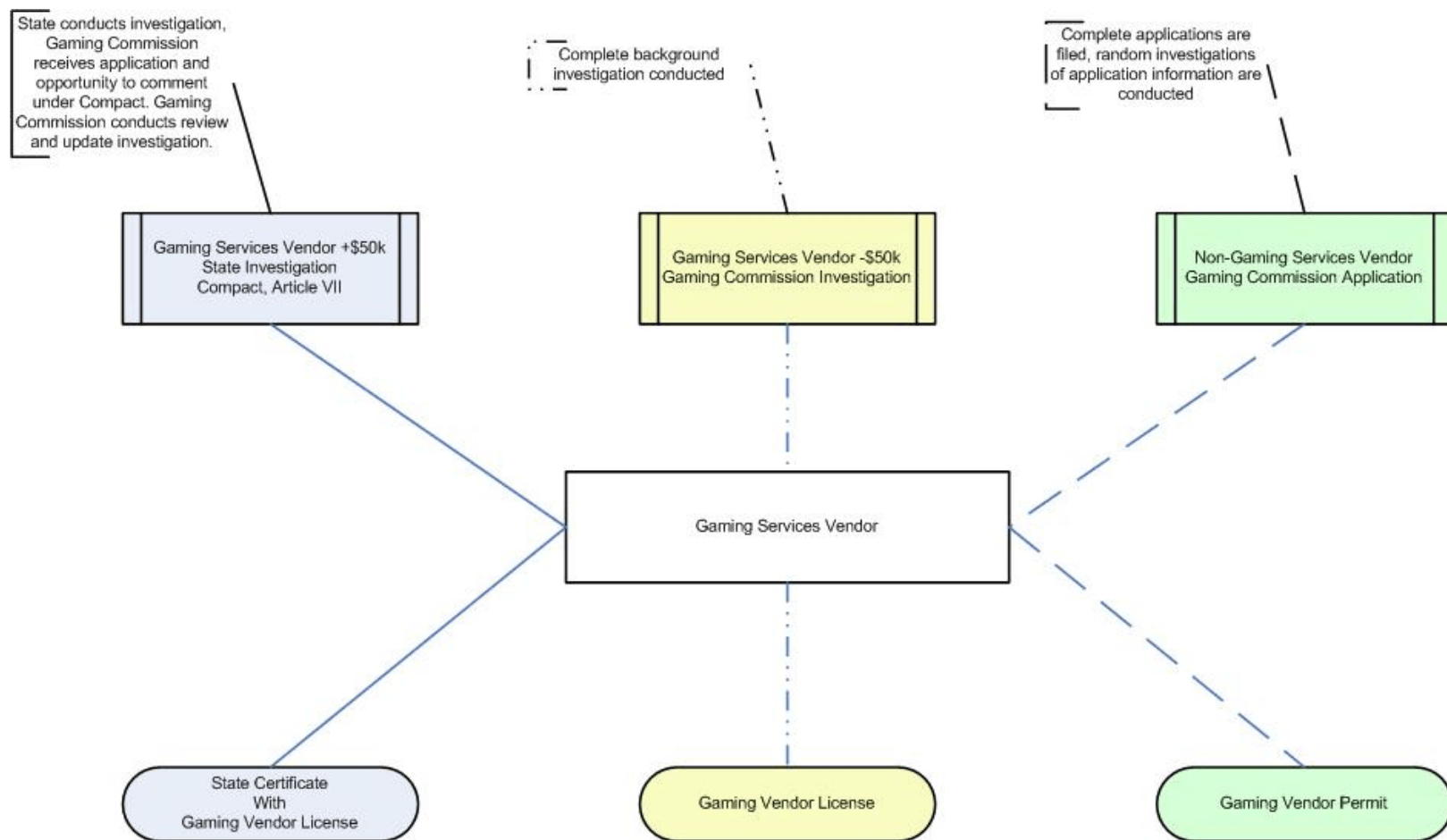
End.

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

1227 Amended BC-09-09-15-A (effective 09 09 2015)
1228 Emergency Amended BC- - - -

Draft 1 Emergency Amendments for OBC Consideration (Redline to Current)
2021 05 12

Appendix 1. Vendor License/Permit



Title 5. Business - Chapter 501
Thatiwi·ʼStunya·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	

501.1. Purpose and Policy

501.1-1. *Purpose.* The purpose of this Ordinance is to set forth the laws of the Oneida 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 Nation is the primary beneficiary of its Gaming Operations and has the sole proprietary interest; 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 Nation work cooperatively to advance the best interests of the Nation, to protect its 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 Nation's gaming patrons.

501.2. Adoption, Amendment, Repeal

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

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

501.2-3. 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, that this Ordinance repeals the following:

- (a) BC-04-21-89-D (Adoption of the Oneida Gaming Control Ordinance);
- (b) GTC-03-04-91-A (Establishing 7 elected Gaming Commissioners and Bingo standards);

- (c) GTC-07-06-92-A (Amendments to Gaming SOP Manual);
- (d) GTC-07-06-92-B (Adoption of the Comprehensive Gaming Ordinance);
- (e) BC-03-16-94-A (Comprehensive Gaming Ordinance Interpretation); and
- (f) BC-04-5-95-D (Amendments to the Comprehensive Gaming Ordinance).

501.2-5. This Ordinance is adopted under authority of the Constitution of the Oneida Nation.

501.2-6. *Preemptive Authority.* The Oneida Gaming Commission shall be the original hearing body authorized to hear licensing decisions as set forth in this Ordinance.

501.3. Definitions

501.3-1. This section shall govern the definitions of words and phrases used within this Ordinance. Words and phrases capitalized throughout this document refer to the defined words and phrases in this section. All words or phrases not defined herein shall be used in their ordinary and everyday sense.

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

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

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

(d) “Class II Gaming” means:

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

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

(B) The holder of the card covers such numbers or designations when objects, similarly numbered or designated, are drawn or electronically determined.

(C) The game is won by the first person covering a previously designated arrangement of numbers or designation on such cards, including (if played in the same location) pull-tabs, lotto, punch boards, tip jars, instant bingo and other games similar to bingo.

(2) Card games that:

(A) Are explicitly authorized by the laws of the State; or

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

(e) “Class III Gaming” means all forms of Gaming that are not Class I or Class II Gaming.

- (f) “Commission” means the Oneida Gaming Commission as established by this Ordinance.
- (g) “Commissioner” means a duly elected member of the Oneida Gaming Commission.
- (h) “Compact” means the 1991 Tribe-State Gaming Compact between the Nation and the State of Wisconsin, as amended and including any future amendments or successor compact entered into by the Nation and the State of Wisconsin and approved by the Secretary of the United States Department of Interior.
- (i) “Compliance Certificate” means a certificate issued by an agency with the authority and responsibility to enforce applicable environmental, health or safety standards, which states that a Gaming Facility complies with these standards.
- (j) “Environmental Assessment” means a document prepared and issued in compliance with the National Environmental Policy Act of 1969, 42 U.S.C. sec. 4321 *et seq.*, and all related federal regulations.
- (k) “Fraud” means any act of trickery or deceit used to or intended to gain control or possession of the property of another.
- (l) “Games, Gaming or Gaming Activity” means all forms of any activity, operation, or game of chance that is considered Class II or Class III Gaming, provided that this definition does not include Class I Gaming.
- (m) “Gaming Employee” means any person employed by a Gaming Operation.
- (n) “Gaming Facility or Gaming Facilities” means any location or structure, stationary or movable, wherein Gaming is permitted, performed, conducted or operated. Gaming Facility or Gaming Facilities does not include the site of a fair, carnival, exposition or similar occasion.
- (o) “Gaming Operation” means the conduct of Gaming Activities and related business activities in Gaming Facilities and areas where Gaming Employees are employed or assigned.
- (p) “Gaming Operator” means the Nation, an enterprise owned by the Nation, or such other entity of the Nation as the Nation 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-01-07-13-B to administer the judicial authorities and responsibilities of the Nation.
- (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.

(x) “Oneida Business Committee” means the elected governing body of the Nation that exercises the authority delegated it by the Oneida General Tribal Council under Article IV of the Constitution and By-laws of the Oneida Nation, as may be amended from time-to-time hereafter.

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

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

(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.

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

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

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

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

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

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

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 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 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 a law of the Nation. Operations of the Commission must be conducted on behalf of the Nation for the sole benefit of the Nation and its members. The Nation reserves unto itself the right to bring suit against any person or entity in its own right, on behalf of the Nation, or on behalf of the Commission, whenever the Nation considers it necessary to protect the sovereignty, rights, and interests of the Nation or the Commission.

501.6-4. *Sovereign Immunity of the Nation.* All inherent sovereign rights of the Nation with respect to the existence and activities of the Commission are hereby expressly reserved.

(a) The Nation confers upon the Commission sovereign immunity from suit as set forth in the Nation's Sovereign Immunity law.

(b) Nothing in this Ordinance nor any action of the Commission may be construed to be:

(1) A waiver of the sovereign immunity of the Commission or the Nation;

(2) Consent by the Commission or the Nation to the jurisdiction of the Judiciary, the United States, a state or any other tribe; or

(3) Consent by the Nation 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 Nation.

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.

(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:

(A) Be an enrolled member of the Nation;

(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

(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 in the Nation's Conflict of Interest law.

(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.

(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 Nation, or pardoned for an activity under subsections (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 subsections (a) and/or (d) by the State or Federal government, no individual may be eligible for election or appointment to, or to continue to serve on, the Commission, who:

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

(1) Any gambling-related offense;

(2) Any offense involving Fraud or misrepresentation;

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

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

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

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

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

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

(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.

past five (5) years; or

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

501.6-7. *Term of Office.* Commissioners shall serve five (5) year terms and shall serve until a successor takes the oath of office.

(a) Terms of office must be staggered.

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

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

501.6-9. *Full-Time Status.* Each Commissioner shall perform his or her duties and responsibilities on a full-time basis and shall devote his or her entire work and professional time, attention and energies to Commission business.

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

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

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

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

(a) The Oneida Business Committee shall submit the operating budget of the Commission for approval in the same fashion as all other budgets of the Nation.

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

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

501.6-12. *Removal.* Removal of Commissioners must be pursuant to the Nation's Removal Law.

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

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

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

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

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

(c) Subject to review and adoption by the Oneida Business Committee, to draft and

approve regulations pursuant to this Ordinance for the regulation of all Gaming Activity, including processes for the enforcement of such regulations consistent with the laws of the Nation.

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

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

(2) Comments received from Senior Gaming Management must be included in any submission to the Oneida Business Committee.

(3) Rules of Play and Oneida Gaming Minimum Internal Controls are effective upon adoption by the Commission.

(4) The Commission shall provide notice of adoption of the Rules of Play and/or Oneida Gaming Minimum Internal Controls to the Oneida Business Committee at the next available regularly scheduled Oneida Business Committee meeting following such adoption.

(A) If the Oneida Business Committee has any concerns and/or requested revisions upon review of the Rules of Play and Oneida Gaming Minimum Internal Controls, the Commission shall work with the Oneida Business Committee to address such concerns and/or requested revisions.

(i) Unless the Oneida Business Committee repeals the Rules of Play and/or the Oneida Gaming Minimum Internal Controls adopted by the Commission, they will remain in effect while the Commission and the Oneida Business Committee jointly work to amend the Rules of Play and/or the Oneida Gaming Minimum Internal Controls adopted by the Commission.

(ii) Should the Oneida Business Committee repeal the Rules of Play and/or the Oneida Gaming Minimum Internal Controls adopted by the Commission, the Rules of Play and/or the Oneida Gaming Minimum Internal Controls that were in effect immediately previous to those repealed will be automatically reinstated and effective immediately upon the repeal of the Rules of Play and/or the Oneida Gaming Minimum Internal Controls adopted by the Commission.

(B) If the Commission does not receive written notice from the Oneida Business Committee of intent to repeal or amend the Rules of Play and/or the Oneida Gaming Minimum Internal Controls within thirty (30) days of the date the Oneida Business Committee is provided notice of the Rules of Play and/or the Oneida Gaming Minimum Internal Controls adopted by the Commission, they will remain in effect as adopted by the Commission.

(C) Should the Oneida Business Committee pursue amendments to the Rules of Play and/or the Oneida Gaming Minimum Internal Controls adopted by the Commission, the amendments must be completed through one (1) of the following actions within six (6) months from the date the amendments are initiated by the Oneida Business Committee:

(i) if the Commission and the Oneida Business Committee reach an agreement as to the content of the amendments, the Commission must adopt revised Rules of Play and/or the Oneida Gaming Minimum Internal Controls that have been discussed with and agreed upon by the Oneida Business Committee; or

(ii) if the Commission and the Oneida Business Committee do not reach an agreement as to the content of the amendments, the Oneida Business Committee may adopt revised Rules of Play and/or the Oneida Gaming Minimum Internal Controls that incorporate the amendments it deems necessary.

(D) If revised Rules of Play and/or Oneida Gaming Minimum Internal Controls are not adopted by either the Commission or the Oneida Business Committee within six (6) months from the date the amendments are initiated by the Oneida Business Committee, the Rules of Play and/or the Oneida Gaming Minimum Internal Controls originally adopted by the Commission will remain in effect.

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

(f) To monitor and enforce all laws and regulations governing the operation and conduct of all Gaming Activities, including the ongoing monitoring of Licenses, subject to this Ordinance and/or regulations setting forth hearing or enforcement processes.

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

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

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

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

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

(l) To retain professional advisors such as attorneys, law enforcement specialists, and Gaming professionals consistent with the Nation's laws and practices.

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

(n) To act as the designated agent to receive all regulatory notices not included in section 501.5-6 of this Ordinance.

(o) To investigate all Regulatory Incidents.

(p) To issue warnings or notices of violation, in accordance with regulations, to Gaming Operators and Licensees for non-compliance with the Compact, Oneida Gaming Minimum

Internal Controls, Rules of Play, IGRA, or this Ordinance.

(q) To make determinations regarding suitability for licensing.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

501.7. Gaming Surveillance: Powers, Duties and Limitations

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

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

501.7-2. Gaming Surveillance shall be responsible for all Gaming surveillance activities including, but not limited to, equipment and maintenance of equipment, observation and reporting

of all persons to include Gaming Employees, customers, consultants, and Gaming Services vendors.

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

501.7-4. Gaming Surveillance shall:

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

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

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

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

501.8. [Reserved for future use.]

501.9. Gaming Security Department

501.9-1. *Purpose.* The purpose of the Gaming Security Department is to protect Gaming assets, patrons and Gaming Employees from an activity, repeat activity, or ongoing activities which could injure or jeopardize Gaming assets, patrons and Gaming Employees.

(a) The Oneida Business Committee shall be responsible for the supervision, as well as oversight, of the Gaming Security Department and the Gaming Security Department shall report directly to the Oneida Business Committee per the process and schedule set by the Oneida Business Committee; provided, all reports of the Gaming Security Department must be copied to the Commission.

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

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

501.9-3. The Gaming Security Department shall:

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

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

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

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

501.10. Background Investigations

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

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

(a) All Background Investigations must be conducted to ensure that the 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.

(a) A temporary license permits the Licensee to engage in such activities pursuant to any terms and conditions imposed and specified by the Commission.

(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 Nation and are subject to all applicable 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 be issued to Licensees and permittees which provide an opportunity to correct actions.

- (a) Such regulations must include procedures for appeal of such notices and may include the ability to issue fines not to exceed one thousand dollars (\$1000.00) per violation for Gaming Services vendors and permittees.

501.12. Gaming Employee License

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

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

- (a) Applicant's full name and all other names used (oral or written), Social Security Number(s), place of birth, date of birth, citizenship, gender, and all languages (spoken or written).
- (b) Currently, and for the previous five (5) years: business and employment positions held, ownership interests in those businesses, business and residence addresses, and driver's license number(s).
- (c) The names and current addresses, of at least three (3) personal references, including one (1) personal reference who was acquainted with the Applicant during each period of residence listed in subsection (b) above.
- (d) Current business and residence telephone numbers.
- (e) A description of any existing and previous business relationships with Indian Tribes, including ownership interest in those businesses.
- (f) A description of any existing and previous business relationship with the Gaming industry generally, including ownership interest in those businesses.
- (g) The name and address of any licensing or regulatory agency with which the Applicant has filed an application for a license or permit related to Gaming, whether or not such license or permit was granted.
- (h) The name and address of any licensing or regulatory agency with which the Applicant has filed an application for an occupational license or permit, whether or not such license or permit was granted.
- (i) For each felony conviction or ongoing prosecution or conviction, the charge, the name and address of the court involved, and the date and disposition, if any.
- (j) For each misdemeanor or ongoing misdemeanor prosecution (excluding violations for which jail time is not part of the potential sentence) within ten (10) years of the date of the application, the name and address of the court involved, and the date and disposition.
- (k) For each criminal charge (excluding charges for which jail time is not part of the potential sentence) whether or not there is a conviction, if such criminal charge is within ten (10) years of the date of the application and is not otherwise listed pursuant to subsections (i) or (j) of this section, the criminal charge, the name and address of the court involved and the date and disposition.
- (l) A photograph.

(m) Fingerprints consistent with procedures adopted by the Commission which meet the criteria set forth in 25 C.F.R. section 522.2(h).

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

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

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

(1) The Privacy Act of 1974;

(2) Fraud and False Statements Act; and

(3) Fair Credit Reporting Act.

501.12-3. *License Qualifications.* No License may be granted if the Applicant:

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

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

(1) Any gambling-related offense;

(2) Any offense involving Fraud or misrepresentation;

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

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

(5) Any offense involving the violation of any provision of the Nation's law that regulates the conduct of Gaming Activities, or any rule or regulation promulgated pursuant thereto.

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

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

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

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

501.12-4. *Initial Eligibility Determination.*

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

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

- 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

determinations, findings and decisions of the Commission must be retained in the Commission's files for a period of at least three (3) years from the date the Gaming Employee's employment is terminated.

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

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

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

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

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

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

501.12-8. *NIGC Review.*

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

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

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

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

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

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

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

(a) *Basis for Licensing Action.* The Commission may suspend, condition, or revoke any

License issued under this Ordinance if:

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

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

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

(B) Has knowingly promoted, played, or participated in any Gaming Activity operated in violation of the Compact, Oneida or federal law, and this Ordinance;

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

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

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

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

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

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

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

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

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

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

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

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

(e) Within fifteen (15) business days after a hearing, the Commission shall issue a final written licensing decision and decide whether to suspend, uphold an immediate suspension,

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

requirements imposed by the Nation's Vendor Licensing law.²

501.13-2. *Gaming Services License or Non-Gaming Services Permit Required.*

(a) *Gaming Services License.* Any Gaming Services vendor providing Gaming related contract goods or services as defined under Article VII(A) of the Compact to the Gaming Operation shall possess a valid Gaming Services License.

(b) *Non-Gaming Services Permit.* Any vendor providing non-gaming related goods or services to the Gaming Operation shall possess a valid Non-Gaming Services permit.

(c) Determinations regarding the issuance of a License or permit under this section must be made by the Commission which may be subject to requests for reconsideration by the Gaming Services vendor within fourteen (14) business days of receipt by the Gaming Services vendor of the notice of License or permit determination.

501.13-3. *Approved Gaming Services Vendor List.* The Commission shall maintain an updated and complete list of all Gaming Services vendors that possess current and valid Gaming Services Licenses or Non-Gaming Services permits from the Commission, which is known as the Approved License and Permit List.

(a) Gaming Operations may only do business with vendors that possess valid and current Gaming Services Licenses or Non-Gaming Services permits and who appear on the Approved License and Permit List.

501.13-4. *Gaming Services License/Permit Application.* Every Applicant for a License or permit shall file with the Commission a written application in the form prescribed by the Commission, duly executed and verified, which must provide and certify the following; provided, Non-Gaming Services vendors with less than two thousand five hundred dollars (\$2,500.00) in services for the prior fiscal year are only required to file a notice of doing business with the Commission:

(a) The Applicant's name and mailing address;

(b) The names and addresses of each officer or management official of the Applicant;

(c) A copy of the Applicant's articles of incorporation and bylaws, or if not a corporation, the Applicant's organizational documents;

(d) Identification of an agent of service for the Applicant;

(e) The name and address of each person having a direct or indirect financial interest in the Applicant;

(f) The nature of the License or permit applied for, describing the activity to be engaged in under the License or permit;

(g) Explicit and detailed disclosure of any criminal record, including any delinquent taxes owed to the United States, or any state, of the Applicant, any person involved in the organization, and any person of interest whose name appears or is required to appear on the application;

(h) Whether the Applicant is or has been licensed by the State of Wisconsin Office of Indian Gaming Regulation and Compliance and, if applicable, proof of current licensure;

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

(j) Whether the Applicant has been denied a License by any gaming jurisdiction and, if

² See also Appendix 1. Vendor Licensing/Permit.

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

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

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

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

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

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

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

(1) The Privacy Act of 1974;

(2) False statements; and

(3) The Fair Credit Reporting Act.

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

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

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

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

(c) For a partnership, all partners.

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

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

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

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

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

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

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

(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

on the proposed licensing action by default.

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

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

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

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

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

(c) The Commission may determine to review the decision solely on the licensing or permitting decision record and briefs filed regarding the request for reconsideration.

(1) The Commission may also, in its sole discretion, grant oral arguments.

(d) The Commission shall issue a written decision within one hundred twenty (120) days from receipt of the request for the original hearing.

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

501.14. Gaming Facility License

501.14-1. The construction and maintenance of any Gaming Facility, and the operation of Gaming Activities, must be conducted in a manner which adequately protects the environment and the public health and safety, and must comply with requirements of the Compact and all other applicable health, safety, and environmental standards.

501.14-2. The Oneida Business Committee must receive, review and grant or deny any application for licensing any Gaming Facilities located within the Reservation. Applicants shall provide the Oneida Business Committee sufficient information to show the following:

(a) The Gaming Facility meets all applicable health and safety standards of the Nation and Federal government.

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

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

(b) The Gaming Facility meets applicable environmental standards of the Nation and Federal government.

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

(2) If the applicable environmental standards are not met, proof must be submitted by Gaming Operator that Remediation of the Gaming Facility is being

actively sought which will place the Gaming Facility in compliance with the applicable standards.

501.14-3. Upon receipt and review of the above information, the Oneida Business Committee shall deliberate and either grant or deny for failure to meet the requirements of protecting the health and safety of patrons, public and employees of a Gaming Facility License to the Applicant.

(a) The Oneida Business Committee shall submit to the NIGC a copy of each Gaming Facility License issued.

501.14-4. If the Oneida Environmental, Health and Safety Department notifies the Oneida Business Committee that a Gaming Facility will be closed by a governmental agency with proper authority due to environmental, health or safety concerns, the Oneida Business Committee shall suspend the License of the Gaming Facility.

(a) The Oneida Business Committee shall re-License the Gaming Facility after receiving the information required in section 501.14-2 of this Ordinance.

501.15. Gaming Operator License

501.15-1. *Consent to Jurisdiction.* The application for License and the conduct of Gaming within the jurisdiction of the Nation is considered consent to the jurisdiction of the Nation in all matters arising from the conduct of Gaming, and all matters arising under any of the provisions of this Ordinance or other laws of the Nation.

501.15-2. *License Required.* No Gaming Operator may conduct Gaming Activity unless such entity holds a valid and current Gaming Operator License issued by the Commission.

501.15-3. *Types of Licenses.* The Commission may issue each of the following types of Gaming Operator Licenses:

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

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

501.15-4. *Gaming Operator License Qualifications.* The Commission shall issue a Gaming Operator License to any Gaming Operation if:

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

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

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

501.15-5. *Provisions of General Applicability to All Gaming Operators.*

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

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

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

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

501.15-6. *Grandfathered Gaming Facilities.* All Gaming Operators operating on the effective date of July 5, 2007, are hereby granted a License under this section.

501.15-7. *License Application Fees and License Taxes.* No application fees or License taxes may be required by the Nation for a Gaming Operator License.

501.15-8. *Closure of a Gaming Operation.* If the Commission finds that any Gaming Operation is operating in violation of this Ordinance, or otherwise presents a threat to the public, the Commission shall immediately notify the Oneida Business Committee.

(a) The Oneida Business Committee may close any Gaming Operation temporarily or permanently at any time with or without cause, at its sole discretion.

501.16. Games

501.16-1. Class II and Class III Games are hereby authorized by this Ordinance.

501.16-2. *Gaming Procedures.* Games operated under this Ordinance must be consistent with the Compact and any amendments thereto and the Internal Control Standards and Rules of Play of the Gaming Operation.

501.16-3. *Who May Not Play.* It is the policy of the Nation that particular Gaming Employees, employees of the Commission, particular governmental officials, and consultants who directly advise the Commission or employees at Gaming Facilities regarding gaming related activities may not participate in Gaming Activities conducted at Gaming Operations.

(a) At a minimum, members of the Oneida Business Committee, the Commission, the Gaming General Manager, assistant gaming general managers, directors of individual Games and assistant directors of individual Games may not participate in any Gaming Activity within the Reservation.

(b) The Oneida Business Committee may identify by resolution additional positions restrictions on Gaming Activity conducted at Gaming Facilities.

(1) Such resolution must be on file with the Commission.

(c) The Commission and Senior Gaming Management shall each develop and maintain their own standard operating procedure identifying other positions and any applicable restrictions on Gaming Activity conducted at Gaming Facilities.

(1) The standard operating procedure and the list of positions must be on file with the Commission.

501.17. Allocation of Gaming Funds

501.17-1. Net Gaming revenues may only be used for the following purposes:

(a) To fund government operations, programs, or services of the Nation;

(b) To provide for the general welfare of the Nation and its members; provided, that per capita payments may only be made pursuant to an approved revenue allocation plan;

(c) To promote economic development of the Nation;

(d) To contribute to charitable organizations;

(e) To assist in funding operations of other local governments;

(f) To fund programs designed to provide education, referrals, and treatment of Gaming addiction disorders; and

(g) For any other purpose as determined by the Oneida General Tribal Council or the Oneida Business Committee which is not inconsistent with the Oneida Nation Constitution

and IGRA.

501.18. Audits

501.18-1. *Annual Audit.* An annual audit of each Gaming Operation must be conducted by an independent, certified public accounting firm according to generally accepted accounting principles.

(a) Copies of the annual audit must be provided to the Oneida Business Committee, the Nation's Audit Committee, the Commission, and the NIGC by said certified public accounting firm.

(b) All contracts for supplies, services, or concessions for the Gaming Operations in excess of twenty-five thousand dollars (\$25,000.00) are subject to audit as prescribed in this section of the Ordinance.

(1) Contracts for legal services and accounting services are exempt from this requirement.

501.18-2. *Other Audits.* All audits, other than the annual audit under section 501.18-1 of this Ordinance, must be conducted pursuant to the Nation's Internal Audit law or any other applicable law of the Nation, and other audits authorized under the Compact.

501.18-3. *Request for Audits.* Any audit, except the annual audit that is mandated by IGRA, may be authorized at any time by the Oneida General Tribal Council, the Oneida Business Committee or the Nation's Audit Committee.

501.19. Enforcement and Penalties

501.19-1. No individual or entity may own or operate a Gaming Facility unless specifically authorized to do so pursuant to this Ordinance.

501.19-2. *Violations/Prosecutions.* Violators of this Ordinance may be subject to disciplinary action, as well as civil and/or criminal prosecutions.

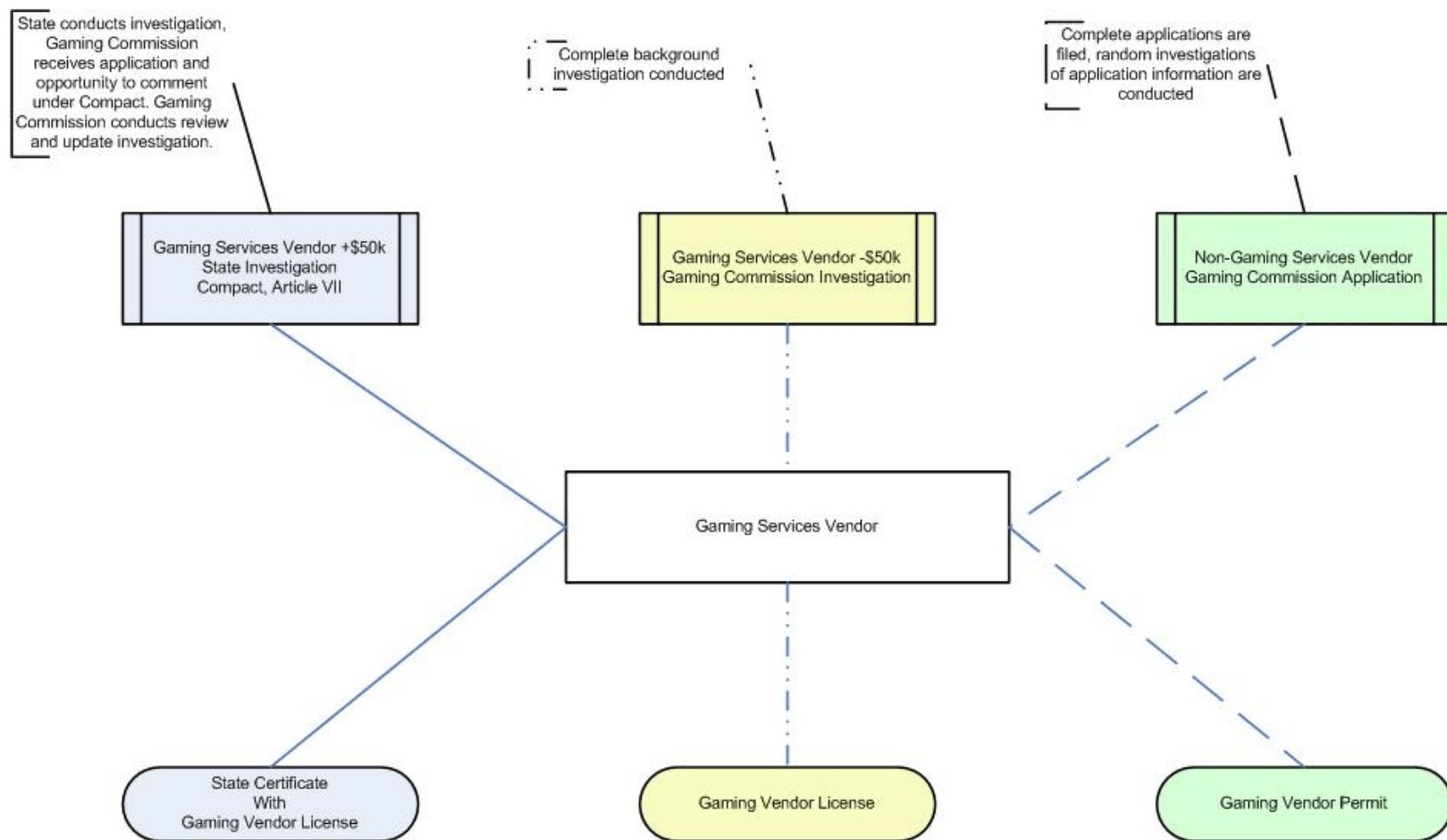
501.19-3. *Remedies.* The Oneida Business Committee may authorize commencement of an action in any court of competent jurisdiction to recover losses, restitution, and forfeitures resulting from violations of this Ordinance.

End.

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

Draft 1 Emergency Amendments for OBC Consideration
2021 05 12

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) <u>Excerpt from the 4/28 BC packet</u> | 3) _____ |
| 2) _____ | 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: 

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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- (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

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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

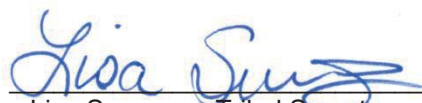
WHEREAS, the Treasurer has worked with the Chief Financial Officer, the Assistant Chief Financial Officer, Division Directors, and the Finance Committee to identify contingency planning options and goals to present to the Oneida Business Committee for review and approval to comply with section 121.4-3 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

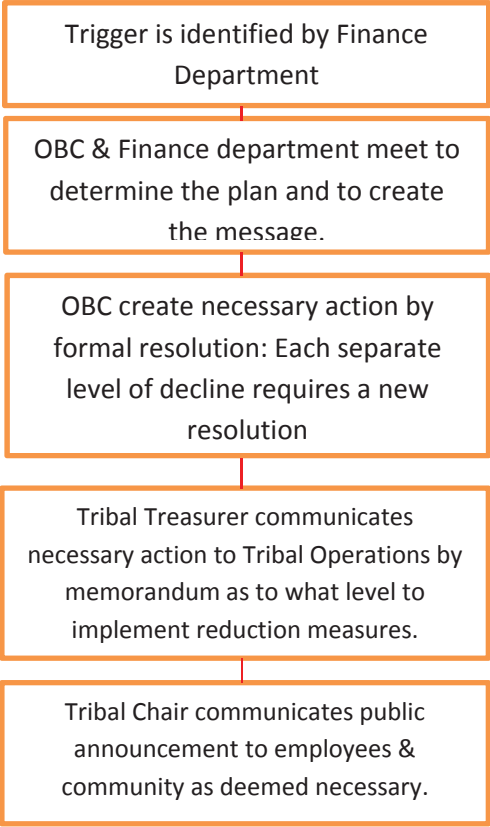
 - a. The type of financial distress will determine the level of utilization of the Permanent Executive Contingency Fund. The following purposes, and only to the extent that alternative funding sources are unavailable are:
 - i. Payments to notes payable to debt service, both principal and interest, and 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