

## 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](http://Oneida-nsn.gov/government/register/public%20meetings)

Send Public Comments to

[LOC@oneidanation.org](mailto:LOC@oneidanation.org)

Ask Questions here

[LOC@oneidanation.org](mailto: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](http://oneida-nsn.gov/government/register/public%20meetings).

## PUBLIC COMMENT PERIOD CLOSSES WEDNESDAY, JUNE 9, 2021

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



## PUBLIC PEACE LAW LEGISLATIVE ANALYSIS

### SECTION 1. EXECUTIVE SUMMARY

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

1 **SECTION 2. LEGISLATIVE DEVELOPMENT**

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

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

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

26 **SECTION 3. CONSULTATION AND OUTREACH**

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

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

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

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

- 41           ▪ Leasing law;
- 42           ▪ Eviction and Termination law.
- 43 C. The following laws and ordinances from other States, municipalities, and Tribes were reviewed in the
- 44 drafting of this law and analysis:
- 45           ▪ Ysleta del Sur Pueblo Peace Code;
- 46           ▪ Stockbridge-Munsee Public Peace and Good Order Ordinance;
- 47           ▪ Saginaw Chippewa Public Nuisance Order;
- 48           ▪ Rincon Band of Luiseno Mission Indians Peace and Security Ordinance;
- 49           ▪ Ho-Chunk Nation Public Nuisance Act;
- 50           ▪ Village of Hobart Peace and Good Order Law;
- 51           ▪ Green Bay Public Peace and Good Order Ordinance;
- 52           ▪ Green Bay Public Nuisance Ordinance;
- 53           ▪ Brown County Offenses Against Public Peace and Safety; and
- 54           ▪ Relevant State of Wisconsin statutes.
- 55 D. ***COVID-19 Pandemic’s Effect on the Legislative Process.*** The world is currently facing a pandemic
- 56 of COVID-19. The COVID-19 outbreak originated in Wuhan, China and has spread to many other
- 57 countries throughout the world, including the United States. The COVID-19 pandemic has resulted in
- 58 high rates of infection and mortality, as well as vast economic impacts including effects on the stock
- 59 market and the closing of all non-essential businesses. A public meeting for this proposed Law will not
- 60 be held due to the COVID-19 pandemic, but a public comment period for the submission of written
- 61 comments will be held open until June 9, 2021.
- 62           ▪ *Declaration of a Public Health State of Emergency.*
- 63               ▪ On March 12, 2020, Chairman Tehassi Hill signed a “*Declaration of Public Health State*
- 64               *of Emergency*” regarding the COVID-19 pandemic which declared a Public Health State
- 65               of Emergency for the Nation until April 12, 2020, and set into place the necessary authority
- 66               for action to be taken and allows the Nation to seek reimbursement of emergency
- 67               management actions that may result in unexpected expenses.
- 68               ▪ The Public Health State of Emergency has since been extended until May 12, 2021, by the
- 69               Oneida Business Committee through the adoption of resolutions BC-03-28-20-A, BC-05-
- 70               06-20-A, BC-06-10-20-A, BC-07-08-20-A, BC-08-06-20-A, BC-09-09-20-A, BC-10-08-
- 71               20-A, BC-11-10-20-A, BC-12-09-20-D, BC-01-07-21-A, BC-02-10-21-A, and BC-03-10-
- 72               21-D.
- 73           ▪ *COVID-19 Core Decision Making Team Declarations: Safer at Home.*
- 74               ▪ On March 24, 2020, the Nation’s COVID-19 Core Decision Making Team issued a “*Safer*
- 75               *at Home*” declaration which ordered all individuals present within the Oneida Reservation
- 76               to stay at home or at their place of residence, with certain exceptions allowed. This
- 77               declaration prohibited all public gatherings of any number of people.
- 78               ▪ On April 21, 2020, the COVID-19 Core Decision Making Team issued an “*Updated Safer*
- 79               *at Home*” declaration which allowed for gaming and golf operations to resume.
- 80               ▪ On May 19, 2020, the COVID-19 Core Decision Making Team issued a “*Safer at Home*
- 81               *Declaration, Amendment, Open for Business*” which directs that individuals within the
- 82               Oneida Reservation should continue to stay at home, businesses can re-open under certain
- 83               safer business practices, and social distancing should be practiced by all persons.

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

## 106 **SECTION 4. PROCESS**

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

- 126           ▪ April 7, 2021: LOC work meeting held with representatives from the Oneida Police  
127           Department, TAP, Comprehensive Housing Division, Oneida Law Office, and Oneida  
128           Business Committee.  
129

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

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

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

- 143       ▪ *Civil Infractions Against Property* [3 O.C. 309.5].  
144           ▪ Damage to Property;  
145           ▪ Reckless Damage or Destruction;  
146           ▪ Trespass;  
147           ▪ Theft;  
148           ▪ Retail Theft;  
149           ▪ Loitering;  
150           ▪ Fraud; and  
151           ▪ Negligent Handling of Burning Material.  
152       ▪ *Civil Infractions Against the Peace* [3 O.C. 309.6].  
153           ▪ Disorderly Conduct;  
154           ▪ Carrying a Prohibited Weapon;  
155           ▪ Gang Related Activity;  
156           ▪ Throwing or Shooting Projectiles;  
157           ▪ Obstructing Streets and Sidewalks;  
158           ▪ Nuisance;  
159           ▪ Maintaining a Chronic Nuisance House; and  
160           ▪ Interfering with Lawful Arrest or Resisting Arrest.  
161       ▪ *Civil Infractions Against Government* [3 O.C. 309.7].  
162           ▪ Disrupting a Meeting or Government Function;  
163           ▪ Breach of Confidentiality; and  
164           ▪ Threatening an Official.  
165       ▪ *Civil Infractions Against the Person* [3 O.C. 309.8].  
166           ▪ Assault;  
167           ▪ Harassment;  
168           ▪ Abuse of Individuals at Risk; and  
169           ▪ Truancy.

- 170       ▪ *Civil Infractions Involving Alcohol, Tobacco, and Drugs [3 O.C. 309.9].*  
171           ▪ Public Intoxication;  
172           ▪ Unauthorized Alcohol Beverage;  
173           ▪ Underage Possession of Alcohol;  
174           ▪ Furnishing Alcohol Beverages to Minors;  
175           ▪ Underage Possession of Tobacco;  
176           ▪ Furnishing Tobacco to Minors;  
177           ▪ Misrepresentation of Identification Card;  
178           ▪ Possession of Prohibited Drugs;  
179           ▪ Manufacturing Prohibited Drugs;  
180           ▪ Maintaining a Drug House; and  
181           ▪ Determination of a Prohibited Drug.
- 182       ▪ *Civil Infractions Affecting Health and Safety [3 O.C. 309.10].*  
183           ▪ Littering;  
184           ▪ Unsightly Areas;  
185           ▪ Depositing Human Waste; and  
186           ▪ Exposure of a Communicable or Infectious Disease.
- 187 **C. Enforcement.** The Oneida Police Department is delegated the authority to investigate complaints  
188 involving civil infractions under this Law, and to issue citations for violations of this Law. [3 O.C.  
189 309.4-3(a)-(b), 309.11-1]. A citation issued for a violation of this Law is required to be processed in  
190 accordance with the process and procedure contained in the Nation’s Citations law. [3 O.C. 309.11-  
191 1(b)]. Once an Oneida Police Department Officer issues a citation, the Trial Court then has jurisdiction  
192 over any action brought under this law. [3 O.C. 309.4-1]. A citation for a violation of this Law and/or  
193 any orders issued pursuant to this Law may include fines and other penalties, as well as conditional  
194 orders made by the Trial Court. [3 O.C. 309.11-1(a)]. All matters decided by the Trial Court shall be  
195 proven by clear and convincing evidence. [3 O.C. 309.4-2]. The Citations law requires that this standard  
196 of proof be used. [8 O.C. 807.6-2(a)]. Clear and convincing evidence means that the person filing the  
197 complaint must provide evidence indicating that the allegation to be proved is highly probable or  
198 reasonably certain. This is a greater burden than “preponderance of the evidence” standard, which is  
199 the standard used in most civil trials, but a lesser burden than “beyond a reasonable doubt” standard,  
200 which is used for criminal trials. The Trial Court is then responsible for determining that a violation of  
201 this Law has occurred, and if so, imposing a penalty on the individual. [3 O.C. 309.11-2].
- 202 **D. Penalties.** Upon a finding by the Trial Court that a violation of this law has occurred, an individual  
203 may be subject to the following penalties:
- 204       ▪ *Fines.* An individual may be ordered to pay a fine as a result of a violation of this law. The Oneida  
205 Business Committee is given the responsibility to adopt through resolution a citation schedule  
206 which sets forth specific fine amounts for violations of this law. [3 O.C. 309.11-2(a)]. The Law  
207 then goes on to provide details as to who fines should be paid to, and the deadline for paying a fine.  
208 [3 O.C. 309.11-2(a)(1)-(2)]. If an individual does not pay his or her fine within the required  
209 timeframe, the Trial Court may seek to collect the money owed through the Nation’s garnishment  
210 and/or per capita attachment process or any other collection process available to the Trial Court. [3  
211 O.C. 309.11-2(a)(3)].
- 212       ▪ *Community Service.* An individual may be ordered to perform community service, which can be  
213 used in lieu of, or in addition to, a fine. [3 O.C. 309.11-2(b)]. The Law then goes on to provide

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

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

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

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

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

## 244 **SECTION 6. EXISTING LEGISLATION**

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

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

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

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



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

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

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

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

307

308       **SECTION 8. ENFORCEMENT AND ACCOUNTABILITY**

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

316

317       **SECTION 9. OTHER CONSIDERATIONS**

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

333

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

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

309.7. Civil Infractions Against Government  
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309.9. Civil Infractions Involving Alcohol, Tobacco, and Drugs  
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**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

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

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

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

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

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

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

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

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

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

67 (o) “Nation” means the Oneida Nation.

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

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

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

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

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

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

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

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

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

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

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

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

#### 111 **309.4. Jurisdiction and Authority**

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

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

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

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

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

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

#### 123 **309.5. Civil Infractions Against Property**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

293

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

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

296 (a) causes bodily harm to another;

297 (b) threatens another with imminent bodily harm;

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

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

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

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

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

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

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

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

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

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

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

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

335

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

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

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

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

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

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

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

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

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

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

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

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

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

388

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

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

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

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

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

403

### 404 **309.11. Enforcement and Penalties**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

461  
462 *End.*  
463  
464

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Adopted – BC-\_\_-\_\_-\_\_-\_\_