



## **LEGISLATIVE OPERATING COMMITTEE MEETING AGENDA - REVISED**

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

July 21, 2021

9:00 a.m.

- I. Call to Order and Approval of the Agenda**
- II. Minutes to be Approved**
  - 1. July 7, 2021 LOC Meeting Minutes (pg. 2)
- III. Current Business**
  - 1. Public Peace Law (pg. 4)
- IV. New Submissions**
- V. Additions**
  - 1. Oneida General Welfare Law Emergency Amendments Extension \*HANDOUT (pg. 34)
- VI. Administrative Updates**
- VII. Executive Session**
- VIII. Recess/Adjourn**



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

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

**Excused:** Jennifer Webster

**Others Present:** Clorissa N. Santiago, Kristal Hill, Brooke Doxtator, Rhiannon Metoxen, Lawrence Barton, Justin Nishimoto (Microsoft Teams), Eric Boulanger (Microsoft Teams), Amy Spears (Microsoft Teams), Trina Schuyler (Microsoft Teams), Michelle Braaten (Microsoft Teams), Reynold Danforth (Microsoft Teams), Tina Jorgenson (Microsoft Teams), Rae Skenandore (Microsoft Teams), Kaylynn Gresham (Microsoft Teams).

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

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

Motion by Marie Summers to adopt the agenda as is; seconded by Daniel Guzman King. Motion carried unanimously.

**II. Minutes to be Approved**

**1. June 2, 2021 LOC Meeting Minutes**

Motion by Marie Summers to approve the June 2, 2021 LOC meeting minutes and forward to the Oneida Business Committee; seconded by Daniel Guzman King. Motion carried unanimously.

**III. Current Business**

**1. Public Peace Law**

Motion by Daniel Guzman King to accept the public comments and the public comment review memorandum, and forward to a work session for further consideration; seconded by Marie Summers. Motion carried unanimously.

**2. Oneida General Welfare Law Amendments**

Motion by Marie Summers to accept public comments that were received for the Oneida General Welfare law amendments question, "Should assistance provided by an approved program under the Oneida General Welfare law be subject to attachment or garnishment?"; seconded by Daniel Guzman King. Motion carried unanimously.

**IV. New Submissions**

**1. Land Use Regulation Reimbursement Policy Repeal**

Motion by Marie Summers to add the Land Use Regulation Reimbursement Policy repeal to the Active Files List with Kirby Metoxen as the sponsor; seconded by Kirby Metoxen. Motion carried unanimously.

**V. Additions**



**VI. Administrative Items**

**VII. Executive Session**

**VIII. Adjourn**

Motion by Daniel Guzman King to adjourn at 9:23 a.m.; seconded by Marie Summers.  
Motion carried unanimously.



## Legislative Operating Committee July 21, 2021

# Public Peace Law

<b>Submission Date:</b> 12/7/16	<b>Public Meeting:</b> Due to the COVID-19 pandemic, public meetings were suspended by declaration of the Nation's COVID-19 Core Decision Making Team. A public comment period was still offered in accordance with the Legislative Procedures Act and held open until 6/9/21.
<b>LOC Sponsor:</b> Jennifer Webster	<b>Emergency Enacted:</b> n/a

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

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

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

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

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

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

- 3/17/21:** *Work Meeting.* Present: David P. Jordan, Kirby Metoxen, Jennifer Webster, Daniel Guzman King, Clorissa N. Santiago, Eric Boulanger, Joel Maxam, Renita Hernandez, Brandon Yellowbird Stevens, Kelly McAndrews, Krystal John, Michelle Hill, Kristal Hill, Rhiannon Metoxen. This was a work meeting held through Microsoft Teams. The purpose of this work meeting was to review and discuss the first draft of the Public Peace law with the larger work team.
- 4/7/21:** *Work Meeting.* Present: David P. Jordan, Kirby Metoxen, Jennifer Webster, Daniel Guzman King, Marie Summers Clorissa N. Santiago, Eric Boulanger, Joel Maxam, Renita Hernandez, Leslie Doxtator, Brandon Yellowbird Stevens, Kelly McAndrews, Michelle Hill, Kristal Hill, Rhiannon Metoxen. This was a work meeting held through Microsoft Teams. The purpose of this work meeting was to review and discuss the updated draft of the Public Peace law with the larger work team so that the law can move forward for a legislative analysis to be completed.
- 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.
- 5/5/21 LOC:** Motion by Jennifer Webster to 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; seconded by Marie Summers. Motion carried unanimously.
- 6/9/21:** *Public Comment Period Closed.* The Legislative Operating Committee received written submissions of comments from six (6) individuals.
- 7/7/21 LOC:** Motion by Daniel Guzman King to accept the public comments and the public comment review memorandum, and forward to a work session for further consideration; seconded by Marie Summers. Motion carried unanimously.
- 7/7/21:** *Work Meeting.* Present: David P. Jordan, Kirby Metoxen, Daniel Guzman King, Marie Summers Clorissa N. Santiago, Kristal Hill. The purpose of this work meeting was to begin reviewing and considering the public comments that were received for the proposed Public Peace law.
- 7/7/21:** *Work Meeting.* Present: David P. Jordan, Kirby Metoxen, Daniel Guzman King, Marie Summers Clorissa N. Santiago, Eric Boulanger, Joel Maxam, Rhiannon Metoxen. This was a work meeting held through Microsoft Teams. The purpose of this work meeting was to begin developing the Public Peace Law Citation Schedule resolution by discussing and determining the specific fine amounts for each civil infraction contained in the law.
- 7/13/21:** *Work Meeting.* Present: David P. Jordan, Kirby Metoxen, Daniel Guzman King, Marie Summers 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 continue reviewing and considering the public comments that were received for the proposed Public Peace law.

#### **Next Steps:**

- Accept the updated public comment review memorandum, and direct the drafting attorney to prepare the final draft of the proposed Public Peace law.



TO: Legislative Operating Committee (LOC)  
FROM: Clorissa N. Santiago, Legislative Reference Office, Senior Staff Attorney *CNS*  
DATE: July 21, 2021  
RE: Public Peace Law Amendments: Public Comment Review

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A public comment period for the proposed Public Peace law (“the Law”) was held open until June 9, 2021. A public meeting for the proposed Law was not held due to the COVID-19 pandemic.

On March 12, 2020, Chairman Tehassi Hill signed a “*Declaration of Public Health State of Emergency*” regarding COVID-19 which declared a Public Health State of Emergency for the Nation until April 12, 2020, and set into place the necessary authority for action to be taken and 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 July 28, 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, BC-03-10-21-D, BC-05-12-21-A, and BC-06-23-21-B.

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 allowed 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 the Nation’s COVID-19 Core Decision Making Team’s “*Suspension of Public Meetings under the Legislative Procedures Act*” declaration suspended public meetings and therefore no public meeting was scheduled for the proposed Public Peace law, on May 5, 2021, the Legislative Operating Committee direct that a public comment period be held open until June 9, 2021, to allow members of the community an opportunity to provide written submissions of comments or questions to the Legislative Operating Committee through e-mail.

The Legislative Operating Committee reviewed and considered the public comments received on July 7, 2021, and July 13, 2021. This memorandum is submitted as a review of the written comments received within the public comment period.

#### Comment 1 – Noise Disruptions:

##### **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.

**Raeann Skenandore (written):** Please include a section in the law that addresses noise as a category of disruption to public peace.

Example 1: a house in the neighborhood is hosting a party where loud music is playing. The party extends into the late night past 11:00 p.m. where the loud noise is affecting neighboring household members' ability to sleep.

Example 2: a house in the neighborhood is igniting fireworks late into the evening on non-holiday dates (i.e. July 4th) and the loud noise is affecting neighboring households members' ability to sleep and disturbing household animals.

### ***Response***

The commenter requests that a section be included in the Law which addresses disruptive noise violations. The Law does currently address noise violations. The Law provides that 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. [3 O.C. 309.6-1]. The Law then goes on to specify that a civil infraction of disorderly conduct may include when a person makes or causes to be made any loud, disturbing, or unnecessary sounds or noises which may annoy or disturb a person of ordinary sensibilities. [3 O.C. 309.6-1(c)].

Due to the fact that noise violations are already addressed by the disorderly conduct civil infraction found in section 309.6-1 of the Law, there is no recommended revision based on this comment.

### ***LOC Consideration***

The Legislative Operating Committee confirmed that noise violations are already addressed by the disorderly conduct civil infraction found in section 309.6-1 of the Law, but determined that the Law should be revised to clarify that any excessive noise should be prohibited between the hours of 10:00 p.m. and 6:00 a.m. The Legislative Operating Committee directed that the following revision be made to the Law:

### 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;
  - (1) Between the hours of 10:00 p.m. and 6:00 a.m. any excessive noise shall be prohibited.
- (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.

#### Comment 2 – Use of “and/or” throughout the Law:

**Hon. Layatalati Hill (written):** I just have one suggestion on the Public Peace Law and that is to not use “and/or” throughout the law. It appears “or” could be used instead.

#### *Response*

The commenter requests that “and/or” is not used throughout the Law, and that instead simply “or” is used.

It is recommended that the Law be reviewed to determine if the use of “and/or” could be replaced with “or” throughout the Law to aid in clarifying the interpretation of the Law.

#### *LOC Consideration*

The Legislative Operating Committee determined that the drafting attorney should review the Law to determine if the use of “and/or” can be replaced with “or” throughout the Law to aid in the clarification of the interpretation of the Law.

#### Comment 3 – Nuisance:

### 309.6. Civil Infractions Against the Peace

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.

**Lori Elm (written):** Line 243 - You need to have something in this line to protect the people who are a nuisance but they need actual help. Medical conditions, and other chronic illnesses and what about homes where people overdose and die in their (not sure if that is HIPPA protected or not) or people who have overdose (heroin/fentanyl) that need to be narcaned. (NOW THAT is a nuisance, to have them officers going back and back to bring them back, to continue on using)

### ***Response***

The commenter provides that the Law should address those individuals who commit the civil infraction of nuisance but have underlying issues that may have caused their nuisance behavior. The Law sets forth the community standard that no individual should engage in a thing, act, occupation, condition or use of property which shall continue for such length of time as to substantially annoy, injure or endanger the comfort, health, repose or safety of the public; in any way render the public insecure in life or in the use of property; and/or greatly offend the public morals or decency. [3 O.C. 309.6-6]. Although the Law does not provide an exemption to those individuals who may commit the civil infraction of nuisance but have an underlying condition that resulted in the nuisance behavior, the Law does provide flexibility in how the civil infraction is addressed and handled.

An Oneida Police Department officer may issue a citation to any person he or she has reasonable grounds to believe has committed a violation of a law of the Nation that expressly permits the issuance of a citation. [8 O.C. 807.4-2]. Inherently, the Oneida Police Department officer always has discretion to determine if a citation should be issued to address the situation. When a citation is issued to an individual, the individual has the opportunity to come before the Court and the Court is then provided a plethora of penalties to use as deemed appropriate to best address the actions of the individual and connect the individual to resources that may improve their behavior and prevent future civil infractions from occurring. One such resource the Court has available is the Court may order an individual to participate in counseling and/or any other programs relevant and available to the Nation. The goal of this Law is not simply to penalize civil infractions that occur, but to promote peace and order within the boundaries of the Reservation, by setting 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, 309.1-2].

There is no recommended revision based on this comment.

### ***LOC Consideration***

The Legislative Operating Committee discussed that addiction is a problem that is currently plaguing the Reservation. With the development of this Law, as well as other current legislative efforts such as the Wellness Court law, the Legislative Operating Committee hopes that addiction can be addressed and individuals can be connected to the proper resources to help them heal and rehabilitate so that peace, harmony, safety, health, and general welfare of individuals who live

within the boundaries of the Reservation can be preserved. The Legislative Operating Committee determined that no revision to the Law was needed based on this comment.

#### **Comment 4 – Drug Use and Addiction Throughout the Reservation:**

**Lori Elm (written):** A major problem within the reservation is addiction. So, one can assume a major goal of this law is to set forth community standards/controls on our facilities such as: Casino, One Stops, CEC and all other business buildings (such as Walmart & Home Depot)? These buildings have a very high area of addicts and drug dealers/dealings in them and I would like to commend you on addressing the issue. We actually have overdoses happening in the facilities, quite frequently, as well as the drug activities overflowing over to the Radisson area. It will also prevent the addicts from dwelling at One Stop outside as well as passing out at the pumps and in the bathrooms. (GREAT JOB)

#### ***Response***

The commenter commends the Legislative Operating Committee on developing this Law to address community issues such as drug addiction and activities which are occurring throughout the Reservation. The Legislative Operating Committee developed this Law 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, as well as 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. 309.1-1, 309.1-2]. It was the intent of the Legislative Operating Committee that many of the issues that currently are plaguing neighborhoods throughout the Reservation could be addressed through this Law to build a safe and peaceful community.

There is not recommended revision based on this comment.

#### ***LOC Consideration***

The Legislative Operating Committee confirmed it was their intent to address issues that are currently plaguing neighborhoods through the Reservation through the development of this Law. The Legislative Operating Committee determined there is no revision to the Law needed based on this comment.

#### **Comment 5 – Jail of the Nation:**

**Lori Elm (written):** If you are trying to establish our Sovereignty for the tribes itself and in that case, I do hope that means a small jail will be coming.

#### ***Response***

The commenter states that she hopes that the implementation of this Law would include the development of a jail. 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 under this Law. [3 O.C. 309.1-2]. An individual who violates a provision of this law by committing a civil infraction may be subject to the issuance of a citation by an Oneida Police Department officer. [3 O.C. 309.11-1]. The issuance of a citation commences a civil action in the Judiciary for a violation of a law of the Nation for the purpose of collecting a fine or penalty imposed by the law in the name of the Nation. [8 O.C. 807.4-1]. Due to the fact that the issuance of a citation for a violation of this Law commences a civil action, and not a criminal action, it is not intended that the implementation of this law would include the development of a jail.

### ***LOC Consideration***

The Legislative Operating Committee confirmed that since the issuance of a citation for a violation of this Law commences a civil action, and not a criminal action, it is not intended that the implementation of this law would include the development of a jail. The Legislative Operating Committee determined there is no revision to the Law needed based on this comment.

### **Comment 6 – Types of Land within the Reservation:**

#### **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.

**Lori Elm (written):** Line 3.” Purpose and policy 309.1. Recommend to use the wording from the Zoning and Shoreland Protection somewhere in purpose to ensure the jurisdiction is covered on all properties: “tribal lands held in trust and fee, heirship lands, and individual trust and fee lands within the reservation”

### ***Response***

The commenter suggests that wording used from the Zoning and Shoreland Protection law to ensure that jurisdiction is covered on all property types. The Zoning and Shoreland Protection law specifically states that the purpose of that law is to “establish a zoning plan for tribal lands held in trust and fee, heirship lands, and individual trust and fee lands within the Reservation.” [6 O.C. 605.1-1(a)].

Currently, the Law has been developed 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]. Reservation is then defined under the Law as ***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. [3 O.C. 309.3-1(t)]. Due to the fact that the definition for Reservation specifically states all land, it would be unnecessary to list out the different categories of land designation that can be found throughout the Reservation.

Additionally, the jurisdiction of the Nation's Court is generally established through the Judiciary law, which provides that the Nation and the Trial Court have territorial jurisdiction over the Reservation and all lands held in trust by the United States for the benefit of the Nation within the State of Wisconsin. [8 O.C. 801.5-3].

### ***LOC Consideration***

The Legislative Operating Committee confirmed that since the definition for Reservation specifically states all land, it would be unnecessary to list out the different categories of land designation that can be found throughout the Reservation in this Law. The Legislative Operating Committee determined there is no revision to the Law needed based on this comment.

### **Comment 7 – Definition for Public Property:**

#### **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.**

**Lori Elm (written):** Line 20. Definitions – define “public property” line 338; this should be defined because in the Zoning Law, states “public nuisance” means a thing, act, occupation, condition, or use of property which continues for such length of time as to:.... (4) Unlawfully and substantially interfere with, obstruct, or tend to obstruct or render dangerous for passage any street, alley, highway, navigable waters or other public way, or the use of public property. Private property means owned by private parties, essentially anyone or anything but the government or state. (In this case the government aka Oneida Nation, Brown County or State of WI, etc.. ) so one would think any property the Oneida Nation owns is public property.

### ***Response***

The commenter requests that a definition for “public property” be included in this Law. Under the section regarding public intoxication, it states that 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. The commenter questions if all property owned by the Nation is public property of the Nation.

Currently, the term “public property” is undefined in the Law and therefore is used in its everyday and ordinary sense. Whether to add a definition for the term public property is a policy consideration for the Legislative Operating Committee to make. The Legislative Operating Committee can make one of the following determinations:

1. The Law should remain as currently drafted, and the term “public property” should remain undefined and used in its everyday and ordinary sense.

2. The Law should be revised to include a definition for the term “public property. If the Legislative Operating Committee makes this determination, then the following revision to the Law is recommended:

### **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.

- (s) “Public property” means property owned by a government or one of its agencies, divisions, or entities and used by the general public.

### ***LOC Consideration***

The Legislative Operating Committee determined that the Law should be revised to include a definition for the term “public property” so that any future interpretation of this Law is clear and transparent. The Legislative Operating Committee did not approve of the proposed definition for public property supplied in this memorandum, and instead directed the drafting attorney to work with the Oneida Law Office on the development of a definition for the term public property.

### **Comment 8 – Maintaining a Chronic Nuisance House:**

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

**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.**

**Lori Elm (written):** You have rental and residential leases in the same category, according to how the DRAFT law reads, is this how you want it to be addressed? I really think, if the laws are going to be the same across the board, anyone who pays taxes should be exempt and the tribe should be responsible for it. Technically we are renting the land and homes on it if you can take it away in 5 days. And if that is the case, you can build your own home, you may be paying taxes if the land is Fee Land, BUT you can’t have a beer in your yard? Clarify property on this.

### ***Response***

The commenter references the section of the Law regarding maintaining a chronic nuisance house which addresses individuals who occupy a home through both residential and rental agreements and questions if it was intended that these homes be treated the same.

The provision regarding maintaining a chronic nuisance house applies to any individual who owns a home, occupies a home through a lease, or occupies a home through a rental agreement and has three (3) or more police contacts at his or her home occurring throughout a twelve (12) month period. It was intended that that all these different home occupancy and ownership designations be treated the same under the Law, and that the community standard be set that any individual who either owns a home or occupies a home through a rental or lease agreement bear responsibility for ensuring that his or her home is not a chronic nuisance in his or her neighborhood.

The Nation is sovereign and reserves all sovereign rights, authority, and jurisdiction consistent with being a sovereign nation. [8 O.C. 801.5-2]. Despite the ownership or occupancy designation of a home, the Nation has personal jurisdiction over any individual who is a member of any federally recognized Tribe, and even over non-Indians in certain situations when they have consented to the jurisdiction of the Nation or Trial Court or as otherwise consistent with federal law. [8 O.C. 801.5-4]. Additionally, the Nation and the Trial Court has territorial jurisdiction over the Reservation and all lands held in trust by the United States for the benefit of the Nation within the State of Wisconsin, and subject matter jurisdiction over any issue that a law of the Nation specifically authorizes jurisdiction over. [8 O.C. 801.5-2, 801.5-3]. This Law specifically authorizes the Trial Court to have jurisdiction over any action brought under the Law. [3 O.C. 309.4-1]. Therefore, it is within the purview of the Nation to adopt a law, such as this one, which sets forth community standards and prohibits an individual from maintaining a chronic nuisance house. This does not mean that individuals are not allowed to enjoy their homes and property however they see fit, this means that there is the expectation that the enjoyment of one's property does not substantially annoy, injure or endanger the comfort, health, repose or safety of the public, in any way render the public insecure in life or in the use of property, or greatly offend the public morals or decency. [3 O.C. 309.6-6].

There is no revision to the Law recommended based on this comment.

### ***LOC Consideration***

The Legislative Operating Committee determined there is no revision to the Law needed based on this comment.

## **Comment 9 – Prohibited Drugs and Hemp:**

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

**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.**

**Lori Elm (written):** Line 376 309.9-8: You also have prohibited drugs, listed on here; recommend clarification on categories to NOTE: (Marijuana) Police kits which detect the presence of cannabis, that indicates marijuana, may show THC is present, but because hemp and marijuana are both cannabinoids derived from the cannabis sativa plant, police don't have an easy way to tell the difference, unless they are sent out to be tested. CBD treatment is legal in Wisconsin including: THE, Delta 8 and etc.. Which may look and smell very similar to illegal marijuana. Levels of the cannabidiol preparations with 0.3 percent or less of THC, in compliance with USDA hemp standards and authorizes in-state production according to those rules. And if you really want to do your sovereignty rights, you should be following the Federal Law which passed to allow for hemp-derived CBD products with THC no greater than 0.3 percent. "Federal law passed to allow for hemp-derived CBD products with THC no greater than 0.3 percent"

### ***Response***

The commenter requested clarification on marijuana being included as a prohibited drug based on the fact that hemp derived CBD products with THC under a certain level are legal. Under the Law, a prohibited drug is defined as 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, and also includes prescription medication or over-the-counter medicine used in an unauthorized or unlawful manner. [3 O.C. 309.3-1(r)]. Section 812 of Title 21 of the United States Code identifies that the inclusion of tetrahydrocannabinols, or THC, on Schedule I Section (c)(17) does not include those tetrahydrocannabinols found in hemp, as defined under section 1639o of Title 7. Section 1639o of Title 7 defines hemp as the plant *Cannabis sativa* L. and any part of that plant, including the seeds thereof and all derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers, whether growing or not, with a delta-9 tetrahydrocannabinol concentration of not more than 0.3 percent on a dry weight basis.

The Law provides that 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. [3 O.C. 309.9-11].

There is no revision to the Law recommended based on this comment.

### ***LOC Consideration***

The Legislative Operating Committee determined there is no revision to the Law needed based on this comment since Schedules I through V, as defined by Section 812 of Title 21 of the United States Code, already addresses the relationship between hemp and THC.

### **Comment 10 – Notification of a Citation to the Comprehensive Housing Division:**

#### **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.

**(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.

**Lori Elm (written):** LINE 114: “any citation issued to an individual located at a property rented or leased through the Comprehensive Housing Division” This should say something like “any citation issued to an individual, whom(s) address is property of the Oneida Nation” Because if Bob Bob is gets caught with a bunch of drugs, not 10 saplings, I am talking Meth, Heroin, rigs loaded and etc. And he lives at 1235 Deer Path, and he gets caught at Oneida One Stop, Comprehensive Housing Division Attorney should be let know about this, because it is they’re job to keep our community safe. We need to stop protecting family, friends and loved ones, and start making a

change. And you want to get the Pot dealers have at it too. But you need it to be in the law that citations go for all of the properties, not matter what.

### ***Response***

The commenter states that the Comprehensive Housing Division should be notified of a citation issued to any individual who has entered into a rental or lease agreement with the Comprehensive Housing Division, whether or not the citation was issued at a property subject to the rental or lease agreement.

Any person who violates a provision of the Law by committing a civil infraction may be subject to an issuance of a citation by an Oneida Police Department officer – no matter where within the Reservation the civil infraction occurs. [3 O.C. 309.11-1]. The Law then goes on to 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. [3 O.C. 309.11-1(c)]. When a person enters into a rental or lease agreement with the Comprehensive Housing Division they are agreeing to abide by a certain set of terms and expectations. For example, under the Leasing law, if a lessee or other party causes or threatens to cause immediate and significant harm to the premises, or undertakes criminal activity thereon, Land Management or another interested party may take appropriate emergency action, which may include cancelling the lease and/or securing judicial relief. [6 O.C. 602.11-2]. While the Eviction and Termination law provides a contract may be terminated prior to the contract term and the occupant may be evicted if the occupant violates the terms of the contract, is alleged to have violated any applicable law or rule, or is alleged to have committed one or more nuisance activities. [6 O.C. 610.5-1]. Notification of a citation issued to an individual located at a property rented or leased through the Comprehensive Housing Division is provided by the Oneida Police Department officer to the Oneida Law Office attorney assigned to the Comprehensive Housing Division in an effort to ensure that the Comprehensive Housing Division is aware of any civil infractions and police contacts which are occurring on a property rented or leased through the Nation in case those activities implicate further action by the Comprehensive Housing Division in accordance with the terms of the rental or lease agreement.

There is no revision to the Law recommended based on this comment.

### ***LOC Consideration***

The Legislative Operating Committee discussed that fact that the Oneida Law Office attorney assigned to the Comprehensive Housing Division is provided notice of a citation issued by the Oneida Police Department at a property rented or leased through the Comprehensive Housing Division in case that police contact results in any enforcement action needed to be taken by the Comprehensive Housing Division in accordance with the Nation's laws and rules regarding housing and property. Therefore, the Legislative Operating Committee determined it would be too far reaching and unnecessary for the Comprehensive Housing Division to be provided notice of every citation issued within the boundaries of the Reservation, even those that did not occur on a property rented or leased through the Comprehensive Housing Division. The Legislative Operating Committee determined there is no revision to the Law needed based on this comment.

## Comment 11 – Disrupting a Meeting or Government Function:

### 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.

**Lori Elm (written):** Line 262 309.7 -1: Disrupting a Meeting or Governmental Function (REALLY) should say Disrupting a Meeting of a Governmental Function or have clarification/definition to define this. Add parties who are considered disorderly or obstructed shall be subjected to drug/alcohol testing and restrained and arrested by Police. or something like that.

### *Response*

The commenter requests further clarification on the civil infraction of disrupting a meeting or government function and requests that this provision require those individuals who have disrupted the meeting or government function to be drug or alcohol tested and restrained by Police.

The Law provides that a person commits the civil infraction of disrupting a meeting or government function if he or she:

- 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;
- 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;
- 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;
- 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
- 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. [3 O.C. 309.7-1(a)-(e)].

Although the Law does not require that an individual who disrupts a meeting of the government, or disrupts a function of the government in action be subjected to drug and/or alcohol testing, if an individual 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, that individual may also be issued a citation for public intoxication. [3 O.C. 309.9-1].

There is no revision to the Law recommended based on this comment.

### ***LOC Consideration***

During the consideration of this comment the Legislative Operating Committee had a lengthy discussion regarding how this provision of the Law may affect peaceful protesting. The Legislative Operating Committee discussed that it is not intended that this provision would stop interaction between the people and the government, but instead set a boundary that ensures all members of the government can complete their work undisrupted in a safe manner. The Legislative Operating Committee determined there is no revision to the Law needed based on this comment

### **Comments 12 through 13 – Halting the Legislative Process:**

#### **GTC Legal Resource Center – Gerald Hill, Wesley Martin, and Tsyolake House (written):**

The General Tribal Council-Legal Resource Center (GTC LRC) has been established by the Oneida General Tribal Council (OGTC) pursuant to Resolution BC Resolution #05-24-17-A Legal Resource Center Emergency Law and adopted BC Resolution# 09-13-171 Legal Resource Center for the purpose of assisting Oneida Tribal Members and Employees to address matters arising out of Oneida Nation laws and policies, and which can be addressed in the courts of the Oneida Nation Judiciary. As officials elected by the OGTC this office is obliged to represent, as best we can, the general concerns of the people who elected us. The membership of the Nation will be those most affected by these proposed laws and thus should have the most opportunity to review and comment on them. It is in that capacity we wish to make some cursory comments on the two proposed laws named above.

Those effected by this law are most likely to seek legal assistance when the citations under this law are issued. This will also bring the GTC LRC into a new area of practice within the Judiciary, criminal sanctions being comingled under civil authority. The GTC LRC has not been consulted in the development of this law notwithstanding the public notice of the comment period. It is understandable that because of COVID-19 Emergency Protocols the usual public hearings have been omitted. However, with the easing of such limitations it is likely that the OBC will soon create a means of having an OGTC meeting at which proposals, such as this can be presented. We believe with the consultation of the OGTC, the law can still be crafted not just to punish violators, but also to understand the affects the law will have on the economically vulnerable families within the Oneida Nation.

**GTC Legal Resource Center – Gerald Hill, Wesley Martin, and Tsyolake House (written):**  
**CONCLUSION** For the reasons stated above it is recommended that the LOC delay further processing of these proposed laws until such time as the OBC can formally present them, in their totality, to the duly assembled OGTC.

### ***Response***

The commenters request that the Legislative Operating Committee delay the processing of this Law until such a time that the Oneida Business Committee can formally present them to the General Tribal Council.

General Tribal Council prescribed the manner in which legislation of the Nation should be drafted, developed, and adopted through the adoption of the Legislative Procedures Act. The Legislative Procedures Act provides a consistent process for the adoption of laws of the Nation. [1 O.C. 109.1-1]. The Legislative Procedures Act provides:

- The Legislative Operating Committee is the legislative committee of the Nation that is responsible for the development of laws of the Nation. [1 O.C. 109.4-1, 109.4-2].
- The Legislative Operating Committee handles requests for legislation and determines if the request for the development of legislation should be accepted or denied. [1 O.C. 109.5].
- The Legislative Operating Committee will direct an agency of the Nation to complete a fiscal impact statement for all legislation. [1 O.C. 109.6].
- A legislative analysis shall be completed by the Legislative Reference Office and provided to the Legislative Operating Committee. [1 O.C. 109.7].
- The Legislative Operating Committee will hold open a public comment period with a public meeting, and then consider fully all comments received. [1 O.C. 109.8].
- The Legislative Operating Committee shall forward the legislation, legislative analysis and fiscal impact statement to the Oneida Business Committee when legislation is ready for consideration. [1 O.C. 109.9-1].
- The Oneida Business Committee shall consider the adoption of the legislation, or forward the legislation to the General Tribal Council for consideration. [1 O.C. 109.9-1].

The adoption of the Legislative Procedures Act demonstrates General Tribal Council’s intention to have the members of the Legislative Operating Committee draft and develop legislation of the Nation, and then the members of the Oneida Business Committee adopt legislation, or forward legislation to the General Tribal Council for adoption. The Legislative Operating Committee has developed this Law in accordance with the Legislative Procedures Act, as it has been modified by the COVID-19 Team’s “*Suspension of Public Meetings under the Legislative Procedures Act*” declaration.

As a result of the COVID-19 pandemic, in accordance with the authority granted to the Oneida Business Committee through the Emergency Management law, on March 12, 2020, 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 July 28, 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, BC-03-10-21-D, BC-05-12-21-A, and BC-06-23-21-B. [3 O.C. 302.8-2].

On March 17, 2020, the Oneida Business Committee adopted emergency amendments to the Emergency Management law (formally known as the Emergency Management and Homeland Security law) through resolution BC-03-17-20-E to create and delegate authority to a COVID-19 Core Decision Making Team so that upon the declaration of a public health emergency, the COVID-19 Core Decision Making Team would have the authority to declare exceptions to the Nation's laws, policies, procedures, regulations, or standard operating procedures during the emergency period which will be of immediate impact for the purposes of protecting the health, safety, and general welfare of the Nation's community, members, and employees. [3 O.C. 302.9-2]. These declarations remain in effect for the duration of the Public Health State of Emergency, unless identified to be effective for a shorter period of time. [3 O.C. 302.9-4]. The Oneida Business Committee then permanently adopted amendments to the Emergency Management law through resolution BC-03-10-21-A which incorporated the authority of an Emergency Core Decision Making Team to make declarations.

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 an in person public meeting for the proposed Law was not held, the public comment period was still held open until June 9, 2021, allowing members of the Nation the opportunity to comment and input on this proposed law.

Since the Legislative Operating Committee is developing this Law in accordance with the Legislative Procedures Act, as it has been modified by the COVID-19 Team's "*Suspension of Public Meetings under the Legislative Procedures Act*" declaration, it is not recommended that processing of this Law be halted since members of the community were indeed provided an opportunity to participate in the legislative process on comment on the Law.

### ***LOC Consideration***

The Legislative Operating Committee determined that the development of this Law should not be halted since has been developed in accordance with the Legislative Procedures Act, as it has been modified by the COVID-19 Team's "*Suspension of Public Meetings under the Legislative Procedures Act*" declaration.

### **Comment 14 – Economic Impacts of Fines:**

**GTC Legal Resource Center – Gerald Hill, Wesley Martin, and Tsyolake House (written):**

The lowest income citizens of our Nation will be even more at risk of being double fined by not only our court system. This will put these citizens in a worse off position. This will lead to more

evictions of those lower income families. Under the Chapter 610, Eviction and Termination, (610.5-3(c)), when a tenant allegedly violates an "applicable law", the owner, in this case the Nation, may terminate the contract or lease, which they now do. This means any alleged violation of any portion of this law would put a tenant in violation of their lease or contract with the Nation. Not only would the tenant face eviction, but in the same breath, double fines, and possible jail time for the violation of applicable State law. This would cause an undue burden, not only to the person committing a violation, but also hardship to the family of the individual. Depending on how each case is prosecuted, the discretion and investigation by the Oneida police department, we can see problems for the citizens of the Nation who cannot afford them. Based on past cases involving evictions, there is a lack of Due Process afforded to tenants who were only alleged to have violated an applicable law, and this law would exacerbate that issue.

### ***Response***

The commenters express concern that individuals of the Nation risk being double fined by our Court, and then risk eviction due to the economic effects of being fined for violations of the Law.

The intent of the 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]. One such way to ensure that the community standards are met by all individuals within the Reservation is to allow for citations and penalties to be issued to those individuals who violate the Law and commit a civil infraction in an effort to deter civil infractions from being committed. When an Oneida Police Officer reasonably believes that an individual violated this Law and committed a civil infraction, the Oneida Police Officer may issue that individual a citation. [3 O.C. 309.11-1]. It is not the intent of the Oneida Police Department that its officers would issue a citation under this Law and simultaneously issue a citation under the laws of another municipality or the State of Wisconsin. Upon the adoption of this Law, the Nation would be assuming jurisdiction over these issues, unless it was determined that it was better suited that jurisdiction of a specific issue remain with the State of Wisconsin, in which a citation under this Law would not be issued.

Additionally, the use of fines is not the only penalty available to the Trial Court. Upon a finding by the Trial Court that a violation of this law has occurred, the individual may be subject to fines, community service, participation in counseling or other programs, restitution, and any other penalty as deemed appropriate by the Trial Court. [3 O.C. 309.11-2(a)-(e)]. When an individual is ordered to perform community service, that community service may be used in lieu of, or in addition to, a fine issued by the Trial Court. [3 O.C. 309.11-2(b)]. The Law also recognizes that the Oneida Law Office may negotiate an alternative payment plan with an individual for the payment of fines that is approved by the Trial Court. [3 O.C. 309.11-2(a)(2)(A)]. The variety of penalties allowed under the Law will provide the Trial Court with flexibility to utilize its discretion to best address each individual who comes before the Court in an effort to ensure that the individual will not commit another civil infraction in the future.

In regard to the due process concerns about the Eviction and Termination law, although violations of this Law may trigger action under the Eviction and Termination law, the development and

discussion of this Law is separate than any discussions of the Eviction and Termination law and therefore will not be discussed in this public comment memo.

### ***LOC Consideration***

The Legislative Operating Committee determined there is no revision to the Law needed based on this comment.

### **Comment 15 – Miscellaneous:**

**Lori Elm (written):** yes, you all think I am some big gangster drug dealer, but I still don't want drugs on the reservation, even though you tossed me off. I never had a drug house nor was I a dealer, and sorry I called the cops for help, Sorry I had black eyes, and was scared for my life, but is what it is. YOU NEED A HUMANITY LAW, SAFE HOUSES AS WELL, NOT GIVING THEM ADDICTS FREE ROOMS TO MAKE THEM KNOW MORE ADDICTS. CRAZY PEOPLE TRYING TO BE CLEAN AND YOU FORCED THEM TO LIVE WITH PEOPLE USING AT HOTELS ... BUT DO WHAT YOU GOTTA DO... it still not right, but do it right then stop the favoritism and do the right thing.

### ***Response***

This comment is unrelated to the consideration of the proposed Law.

### ***LOC Consideration***

The Legislative Operating Committee determined this comment is unrelated to the consideration of the proposed Law.

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

#### **PUBLIC PEACE**

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

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

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

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

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

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

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

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

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

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

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

#### **309.3. Definitions**

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

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

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

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

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

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

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

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.

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) issue citations for violations of this law.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(a) causes bodily harm to another;

(b) threatens another with imminent bodily harm;

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

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

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

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

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

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

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

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

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

(f) intentionally subjects another to sexual harassment.

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

(a) physical abuse;

(b) emotional abuse;

(c) sexual abuse;

(d) unreasonable confinement or restraint;

(e) financial exploitation; and/or

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

*End.*

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Adopted – BC-\_\_-\_\_-\_\_-\_\_



## HANDOUT

Oneida Nation  
Oneida Business Committee  
Legislative Operating Committee  
PO Box 365 • Oneida, WI 54155-0365  
[Oneida-nsn.gov](http://Oneida-nsn.gov)

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Legislative Operating Committee  
July 21, 2021

# Oneida General Welfare Law Amendments

<b>Submission Date:</b> 12/18/18	<b>Public Meeting:</b> N/A
<b>LOC Sponsor:</b> Jennifer Webster	<b>Emergency Enacted:</b> 8/12/20, 2/10/21

**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?"

**5/5/21 LOC:** Motion by Jennifer Webster to 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?" and

forward this question to a public comment period to be held open until June 9, 2021; seconded by Marie Summers. Motion carried unanimously.

**6/9/21:** *Public Comment Period Closed.* Six (6) individuals submitted written comments during this public comment period.


**6/24/21:** *Work Meeting.* Present: David P. Jordan, Kirby Metoxen, Jennifer Webster, Marie Summers, Clorissa N. Santiago, Kristal Hill, Kristen Hooker. This was a work meeting held through Microsoft Teams. The purpose of this work meeting was to review and discuss the public comments that were received regarding the question, “*Should assistance provided by an approved program under the Oneida General Welfare law be subject to attachment or garnishment?*”

**7/7/21 LOC:** Motion by Marie Summers to accept public comments that were received for the Oneida General Welfare law amendments question, “*Should assistance provided by an approved program under the Oneida General Welfare law be subject to attachment or garnishment?*”; seconded by Daniel Guzman King. Motion carried unanimously.

**Next Steps:**

- Approve the Oneida General Welfare Law Emergency Amendments Extension packet and forward to the Oneida Business Committee for consideration.



TO: Oneida Business Committee  
FROM: David P. Jordan, LOC Chairperson   
DATE: July 28, 2021  
RE: Extension of the Oneida General Welfare Law Emergency Amendments

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Please find the following attached backup documentation for your consideration of the extension of the Oneida General Welfare Law Emergency Amendments:

1. Resolution: Extension of the Emergency Amendments to the Oneida General Welfare Law
2. Statement of Effect: Extension of the Emergency Amendments to the Oneida General Welfare Law
3. Oneida General Welfare Law

#### *Overview*

The Oneida General Welfare law (the “Law”) was adopted by the Oneida Business Committee on an emergency basis through resolution BC-08-12-20-D for the purpose of providing assistance on a non-taxable basis, to eligible Tribal members through approved programs that 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.. [10 O.C. 1001.1-1, 1001.1-3, 1001.9-2]. The emergency adoption of this Law was set to expire on February 12, 2021.

Emergency amendments to the Law were then adopted by the Oneida Business Committee through resolution BC-02-10-21-B for the purpose of addressing how an approved program would be adopted by the Oneida Business Committee in an effort to allow for more flexibility and efficiency in addressing the needs of the Nation. The emergency amendment to the Law revises the definition of approved program to allow an approved program to be adopted by the Oneida Business Committee through resolution or law of the Nation. [10 O.C. 1001.3-1(a)]. Previously, an approved program could only be adopted by the Oneida Business Committee through a law of the Nation.

The Oneida Business Committee is delegated the authority to 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].

The emergency amendment to this Law was necessary for the preservation of the general welfare of the Reservation population. The emergency amendment to this Law assisted in more efficiently addressing the economic needs of the Reservation population during the public health crisis that is the COVID-19 pandemic by allowing the Nation more flexibility in establishing and operating

approved programs that may provide assistance to Tribal members on a non-taxable basis through the adoption of a resolution in addition to the adoption of a law.

Additionally, observance of the requirements under the Legislative Procedures Act for the adoption of these emergency amendments was contrary to public interest since the Nation is currently experiencing the vast effects of the COVID-19 pandemic, and the process and requirements of the Legislative Procedures Act could not be completed in time to ensure that the Law could be amended to best assist members of the Nation during this COVID-19 pandemic through the development of approved programs which provide assistance to Tribal members.

The emergency amendments to the Law will expire on August 10, 2021. The Legislative Procedures Act allows the Oneida Business Committee to extend emergency amendments for a six (6) month time period. [*1 O.C. 109.9-5(b)*]. A six (6) month extension of the emergency amendments to the Law is being requested to provide additional time for the Legislative Operating Committee to process the adoption of permanent amendments to the Law.

The extension of the emergency amendments to the Law will become effective on August 10, 2021, when the emergency amendments as adopted through BC-02-10-21-B expire, and will remain in effect for an additional six (6) month term which will end on February 10, 2022.

**Requested Action**

Approve the Resolution: Extension of the Emergency Amendments to the Oneida General Welfare Law

# Oneida Nation

Post Office Box 365

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Oneida, WI 54155

## BC Resolution #

### Extension of the Emergency Amendments to the Oneida General Welfare 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 General Welfare law ("the Law") was adopted by the Oneida Business Committee on an emergency basis through resolution BC-08-12-20-D, and amended on an emergency basis by resolution BC-02-10-21-B; and
- WHEREAS,** the purpose of the 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 including programs designed to enhance the promotion of health, education, self-sufficiency, self-determination, and the maintenance of culture and tradition, entrepreneurship, and employment; and
- WHEREAS,** the Legislative Procedures Act authorizes the Oneida Business Committee to enact legislation on an emergency basis when legislation is necessary for the immediate preservation of the public health, safety, or general welfare of the Reservation population, and the amendment of the legislation is required sooner than would be possible under the Legislative Procedures Act; and
- WHEREAS,** the Oneida Business Committee adopted emergency amendments to the Law through resolution BC-02-10-21-B for the purpose of addressing how an approved program would be adopted by the Oneida Business Committee in an effort to allow for more flexibility and efficiency in addressing the needs of the Nation; and
- WHEREAS,** the emergency amendments to the Law revised the definition of approved program to allow an approved program to be adopted by the Oneida Business Committee through resolution or law of the Nation; and
- WHEREAS,** the Oneida Business Committee determined that the emergency adoption of these amendments to the Law were necessary for the preservation of the general welfare of the Reservation population to assist in more efficiently addressing the economic needs of the Reservation population during the public health crisis that is the COVID-19 pandemic by allowing the Nation more flexibility in establishing and operating approved programs that may provide assistance to Tribal members on a non-taxable basis through the adoption of a resolution in addition to the adoption of a law; and
- WHEREAS,** observance of the requirements under the Legislative Procedures Act for adoption of these emergency amendments was contrary to public interest; and

**WHEREAS,** emergency legislation is effective for a period of six (6) months, renewable for an additional six (6) months by the Oneida Business Committee; and

**WHEREAS,** the emergency amendments to the Law will expire on August 10, 2021; and

**WHEREAS,** a six (6) month extension of the emergency amendments is being requested to allow for the emergency amendments to remain in effect while the Legislative Operating Committee develops permanent amendments to the Law; and

**NOW THEREFORE BE IT RESOLVED,** that the emergency amendments to the Oneida General Welfare law are hereby extended for an additional six (6) month period, effective August 10, 2021, and shall expire on February 10, 2022.



## **Statement of Effect**

### *Extension of the Emergency Amendments to the Oneida General Welfare Law*

#### **Summary**

This resolution extends the emergency amendments to the Oneida General Welfare law adopted through resolution BC-02-10-21-B for an additional six (6) months in accordance with the Legislative Procedures Act.

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

*Date: July 20, 2021*

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

This resolution extends the emergency amendments to the Oneida General Welfare law (“the Law”) for an additional six (6) month term. The purpose of the 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 including programs designed to enhance the promotion of health, education, self-sufficiency, self-determination, and the maintenance of culture and tradition, entrepreneurship, and employment. [10 O.C. 1001.1-1, 1001.1-3, 1001.9-2].

Emergency amendments to the Law were adopted by the Oneida Business Committee through resolution BC-02-10-21-E for the purpose of addressing how an approved program would be adopted by the Oneida Business Committee in an effort to allow for more flexibility and efficiency in addressing the needs of the Nation. The emergency amendment to the Law revised the definition of approved program to allow an approved program to be adopted by the Oneida Business Committee through resolution or law of the Nation. [10 O.C. 1001.3-1(a)]. Previously, an approved program could only be adopted by the Oneida Business Committee through a law of the Nation.

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 Oneida Business Committee determined the emergency amendment to this Law was necessary for the preservation of the general welfare of the Reservation population. The emergency amendment to this Law assisted in more efficiently addressing the economic needs of the Reservation population during the public health crisis that is the COVID-19 pandemic by allowing the Nation more flexibility in establishing and operating approved programs that may provide assistance to Tribal members on a non-taxable basis through the adoption of a resolution in addition to the adoption of a law.

Additionally, the Oneida Business Committee determined observance of the requirements under the Legislative Procedures Act for the adoption of these emergency amendments was contrary to public interest since the Nation is currently experiencing the vast effects of the COVID-19 pandemic, and the process and requirements of the Legislative Procedures Act could not be completed in time to ensure that the Law could be amended to best assist members of the Nation during this COVID-19 pandemic through the development of approved programs which provide assistance to Tribal members.

The emergency amendments to the Law will expire on August 10, 2021. The Legislative Procedures Act allows the Oneida Business Committee to extend emergency amendments for a six (6) month time period. [1 O.C. 109.9-5(b)]. A six (6) month extension of the emergency amendments to the Law is being requested to provide additional time for the Legislative Operating Committee to process the adoption of permanent amendments to the Law.

The extension of the emergency amendments to the Law will become effective on August 10, 2021, when the emergency amendments as adopted through BC-02-10-21-B expire, and will remain in effect for an additional six (6) month term which will end on February 10, 2022.

### ***Conclusion***

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

## Title 10. General Welfare Exclusion - Chapter 1001 ONEIDA GENERAL WELFARE

1001.1. Purpose and Policy  
1001.2. Adoption, Amendment, Repeal  
1001.3. Definitions  
1001.4. Ratification of Prior Acts  
1001.5. General Welfare Doctrine and IRS Revenue Procedure  
2014-53/ Tribal General Welfare Exclusion of 2014

1001.6. Non-Recourse Designation  
1001.7. Governing Law; Sovereignty  
1001.8. Federal Trust Obligations  
1001.9. Approved Program Guidelines

### 1001.1. Purpose and Policy

1001.1-1. *Purpose.* The purpose of this law is to provide assistance to eligible Tribal members. The Nation affirms hereby its sovereign right to do so on a non-taxable basis, pursuant to the principles of the General Welfare Exclusion to Indian Tribal governmental programs that provide benefits to Tribal members.

1001.1-2. The federal government through the Tribal General Welfare Exclusion Act of 2014, codified at 26 U.S.C §139E and the Internal Revenue Service, through its traditional application of the general welfare doctrine and subsequent guidance, has recognized the sovereign right of Indian tribal governments to provide financial assistance to its Tribal members under certain circumstances on a non-taxable basis.

1001.1-3. *Policy.* It is the policy of the Nation to provide assistance to Tribal members through approved programs that promote the general welfare of the Nation. This law provides a framework for approved programs to follow to ensure compliance with the General Welfare Exclusion, 26 U.S.C. §139E, and applicable Internal Revenue Service regulations or revenue procedures including I.R.S. Rev. Proc. 2014-35. Further, it is the intent of the Oneida Business Committee that all assistance provided under this law:

(a) is available to any recipients who satisfy the program policies, subject to budgetary restraints;

(b) is made under an approved program that does not discriminate in favor of members of the Nation's governing body;

(c) is not provided as compensation for goods and/or services; and

(d) is not lavish or extravagant under the facts and circumstances, as determined by the Oneida Business Committee.

### 1001.2. Adoption, Amendment, Repeal

1001.2-1. This law was adopted by the Oneida Business Committee on an emergency basis by resolution BC-08-12-20-D, and emergency amended by resolution BC-02-10-21-B.

1001.2-2. This law may be amended or repealed by the Oneida Business Committee or the General Tribal Council pursuant to the procedures set out in the Legislative Procedures Act.

1001.2-3. 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.

1001.2-4. 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.

1001.2-5. This law is adopted under authority of the Constitution of the Oneida Nation.

### 1001.3. Definitions

1001.3-1. 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) "Approved program" means any program(s) to provide general welfare assistance that

is intended to qualify as non-taxable as a General Welfare Exclusion, administered under specific guidelines, and is adopted by the Oneida Business Committee through resolution or law of the Nation.

(b) "Assistance" means benefits or payments under an approved program, which are paid to or on behalf of a recipient pursuant to this law, provided, that such assistance shall be owed back to the Nation from the Tribal member recipient in the event the Tribal member misappropriates the assistance.

(c) "Benefits" means any approved program assistance, including payments, which is provided pursuant to this law.

(d) "General Test" means the criteria used to determine if any assistance or benefits provided through an approved program to a recipient shall be treated as a General Welfare Exclusion. The criteria of the General Test include the following:

- (1) Paid on behalf of the Nation;
- (2) Pursuant to an approved program;
- (3) Does not discriminate in favor of members of the governing body of the Nation;
- (4) Are available to any Tribal member who meets the guidelines of the approved program;
- (5) Are for the promotion of general welfare;
- (6) Are not lavish or extravagant;
- (7) Are not compensation for services; and
- (8) Are not per capita payments.

(e) "General Welfare Exclusion" means any benefits shall be treated as non-taxable under federal law so long as it satisfies the requirements for exclusion under 26 U.S.C. §139E, is provided under a Safe Harbor Program listed and detailed in I.R.S. Rev. Proc. 2014-35 or subsequent Internal Revenue Service procedures or regulations, or it meets the General Test.

(f) "General welfare need" means a need, in the sole discretion of the Oneida Business Committee, which shall be met to ensure the Nation's longevity as a self-governing Indian nation, and includes needs in the areas of health, education, self-sufficiency, self-determination, the maintenance of culture and tradition, entrepreneurship, and employment.

(g) "Lavish" or "Extravagant" shall have the meaning determined by the Oneida Business Committee in its discretion and based on the circumstances, taking into account needs unique to the Nation as well as the social purpose being served by the particular assistance at hand, except as otherwise may be required for compliance with final guidance issued under 26 U.S.C. §139E following consultation between the Nation and the federal government.

(h) "Nation" means the Oneida Nation.

(i) "Recipient" means any Tribal member entitled to receive assistance in accordance with approved program requirements.

(j) "Tribal member" means an individual who is an enrolled member of the Nation.

#### **1001.4. Ratification of Prior Acts**

1001.4-1. This law is not to be construed as creating new general welfare assistance rights which are an inherent right of Nation. Rather, this law is intended to codify existing procedures used by the Nation to administer its general welfare assistance.

1001.4-2. Assistance provided prior to the enactment of this law is hereby ratified and confirmed as general welfare assistance provided pursuant to the exercise by the Nation of its inherent tribal sovereignty.

#### **1001.5. General Welfare Doctrine and IRS Revenue Procedure 2014-53/ Tribal General Welfare Exclusion of 2014**

1001.5-1. The federal government recognizes that benefits to recipients under an approved program for the promotion of the general welfare of the Nation is excludable from the gross income of those recipients.

1001.5-2. The Internal Revenue Service, through I.R.S. Revenue Procedure 2014-35, listed and detailed examples of Safe Harbor programs under which, if approved and in writing, need would be presumed, and benefits would be excluded from gross income.

1001.5-3. Benefits authorized by this law are intended to qualify non-taxable under the principles of the General Welfare Exclusion to the fullest extent permitted at law.

1001.5-4. Assistance authorized by this law shall be limited to funds appropriated, at the discretion of the Oneida Business Committee and no matter the source of the funds. All amounts budgeted by the Nation for assistance shall remain general assets of the Nation until payments are disbursed.

1001.5-5. Benefits are not subject to information reporting by the Nation to the Internal Revenue Service.

1001.5-6. Without limitation, the following benefits shall be treated as non-taxable hereunder:

- (a) Benefits that satisfy the requirements for the exemption under 26 U.S.C. §139E;
- (b) Benefits that are provided under an IRS Safe Harbor Program listed and described in I.R.S. Rev. Proc. 2014-35; or
- (c) Benefits that qualify for exclusion under the I.R.S. General Criteria of General Welfare exclusion listed in I.R.S. Rev. Proc. 2014-35, section 5.02(1).

#### **1001.6. Non-Recourse Designation**

1001.6-1. The Nation does not guarantee benefits under this law. Benefits shall not be treated as a resource or asset of a recipient for any purpose; and no recipient shall have an interest in or right to any funds budgeted for, or set aside for, approved programs until paid. Oneida Business Committee reserves the right to cancel, adjust, modify or revoke any benefit. The approved programs shall be administered at all times to avoid triggering of the doctrines of “constructive receipt” and/or “economic benefit.”

#### **1001.7. Governing Law; Sovereignty**

1001.7-1. All the rights and liabilities associated with the enactment of this law, or the assistance made hereunder, shall be construed and enforced according to the Nation’s laws and applicable federal law. Nothing in this law or the related laws, policies, or procedures adopted for its implementation, if any, shall be construed to make applicable to the Nation any laws or regulations which are otherwise inapplicable to the Nation, or from which the Nation is entitled to exemption because of its sovereign status.

### 1001.8. Federal Trust Obligations

1001.8-1. The Nation reserves the right to provide assistance in circumstances where federal funding is insufficient to operate federal programs designed to benefit applicants and when federal funding is insufficient to adequately and consistently fulfill federal trust obligations. The Nation's adoption of its approved programs is not intended to relieve or diminish the federal government of its funding and trust responsibilities. Nothing herein shall waive the Nation's right to seek funding shortfalls or to enforce the trust rights of the Nation and its citizens. The Nation shall be entitled to government-to-government consultation and coordination with the federal government in regard to these obligations.

### 1001.9. Approved Program Guidelines

1001.9-1. *Nation Approved Programs*. The Oneida Business Committee shall designate approved programs for which funds shall be budgeted each fiscal year, consistent with the purposes of this law. Each approved program shall be consistent with the principles of the General Welfare Exclusion as to purpose, eligibility, and funding.

1001.9-2. *Purpose of Approved Programs*. Each approved program shall be limited to purposes consistent with treatment under the General Welfare Exclusion. An approved program shall be established and operated 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.

1001.9-3. *Eligibility*. Assistance intended to qualify under the General Welfare Exclusion shall be limited to Tribal members. Each approved program shall set forth the specific eligibility rules and limitations applied to that program. Programs comprising descriptions, including eligibility rules and limitations, may be presented to the Oneida Business Committee for approval in accordance with this law. Programs shall be approved by the Oneida Business Committee to be considered in force and effect and in accordance with this law.

1001.9-4. *Limited Use of Assistance Payments*. All assistance shall be used for the purpose stated in the approved program description. If assistance is used or pledged for a purpose inconsistent with the purpose set forth in an approved program the payment shall be deemed forfeited. The Nation may secure repayment from the recipient. The Nation may seek to garnish remuneration from other payments made to recipient to secure repayment of assistance under this law.

1001.9-5. *Anti-Alienation*. A Tribal member's benefit is not subject to anticipation, alienation, sale, transfer, assignment, pledge, encumbrance, attachment or garnishment by creditors of the Tribal member.

*End.*

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Emergency Adopted - BC-08-12-20-D  
 Emergency Amended – BC-02-10-21-B  
 Emergency Extended – BC-\_\_-\_\_-\_\_-\_\_

# July 2021

July 2021						
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August 2021						
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SUNDAY	MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SATURDAY
Jun 27	28	29	30	Jul 1	2	3
4	5	6	7 8:30am LOC Prep (BC_Conf_Room) - Clorissa N. Santiago 9:00am LOC Meeting (BC_Conf_Room) - LOC	8	9	10
11	12	13 9:00am 7-13-21 EHN Covid 19 Update (Microsoft Teams) 1:30pm LOC Work Session (Microsoft Teams)	14	15	16	17
18	19	20	21 8:30am LOC Prep (BC_Conf_Room) - Clorissa 9:00am LOC Meeting (BC_Conf_Room) 2:30pm Public Peace Law:	22	23	24
25	26	27	28	29 1:30pm LOC Work Session (Microsoft Teams Meeting) - Clorissa N. Santiago	30	31