



LEGISLATIVE OPERATING COMMITTEE MEETING AGENDA

Business Committee Conference Room - 2nd Floor Norbert Hill Center

September 1, 2021

9:00 a.m.

This Legislative Operating Committee meeting will be closed to the public in accordance with Oneida Business Committee resolution BC-08-03-21-A, *Setting Public Gathering Guidelines During Public Health State of Emergency - COVID-19*.

I. Call to Order and Approval of the Agenda

II. Minutes to be Approved

1. August 18, 2021 LOC Meeting Minutes (pg. 2)

III. Current Business

1. Public Peace Law (pg. 4)
2. Oneida General Welfare Law Amendments (pg. 55)

IV. New Submissions

1. Disability Find Policy Amendments (pg. 68)

V. Additions

VI. Administrative Updates

1. Certification of Leasing Law Rule No. 5 – Tribal Housing Reacquisition of Individual Fee and Trust Title (THRIFTT) (pg. 69)
2. Certification of amendments to Leasing Law Rule No. 6 – Homeownership by Independent Purchase Program (HIPP) (pg. 111)

VII. Executive Session

VIII. Recess/Adjourn



LEGISLATIVE OPERATING COMMITTEE MEETING MINUTES
Oneida Business Committee Conference Room-2nd Floor Norbert Hill Center
August 18, 2021
9:00 a.m.

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

Excused: Jennifer Webster

Others Present: Clorissa N. Santiago, Kristen Hooker, Lawrence Barton, Shannon Davis, Justin Nishimoto (Microsoft Teams), Eric Boulanger (Microsoft Teams), Geraldine Danforth (Microsoft Teams), Nic Reynolds (Microsoft Teams), Kristal Hill (Microsoft Teams), Rhiannon Metoxen (Microsoft Teams), Lorna Skenandore (Microsoft Teams), Wendy Alvarez (Microsoft Teams)

I. Call to Order and Approval of the Agenda

David P. Jordan called the August 18, 2021, Legislative Operating Committee meeting to order at 9:00 a.m.

Motion by Marie Summers to adopt the agenda as is; seconded by Kirby Metoxen. Motion carried unanimously.

II. Minutes to be Approved

1. August 4, 2021 LOC Meeting Minutes

Motion by Marie Summers to approve the minutes of August 4, 2021 and forward to the Oneida Business Committee; seconded by Kirby Metoxen. Motion carried.

III. Current Business

1. Furlough Law Amendments

Motion by Kirby Metoxen to approve the draft amendments to the Furlough law and legislative analysis and defer to a work meeting; seconded by Daniel Guzman King. Motion carried unanimously.

2. Local Land Use Regulation Reimbursement Policy Repeal

Motion by Kirby Metoxen to approve the Local Land Use Regulation Reimbursement Policy Repeal legislative analysis and public meeting notice, and tentatively schedule a public meeting for the repeal of the Local Land Use Regulation Reimbursement Policy to be held on September 9, 2021; seconded by Marie Summers. Daniel Guzman King abstained. Motion carried.

IV. New Submissions

1. Fire Signs Law

Motion by Marie Summers to add the Fire Signs law to the Active Files List with David Jordan as the sponsor; seconded by Kirby Metoxen. Motion carried unanimously.



2. Personnel Policies and Procedures Amendments – Revision of HRD Manager Title

Motion by Marie Summers to accept the information provided in the request as FYI; seconded by Kirby Metoxen. Motion carried unanimously.

3. Workplace Violence Law Amendments

Motion by Kirby Metoxen to accept the information provided in the request as FYI; seconded by Marie Summers. Motion carried unanimously.

4. Personnel Policies and Procedures Amendments – Selection Policy

Motion by Marie Summers to accept for emergency LOC process with Marie Summers as the sponsor; seconded by Kirby Metoxen. Motion carried unanimously.

V. Additions

VI. Administrative Items

1. Legislative Operating Committee FY21 Third Quarter Report

Motion by Marie Summers to approve the LOC FY21 Third Quarter Report and forward to the Oneida Business Committee; seconded by Daniel Guzman King. Motion carried unanimously.

VII. Executive Session

VIII. Adjourn

Motion by Daniel Guzman King to adjourn at 9:35 a.m.; seconded by Marie Summers. Motion carried unanimously.



Legislative Operating Committee
September 1, 2021

Public Peace Law

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

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

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

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

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

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

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

- 3/17/21:** *Work Meeting.* Present: David P. Jordan, Kirby Metoxen, Jennifer Webster, Daniel Guzman King, Clorissa N. Santiago, Eric Boulanger, Joel Maxam, Renita Hernandez, Brandon Yellowbird Stevens, Kelly McAndrews, Krystal John, Michelle Hill, Kristal Hill, Rhiannon Metoxen. This was a work meeting held through Microsoft Teams. The purpose of this work meeting was to review and discuss the first draft of the Public Peace law with the larger work team.
- 4/7/21:** *Work Meeting.* Present: David P. Jordan, Kirby Metoxen, Jennifer Webster, Daniel Guzman King, Marie Summers Clorissa N. Santiago, Eric Boulanger, Joel Maxam, Renita Hernandez, Leslie Doxtator, Brandon Yellowbird Stevens, Kelly McAndrews, Michelle Hill, Kristal Hill, Rhiannon Metoxen. This was a work meeting held through Microsoft Teams. The purpose of this work meeting was to review and discuss the updated draft of the Public Peace law with the larger work team so that the law can move forward for a legislative analysis to be completed.
- 4/21/21 LOC:** Motion by Daniel Guzman King to approve the Public Peace law draft and legislative analysis; seconded by Kirby Metoxen. Motion carried unanimously.
- 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.
- 7/21/21:** *Work Meeting.* Present: David P. Jordan, Marie Summers, Jennifer Webster, Clorissa N. Santiago, Eric Boulanger, Joel Maxam, Kelly McAndrews, Kristal Hill, Rhiannon Metoxen. This was a work meeting held through Microsoft Teams. The purpose of this work meeting was to continue developing the Public Peace Law Citation Schedule resolution by discussing and determining the specific fine amounts for each civil infraction contained in the law

7/29/21: *Work Meeting.* Present: Clorissa N. Santiago, James Bittorf. This was a work meeting held through Microsoft Teams. The purpose of this work meeting was to discuss a definition for “public property” to be included in the Law.

8/4/21 LOC: Motion by Jennifer Webster to approve the draft of the Public Peace law and the fiscal impact statement request memorandum and forward to the Finance Department directing that a fiscal impact statement be prepared and submitted to the LOC by August 18, 2021; seconded by Kirby Metoxen. Motion carried unanimously.

8/17/21: *Fiscal Impact Statement.* The fiscal impact statement was received from the Finance Administration and had an indeterminate conclusion.

8/18/21: *Work Meeting.* Present: David P. Jordan, Marie Summers, Kirby Metoxen, Daniel Guzman King, Clorissa N. Santiago, Kristen Hooker, Rhiannon Metoxen. This was a work meeting held through Microsoft Teams. The purpose of this work meeting was to consider how to handle comments that recently came from the Division Director of the Public Works Division (which includes the Comprehensive Housing Division) and the Oneida Law Office attorney assigned to the Comprehensive Housing Division. Attorney will update the draft based on the LOC’s decisions and prepare an adoption packet for the next LOC meeting.

8/26/21: *Work Meeting.* Present: David P. Jordan, Marie Summers, Jennifer Webster, Daniel Guzman King, Clorissa N. Santiago, Carmen Vanlanen, Kristal Hill, Rhiannon Metoxen. This was a work meeting held through Microsoft Teams. The purpose of this work meeting was to review the final draft of the Public Peace Law Citations Schedule resolution.

Next Steps:

- Approve the Public Peace law adoption packet, with updated materials, and forward to the Oneida Business Committee for consideration.
- Approve the “Public Peace Law Citations Schedule Resolution” and statement of effect and forward to the Oneida Business Committee for consideration.

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 or General Tribal Council pursuant to the procedures set out in the Legislative Procedures Act.

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

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

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

309.3. Definitions

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(o) “Nation” means the Oneida Nation.

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

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

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

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

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

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

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

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

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

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

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

(aa) "Tribal property" means all land owned in fee by the Nation or held in trust by the United States for the benefit of the Nation, excluding leased parcels and parcels under a right of way.

(bb) "Venerated object" means any object of worship, devotion, reverence, tradition, or adoration regarded with great respect.

(cc) "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; or
- (d) alters, defaces, or damages in any way property owned by the Nation.

309.5-2. *Reckless Damage or Destruction.* A person commits the civil infraction of reckless damage or destruction if without the consent of the owner he or she recklessly damages or destroys the property of the owner.

309.5-3. *Trespass.* A person commits the civil infraction of trespass if he or she:

- (a) enters or remains on private property or Tribal property without consent and he or she:
 - (1) had notice that the entry was forbidden; or
 - (2) received notice or order to depart but failed to do so.
- (b) *Notice.* Notice or an order to depart may be given by:
 - (1) written or verbal communication given to the intruder by an Oneida Police Department officer, the owner of the property, or a person authorized to act on behalf of the owner;
 - (2) written notice posted on or about the property in a manner reasonably likely to come to the attention of potential intruders; or
 - (3) fences, barricades, or other devices manifestly designed to enclose the property and to exclude potential intruders.

309.5-4. *Theft.* A person commits the civil infraction of theft if he or she:

- (a) obtains, exercises control over, or conceals anything of value of another without the consent of the owner; or
- (b) having lawfully obtained possession for temporary use of the property, deliberately and without consent, fails to return or reveal the whereabouts of said property to the owner, his or her representative or the person from which he or she has received it with the intent to permanently deprive the owner of its use and benefit.

309.5-5. *Retail Theft.* A person commits the civil infraction of retail theft if he or she without the merchant's consent and with intent to deprive the merchant permanently of possession or the full purchase price of the merchandise or property:

- (a) intentionally alters indicia of price or value of merchandise held for resale by a merchant or property of a merchant;
- (b) intentionally takes and carries away merchandise held for resale by a merchant or property of a merchant;
- (c) intentionally transfers merchandise held for resale by a merchant or property of a merchant;
- (d) intentionally conceals merchandise held for resale by a merchant or property of a merchant;
- (e) intentionally retains possession of merchandise held for resale by a merchant or property of a merchant;
- (f) while anywhere in the merchant's premises, intentionally removes a theft detection device from merchandise held for resale by a merchant or property of a merchant;
- (g) uses, or possesses with intent to use, a theft detection shielding device to shield merchandise held for resale by a merchant or property of merchant from being detected by an electronic or magnetic theft alarm sensor; or

(h) uses, or possesses with intent to use, a theft detection device remover to remove a theft detection device from merchandise held for resale by a merchant or property of a merchant.

309.5-6. *Loitering*. A person commits the civil infraction of loitering if he or she loiters or prowls in a place, at a time, or in a manner not usual for law-abiding individuals under circumstances that warrant alarm for the safety of persons or property in the vicinity.

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

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

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

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

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

309.6. Civil Infractions Against the Peace

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

- (a) fights with another person within the boundaries of the Reservation;
- (b) discharges a firearm or air gun that is 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 Tribal property in an obviously offensive manner;
- (e) lies or sleeps on any street, alley or sidewalk, or in any other Tribal property, or upon private property that he or she has no right to occupy; or
- (f) uses abusive, indecent, profane, or vulgar language in Tribal property, 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 Tribal property, 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 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; 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; 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 Tribal property upon being requested to do so by any official charged with maintaining order in such Tribal property;
- (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 Tribal property;
- (d) at or in any Tribal property 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; or
- (e) at any meeting or session conducted by any official of the Nation, held in any Tribal property; 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; 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 or prohibited drugs on Tribal property 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; 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 Tribal property.

309.10-2. *Unsightly 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 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 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, 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 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 or other Programs.* An individual may be ordered to participate in counseling 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.


(1) The Trial Court shall determine an appropriate amount of restitution to be paid for the theft or damage of any venerated object, which may be higher than the monetary value of the venerated object due to its venerated status.

(e) Any other penalty as deemed appropriate by the Trial Court.

End.

Adopted – BC-__-__-__



TO: Oneida Business Committee
FROM: David P. Jordan, LOC Chairperson 
DATE: September 8, 2021
RE: Adoption of the Public Peace Law

Please find the following attached backup documentation for your consideration of the adoption of the Public Peace law:

1. Resolution: Adoption of the Public Peace Law
2. Statement of Effect: Adoption of the Public Peace Law
3. Public Peace Law Legislative Analysis
4. Public Peace Law
5. Public Peace Law Fiscal Impact Statement

Overview

On October 7, 2020, the Legislative Operating Committee added the Public Peace law to its Active Files List. The Public Peace law had been carried over from the last two (2) Legislative Operating Committee terms, with it originally added to the Active Files List in December 2016. The purpose of the Public Peace 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. *[1 O.C. 309.1-1]*.

This resolution adopts the Public Peace law which will:

- Delegate jurisdiction to the Trial Court for any action brought under this law *[3 O.C. 309.4-1]*;
- Delegate authority to the Oneida Police Department to investigate complaints involving civil infractions under this law and issue citations for violations of this law *[3 O.C. 309.4-3]*;
- Prohibit a person from committing a civil infraction under this law *[3 O.C. 309.4-4]*;
- Provide the various civil infractions including:
 - Civil infractions against property *[3 O.C. 309.5]*;
 - Civil infractions against the peace *[3 O.C. 309.6]*;
 - Civil infractions against government *[3 O.C. 309.7]*;
 - Civil infractions against the person *[3 O.C. 309.8]*;
 - Civil infractions involving alcohol, tobacco, and drugs *[3 O.C. 309.9]*; and
 - Civil Infractions affecting health and safety *[3 O.C. 309.10]*;
- Provide that a citation for a violation of this law shall be processed in accordance with the procedure contained in the Nation's laws and policies governing citations *[3 O.C. 309.11-1(b)]*;
- Require that an Oneida Police Department officer provide notice to the Oneida Law Office attorney assigned to the Comprehensive Housing Division of any citation issued to an

individual located at a property rented or leased through the Comprehensive Housing Division [3 O.C. 309.11-1(c)]; and

- Provide various penalties to be utilized by the Trial Court upon a finding that a violation of this law has occurred, including:
 - Fines [3 O.C. 309.11-2(a)];
 - Community service [3 O.C. 309.11-2(b)];
 - Counseling and/or other programs [3 O.C. 309.11-2(c)];
 - Restitution [3 O.C. 309.11-2(d)]; and/or
 - Any other penalty as deemed appropriate by the Trial Court [3 O.C. 309.11-2(e)].

The Legislative Operating Committee developed the Public Peace law through collaboration with representatives from the Oneida Business Committee, Oneida Law Office, Oneida Police Department, Strategic Planner, Tribal Action Plan (TAP), and the Comprehensive Housing Division. The Legislative Operating Committee held twelve (12) work meetings on the development of this law.

A public meeting, in accordance with the Legislative Procedures Act, was not held for the proposed Public Peace law due to the COVID-19 pandemic. On March 12, 2020, Chairman Tehassi Hill signed a “*Declaration of Public Health State of Emergency*” regarding the COVID-19 pandemic which declared a Public Health State of Emergency for the Nation until April 12, 2020, and set into place the necessary authority for action to be taken and allows the Nation to seek reimbursement of emergency management actions that may result in unexpected expenses. The Public Health State of Emergency has since been extended until September 26, 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, BC-06-23-21-B, and BC-07-28-21-N.

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 no public meeting for the proposed Public Peace law was held in person, the public comment period was still held open until June 9, 2021, for the submission of written comments. Six (6) individuals submitted written comments during the public comment period. All public comments received were reviewed and considered by the Legislative Operating Committee on July 7, 2021, and July 13, 2021.

Requested Action

Adopt the Resolution: Adoption of the Public Peace Law

Oneida Nation

Post Office Box 365

Phone: (920)869-2214



Oneida, WI 54155

BC Resolution # _____ Adoption of the Public Peace 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 purpose of the Public Peace law ("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; and
- WHEREAS,** the Law delegates jurisdiction to the Trial Court for any action brought under this Law; and
- WHEREAS,** the Law delegates authority to the Oneida Police Department to investigate complaints involving civil infractions under this Law and issue citations for violations of this Law; and
- WHEREAS,** the Law prohibits a person from committing a civil infraction under this Law; and
- WHEREAS,** the Law provides the various civil infractions including:
- Civil infractions against property;
 - Civil infractions against the peace;
 - Civil infractions against government;
 - Civil infractions against the person;
 - Civil infractions involving alcohol, tobacco, and drugs;
 - Civil Infractions affecting health and safety; and
- WHEREAS,** the Law provides that a citation for a violation of this Law shall be processed in accordance with the procedure contained in the Nation's laws and policies governing citations, which is currently the Citations law; and
- WHEREAS,** the Law requires that an Oneida Police Department officer provide notice to the Oneida Law Office attorney assigned to the Comprehensive Housing Division of any citation issued to an individual located at a property rented or leased through the Comprehensive Housing Division; and
- WHEREAS,** the Law provides the various penalties to be utilized by the Trial Court upon a finding that a violation of this Law has occurred, including fines, community service, participation in counseling and/or other programs, restitution, and/or any other penalty as deemed appropriate by the Trial Court; and

43
44 **WHEREAS,** in accordance with the Legislative Procedures Act a legislative analysis and fiscal impact
45 statement were developed for this Law; and
46

47 **WHEREAS,** a public meeting on this proposed Law was not held in accordance with the Legislative
48 Procedures Act due to the COVID-19 pandemic; and
49

50 **WHEREAS,** on March 12, 2020, Chairman Tehassi Hill signed a "*Declaration of Public Health State of*
51 *Emergency*" regarding COVID-19 which declared a Public Health State of Emergency for
52 the Nation until April 12, 2020, which was then subsequently extended through September
53 26, 2021, by the Oneida Business Committee through the adoption of resolutions BC-03-
54 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-
55 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-
56 03-10-21-D, BC-05-12-21-A, BC-06-23-21-B, and BC-07-28-21-N; and
57

58 **WHEREAS,** on March 27, 2020, the Nation's COVID-19 Core Decision Making Team issued a
59 "*Suspension of Public Meetings under the Legislative Procedures Act*" declaration which
60 suspended the Legislative Procedures Act's requirement to hold a public meeting during
61 the public comment period for the duration of the Public Health State of Emergency, but
62 allows members of the community to still participate in the legislative process by submitting
63 written comments, questions, data, or input on proposed legislation to the Legislative
64 Operating Committee via e-mail during the public comment period; and
65

66 **WHEREAS,** although a public meeting was not held for this proposed Law, the public comment period
67 for this Law was held open until June 9, 2021, and six (6) individuals submitted written
68 comments during the public comment period; and
69

70 **WHEREAS,** the Legislative Operating Committee accepted, reviewed, and considered all public
71 comments received on July 7, 2021, and July 13, 2021; and
72

73 **NOW THEREFORE BE IT RESOLVED,** that the Public Peace law is hereby adopted and shall become
74 effective on September 22, 2021.
75



Statement of Effect
Adoption of the Public Peace Law

Summary

This resolution adopts the Public Peace law.

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

Date: August 27, 2021

Analysis by the Legislative Reference Office

This resolution adopts the Public Peace law. The purpose of the Public Peace 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. [1 O.C. 309.1-1].

This resolution adopts the Public Peace law which will:

- Delegate jurisdiction to the Trial Court for any action brought under this law [3 O.C. 309.4-1];
- Delegate authority to the Oneida Police Department to investigate complaints involving civil infractions under this law and issue citations for violations of this law [3 O.C. 309.4-3];
- Prohibit a person from committing a civil infraction under this law [3 O.C. 309.4-4];
- Provide the various civil infractions including:
 - Civil infractions against property [3 O.C. 309.5];
 - Civil infractions against the peace [3 O.C. 309.6];
 - Civil infractions against government [3 O.C. 309.7];
 - Civil infractions against the person [3 O.C. 309.8];
 - Civil infractions involving alcohol, tobacco, and drugs [3 O.C. 309.9]; and
 - Civil Infractions affecting health and safety [3 O.C. 309.10];
- Provide that a citation for a violation of this law shall be processed in accordance with the procedure contained in the Nation's laws and policies governing citations [3 O.C. 309.11-1(b)];
- Require that an Oneida Police Department officer provide notice to the Oneida Law Office attorney assigned to the Comprehensive Housing Division of any citation issued to an individual located at a property rented or leased through the Comprehensive Housing Division [3 O.C. 309.11-1(c)]; and
- Provide various penalties to be utilized by the Trial Court upon a finding that a violation of this law has occurred, including:
 - Fines [3 O.C. 309.11-2(a)];
 - Community service [3 O.C. 309.11-2(b)];
 - Counseling and/or other programs [3 O.C. 309.11-2(c)];
 - Restitution [3 O.C. 309.11-2(d)]; and/or

- Any other penalty as deemed appropriate by the Trial Court [3 O.C. 309.11-2(e)].

The Legislative Procedures Act (“the LPA”) was adopted by the General Tribal Council for the purpose of providing a process for the adoption or amendment of laws of the Nation. [1 O.C. 109.1-1]. The LPA requires that for all proposed legislation both a legislative and fiscal analysis be developed. [1 O.C. 109.6 and 109.7]. The proposed Public Peace law complies with these requirements.

The LPA also requires that there be an opportunity for public review during a public meeting and public comment period. [1 O.C. 109.8]. A public meeting for the proposed Public Peace law was not held due to the COVID-19 pandemic. In accordance with the Emergency Management and Homeland Security law, 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. [3 O.C. 302.8-1]. The Public Health State of Emergency for the Nation has since been extended until September 26, 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, BC-06-23-21-B, and BC-07-28-21-N.

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

Although a public meeting for the proposed Public Peace law was not held, the public comment period was still held open until June 9, 2021. The Legislative Operating Committee reviewed and considered the public comments that were received on July 7, 2021, and July 13, 2021.

Adoption of this resolution complies with the process and procedures of the LPA as it has been modified by the COVID-19 Team’s “*Suspension of Public Meetings under the Legislative Procedures Act*” declaration.

This resolution provides that the Public Peace law would become effective on September 22, 2021, in accordance with the LPA. [1 O.C. 109.9-3].

Conclusion

Adoption of this resolution would not conflict with any of the Nation’s laws, as it complies with the Legislative Procedures Act as it has been modified by the COVID-19 Core Decision Making Team’s “*Suspension of Public Meetings under the Legislative Procedures Act*” declaration.



PUBLIC PEACE LAW LEGISLATIVE ANALYSIS

SECTION 1. EXECUTIVE SUMMARY

<i>Analysis by the Legislative Reference Office</i>	
Intent of the Proposed Law	<ul style="list-style-type: none"> ▪ Delegate jurisdiction to the Trial Court for any action brought under this law [3 O.C. 309.4-1]; ▪ Delegate authority to the Oneida Police Department to investigate complaints involving civil infractions under this law and issue citations for violations of this law [3 O.C. 309.4-3]; ▪ Prohibit a person from committing a civil infraction under this law [3 O.C. 309.4-4]; ▪ Provide the various civil infractions including: <ul style="list-style-type: none"> ▪ Civil infractions against property [3 O.C. 309.5]; ▪ Civil infractions against the peace [3 O.C. 309.6]; ▪ Civil infractions against government [3 O.C. 309.7]; ▪ Civil infractions against the person [3 O.C. 309.8]; ▪ Civil infractions involving alcohol, tobacco, and drugs [3 O.C. 309.9]; and ▪ Civil Infractions affecting health and safety [3 O.C. 309.10]; ▪ Provide that a citation for a violation of this law shall be processed in accordance with the procedure contained in the Nation's laws and policies governing citations [3 O.C. 309.11-1(b)]; ▪ Require that an Oneida Police Department officer provide notice to the Oneida Law Office attorney assigned to the Comprehensive Housing Division of any citation issued to an individual located at a property rented or leased through the Comprehensive Housing Division [3 O.C. 309.11-1(c)]; and ▪ Provide various penalties to be utilized by the Trial Court upon a finding that a violation of this law has occurred, including: <ul style="list-style-type: none"> ▪ Fines [3 O.C. 309.11-2(a)]; ▪ Community service [3 O.C. 309.11-2(b)]; ▪ Counseling and/or other programs [3 O.C. 309.11-2(c)]; ▪ Restitution [3 O.C. 309.11-2(d)]; and/or ▪ Any other penalty as deemed appropriate by the Trial Court [3 O.C. 309.11-2(e)].
Purpose	To set forth community standards and expectations which preserve the peace, harmony, safety, health, and general welfare of individuals who live within the boundaries of the Reservation. [1 O.C. 309.1-1].
Affected Entities	Oneida Nation Judiciary, Oneida Police Department, Oneida Law Office, Comprehensive Housing Division.
Related Legislation	Citations law, Per Capita law, Garnishment law, Eviction and Termination law, Leasing law.
Public Meeting	A public comment period was held open until June 9, 2021. A public meeting was not held in accordance with the Nation's COVID-19 Core Decision Making Team's declaration titled, "Suspension of Public Meetings under the Legislative Procedures Act."
Fiscal Impact	A fiscal impact statement was provided by the Finance Department on August 17, 2021.

SECTION 2. LEGISLATIVE DEVELOPMENT

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

SECTION 3. CONSULTATION AND OUTREACH

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

- C. The following laws and ordinances from other States, municipalities, and Tribes were reviewed in the drafting of this Law and analysis:
- Ysleta del Sur Pueblo Peace Code;
 - Stockbridge-Munsee Public Peace and Good Order Ordinance;
 - Saginaw Chippewa Public Nuisance Order;
 - Rincon Band of Luiseno Mission Indians Peace and Security Ordinance;
 - Ho-Chunk Nation Public Nuisance Act;
 - Village of Hobart Peace and Good Order Law;
 - Green Bay Public Peace and Good Order Ordinance;
 - Green Bay Public Nuisance Ordinance;
 - Brown County Offenses Against Public Peace and Safety; and
 - Relevant State of Wisconsin statutes.
- D. ***COVID-19 Pandemic's Effect on the Legislative Process.*** The world is currently facing a pandemic of COVID-19. The COVID-19 outbreak originated in Wuhan, China and has spread to many other countries throughout the world, including the United States. The COVID-19 pandemic has resulted in high rates of infection and mortality, as well as vast economic impacts including effects on the stock market and the closing of all non-essential businesses. A public meeting for this proposed Law will not be held due to the COVID-19 pandemic, but a public comment period for the submission of written comments will be held open until June 9, 2021.
- *Declaration of a Public Health State of Emergency.*
 - On March 12, 2020, Chairman Tehassi Hill signed a “*Declaration of Public Health State of Emergency*” regarding the COVID-19 pandemic which declared a Public Health State of Emergency for the Nation until April 12, 2020, and set into place the necessary authority for action to be taken and allows the Nation to seek reimbursement of emergency management actions that may result in unexpected expenses.
 - The Public Health State of Emergency has since been extended until September 26, 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, BC-06-23-21-B, and BC-07-28-21-N.
 - *COVID-19 Core Decision Making Team Declaration: Suspension of Public Meetings under the Legislative Procedures Act.*
 - On March 27, 2020, the Nation’s COVID-19 Core Decision Making Team issued a “*Suspension of Public Meetings under the Legislative Procedures Act*” declaration which suspended the Legislative Procedures Act's requirement to hold a public meeting during the public comment period, but allows members of the community to still participate in the legislative process by submitting written comments, questions, data, or input on proposed legislation to the Legislative Operating Committee via e-mail during the public comment period.
 - Although a public meeting was not held on the proposed Law, a public comment period was still held open until June 9, 2021, in accordance with the Legislative Procedures Act and the COVID-19 Core Decision Making Team’s “*Suspension of Public Meetings under the Legislative Procedures Act*” declaration.

SECTION 4. PROCESS

- A. This Law has followed the process set forth in the Legislative Procedures Act (LPA).
- On October 7, 2020, the Legislative Operating Committee added the Public Peace law to its Active Files List.
 - On April 21, 2021, the Legislative Operating Committee approved the draft and legislative analysis for this Law.
 - On May 5, 2021, the Legislative Operating Committee scheduled a public comment period to be held for this proposed Law.
 - The public comment period for this proposed Law was held open until June 9, 2021.
 - On July 7, 2021, the Legislative Operating Committee accepted the public comments that were received for this legislative item and deferred this item to a work meeting for consideration.
 - On July 7, 2021 and July 13, 2021, the Legislative Operating Committee reviewed and considered the public comments that were received.
 - On August 4, 2021, the Legislative Operating Committee approved the final draft of the proposed Law and directed the Finance Department to complete a fiscal impact statement.
 - On August 17, 2021, the fiscal impact statement was received from the Finance Department.
- B. At the time this legislative analysis was developed the following work meetings had been held regarding the development of this Law:
- December 16, 2020: LOC work meeting held with representatives from the Oneida Police Department, TAP, Comprehensive Housing Division, and Oneida Business Committee.
 - January 15, 2021: LOC work meeting held with representatives from the Oneida Police Department, TAP, Comprehensive Housing Division, Oneida Law Office, Oneida Business Committee, and Strategic Planner.
 - January 28, 2021: LOC work meeting.
 - February 11, 2021: LOC work meeting.
 - March 17, 2021: LOC work meeting held with representatives from the Oneida Police Department, TAP, Comprehensive Housing Division, Oneida Law Office, and Oneida Business Committee.
 - April 7, 2021: LOC work meeting held with representatives from the Oneida Police Department, TAP, Comprehensive Housing Division, Oneida Law Office, and Oneida Business Committee.
 - July 7, 2021: LOC work meeting.
 - July 7, 2021: LOC work meeting held with representatives from the Oneida Police Department.
 - July 13, 2021: LOC work meeting.
 - July 21, 2021: LOC work meeting held with representatives from the Oneida Police Department and Oneida Law Office.
 - July 29, 2021: Work meeting with the Oneida Law Office.
 - August 18, 2021: LOC work meeting.

SECTION 5. CONTENTS OF THE LEGISLATION

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

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

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

- *Civil Infractions Against Property [3 O.C. 309.5].*
 - Damage to Property;
 - Reckless Damage or Destruction;
 - Trespass;
 - Theft;
 - Retail Theft;
 - Loitering;
 - Fraud; and
 - Negligent Handling of Burning Material.
- *Civil Infractions Against the Peace [3 O.C. 309.6].*
 - Disorderly Conduct;
 - Carrying a Prohibited Weapon;
 - Gang Related Activity;
 - Throwing or Shooting Projectiles;
 - Obstructing Streets and Sidewalks;
 - Nuisance;
 - Maintaining a Chronic Nuisance House; and
 - Interfering with Lawful Arrest or Resisting Arrest.
- *Civil Infractions Against Government [3 O.C. 309.7].*
 - Disrupting a Meeting or Government Function;
 - Breach of Confidentiality; and
 - Threatening an Official.
- *Civil Infractions Against the Person [3 O.C. 309.8].*
 - Assault;
 - Harassment;
 - Abuse of Individuals at Risk; and
 - Truancy.
- *Civil Infractions Involving Alcohol, Tobacco, and Drugs [3 O.C. 309.9].*
 - Public Intoxication;
 - Unauthorized Alcohol Beverage;
 - Underage Possession of Alcohol;
 - Furnishing Alcohol Beverages to Minors;
 - Underage Possession of Tobacco;
 - Furnishing Tobacco to Minors;
 - Misrepresentation of Identification Card;
 - Possession of Prohibited Drugs;

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

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

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

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

theft or damage of any venerated object, which may be higher than the monetary value of the venerated object due to its venerated status. [3 O.C. 309.11-2(d)(1)].

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

E. ***Interaction with the Comprehensive Housing Division.*** An Oneida Police Department officer is required to provide notice of a citation to the Oneida Law Office attorney assigned to the Comprehensive Housing Division if the citation was issued to an individual located at a property rented or leased through the Comprehensive Housing Division. [3 O.C. 309.11-1(c)]. Any information or reports shared by the Oneida Police Department officer with the Oneida Law Office attorney shall remain confidential as agreed upon between the Oneida Law Office and the Oneida Police Department Chief of Police. *Id.* The purpose of this provision is to promote communication between the Oneida Police Department and the Comprehensive Housing Division, and recognize that the Comprehensive Housing Division has its own enforcement mechanisms, that although separate from the process and procedures contained in this Law, may be triggered when an individual who they hold a lease or rental agreement with violates this Law and receives a citation.

SECTION 6. EXISTING LEGISLATION

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

- *Citations law.* The Citations law provides a consistent process for handling citations of the Nation in order to ensure equal and fair treatment to all persons who come before the Judiciary to have their citations resolved. [8 O.C. 807.1-2]. The Citations law provides how a citation action is started – such as who has the authority to issue a citation, the requirements of the form of the citation, and how a citation is served and filed; stipulations for the settlement of a citation; and the citation hearing procedures. [8 O.C. 807].
 - This Law provides that a citation for a violation of this Law shall be processed in accordance with the procedure contained in the Nation’s laws and policies governing citations. [3 O.C. 302.10-2]. The Citations law is the Nation’s law governing citations.
 - Any citations issued by the Oneida Police Department for a violation of this Law must comply with the requirements and procedures of the Citations law. [3 O.C. 309.11-1(b)].
- *Garnishment Law.* The Garnishment law allows the Nation to exercise its authority to provide an effective mechanism for creditors to access an employee’s income for reduction of personal debt. [2 O.C. 204.1-1]. Garnishment of an individual’s income to collect debt owed to an entity of the Nation is allowed under the Garnishment law. [2 O.C. 204.6].
 - If an individual is ordered to pay a fine in accordance with this Law and does not pay according to the deadline, the Trial Court may seek to collect that fine through the Nation’s garnishment process. [3 O.C. 309.11-2(a)(3)].
- *Per Capita Law.* The Per Capita law specifies the procedure to be followed in the event that per capita payments are distributed by the Nation and states the responsibilities of the various Oneida entities in the distribution or maintenance of any such per capita payments. [1 O.C. 123.1-1]. The Per Capita law allows per capita payments to be subject to attachment prior to distribution for debt owed to an Oneida entity. [1 O.C. 123.4-9, 123.4-9(a)(2)].

- 263 ▪ If an individual is ordered to pay a fine in accordance with this Law and does not pay
264 according to the deadline, the Trial Court may seek to collect that fine through the
265 Nation's per capita attachment process. [3 O.C. 309.11-2(a)(3)].
- 266 ▪ *Leasing Law.* The Leasing law sets out the Nation's authority to issue, review, approve and enforce
267 leases. [6 O.C. 602.1-1]. The Leasing law delegates all powers necessary and proper to the
268 Comprehensive Housing Division to enforce the lease terms, the Leasing law and any rules
269 developed pursuant to the Leasing law. [6 O.C. 602.11-1]. If a lessee or other party causes or
270 threatens to cause immediate and significant harm to the premises, or undertakes criminal activity
271 thereon, the Comprehensive Housing Division may take appropriate emergency action, which may
272 include cancelling the lease and/or securing judicial relief. [6 O.C. 602.11-2].
- 273 ▪ If an individual commits a civil infraction under this Law, his or her violations of this
274 Law may be used as a basis of lease enforcement action by the Comprehensive Housing
275 Division.
- 276 ▪ *Eviction and Termination Law.* The Eviction and Termination law provides consistent procedures
277 relating to the Nation's rental and leasing programs for terminating a contract and/or evicting an
278 occupant which affords the applicant due process and protects all parties involved. [6 O.C. 610.1-
279 1]. The Eviction and Termination law provides that an owner may terminate the contract prior to
280 the contract term and evict the occupant if the occupant is alleged to have violated any applicable
281 law or rule of the Nation, or is alleged to have committed one or more nuisance activities. [6 O.C.
282 610.5-1(b)-(c)].
- 283 ▪ If an individual commits a civil infraction under this Law, his or her violations of this
284 Law may be used as a basis of eviction or termination of a contract action by the
285 Comprehensive Housing Division.
- 286 ▪ *Zoning and Shoreland Protection Law.* One purpose of the Zoning and Shoreland Protection
287 law is to prevent persons from using or maintaining their property in any manner which
288 endangers the public's health, safety or welfare; limits the use or enjoyment of neighboring
289 property; or causes or tends to cause diminution of the value of the property of others in the
290 area in which such property is located. [6 O.C. 605.6-12]. The Zoning and Shoreland Protection
291 law provides that it shall be unlawful to make, continue or cause to be made or continued, any
292 noise in excess of the noise levels set forth by the law unless such noise is reasonably necessary
293 for the preservation of life, health, safety or property. [6 O.C. 605.6-12(d)]. The Zoning and
294 Shoreland Protection law also prohibits any liquid, or solid wastes, or other adverse influences
295 which have an objectionable effect upon adjacent or nearby property and provides that all
296 noxious weeds and other rank growth of vegetation are a public nuisance. [6 O.C. 605.6-12(k)-
297 (l)].
- 298 ▪ Some of the civil infractions provided in this Law - such as disorderly conduct, littering
299 or unsightly areas - are similar to public nuisances identified and prohibited by the
300 Zoning and Shoreland Protection law.
- 301 ▪ The Zoning and Shoreland Protection law provides authority to the Zoning
302 Administrator to take enforcement action against an individual for a violation of the
303 law, with the Land Commission as the ultimate authority who would hear any appeals
304 of the Zoning Administrator's decisions. This Law delegates authority to the Oneida
305 Police Department to take enforcement action against an individual for a violation of

this Law, with the ultimate authority over the matter delegated to the Nation's Trial Court.

- This Law and the Zoning and Shoreland Protection law may govern similar subject matters, but they have separate enforcement procedures, so it can be said that these laws have concurrent jurisdiction. This means that one act by an individual could result in a violation of both the Zoning and Shoreland Protection law and this Law at the same time. For example, if a person is making excessive noise on their property, they can receive a citation for disorderly conduct from an Oneida Police Department under the Public Peace law while simultaneously receiving written notice for compliance or a fine from the Zoning Administrator under the Zoning and Shoreland Protection law.

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

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

SECTION 8. ENFORCEMENT AND ACCOUNTABILITY

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

SECTION 9. OTHER CONSIDERATIONS

- A. *Public Peace Law Citation Schedule.*** This Law provides that the Oneida Business Committee shall hereby be delegated the authority to adopt through resolution a citation schedule which sets forth specific fine amounts for violations of this Law. [3 O.C. 309.11-2(a)]. A citation schedule will need to be developed and adopted.
- *Conclusion.* The Legislative Operating Committee has worked with the Oneida Law Office and Oneida Police Department to develop a citation schedule resolution that will be presented to the Oneida Business Committee for consideration at the time the adoption of this Law is considered.

- 348 **B. *Fiscal Impact.*** Under the Legislative Procedures Act, a fiscal impact statement is required for all
349 legislation except emergency legislation [*1 O.C. 109.6-1*]. Oneida Business Committee resolution BC-
350 10-28-20-A titled, “*Further Interpretation of ‘Fiscal Impact Statement’ in the Legislative Procedures*
351 *Act,*” provides further clarification on who the Legislative Operating Committee may direct complete
352 a fiscal impact statement at various stages of the legislative process, as well as timeframes for
353 completing the fiscal impact statement.
- 354 ▪ *Conclusion.* The Legislative Operating Committee received a fiscal impact statement for the
355 proposed Law from the Finance Department on August 17, 2021. The fiscal impact statement had
356 an indeterminate conclusion.

357

Title 3. Health & Public Safety - Chapter 309

PUBLIC PEACE

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

309.1. Purpose and Policy

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

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

309.2. Adoption, Amendment, Repeal

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

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

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

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

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

309.3. Definitions

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(o) “Nation” means the Oneida Nation.

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

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

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

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

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

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

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

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

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

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

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

(aa) "Tribal property" means all land owned in fee by the Nation or held in trust by the United States for the benefit of the Nation, excluding leased parcels and parcels under a right of way.

(bb) "Venerated object" means any object of worship, devotion, reverence, tradition, or adoration regarded with great respect.

(cc) "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; or
- (d) alters, defaces, or damages in any way property owned by the Nation.

309.5-2. *Reckless Damage or Destruction*. A person commits the civil infraction of reckless damage or destruction if without the consent of the owner he or she recklessly damages or destroys the property of the owner.

309.5-3. *Trespass*. A person commits the civil infraction of trespass if he or she:

- (a) enters or remains on private property or Tribal property without consent and he or she:
 - (1) had notice that the entry was forbidden; or
 - (2) received notice or order to depart but failed to do so.
- (b) *Notice*. Notice or an order to depart may be given by:
 - (1) written or verbal communication given to the intruder by an Oneida Police Department officer, the owner of the property, or a person authorized to act on behalf of the owner;
 - (2) written notice posted on or about the property in a manner reasonably likely to come to the attention of potential intruders; or
 - (3) fences, barricades, or other devices manifestly designed to enclose the property and to exclude potential intruders.

309.5-4. *Theft*. A person commits the civil infraction of theft if he or she:

- (a) obtains, exercises control over, or conceals anything of value of another without the consent of the owner; or
- (b) having lawfully obtained possession for temporary use of the property, deliberately and without consent, fails to return or reveal the whereabouts of said property to the owner, his or her representative or the person from which he or she has received it with the intent to permanently deprive the owner of its use and benefit.

309.5-5. *Retail Theft*. A person commits the civil infraction of retail theft if he or she without the merchant's consent and with intent to deprive the merchant permanently of possession or the full purchase price of the merchandise or property:

- (a) intentionally alters indicia of price or value of merchandise held for resale by a merchant or property of a merchant;
- (b) intentionally takes and carries away merchandise held for resale by a merchant or property of a merchant;
- (c) intentionally transfers merchandise held for resale by a merchant or property of a merchant;
- (d) intentionally conceals merchandise held for resale by a merchant or property of a merchant;
- (e) intentionally retains possession of merchandise held for resale by a merchant or property of a merchant;
- (f) while anywhere in the merchant's premises, intentionally removes a theft detection device from merchandise held for resale by a merchant or property of a merchant;
- (g) uses, or possesses with intent to use, a theft detection shielding device to shield merchandise held for resale by a merchant or property of merchant from being detected by an electronic or magnetic theft alarm sensor; or

(h) uses, or possesses with intent to use, a theft detection device remover to remove a theft detection device from merchandise held for resale by a merchant or property of a merchant.

309.5-6. *Loitering*. A person commits the civil infraction of loitering if he or she loiters or prowls in a place, at a time, or in a manner not usual for law-abiding individuals under circumstances that warrant alarm for the safety of persons or property in the vicinity.

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

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

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

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

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

309.6. Civil Infractions Against the Peace

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

- (a) fights with another person within the boundaries of the Reservation;
- (b) discharges a firearm or air gun that is 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 Tribal property in an obviously offensive manner;
- (e) lies or sleeps on any street, alley or sidewalk, or in any other Tribal property, or upon private property that he or she has no right to occupy; or
- (f) uses abusive, indecent, profane, or vulgar language in Tribal property, 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 Tribal property, 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 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; 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; 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 Tribal property upon being requested to do so by any official charged with maintaining order in such Tribal property;
- (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 Tribal property;
- (d) at or in any Tribal property 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; or
- (e) at any meeting or session conducted by any official of the Nation, held in any Tribal property; 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; 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 or prohibited drugs on Tribal property 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; 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 Tribal property.

309.10-2. *Unightly 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 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 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.

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 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 or other Programs.* An individual may be ordered to participate in counseling 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.

(1) The Trial Court shall determine an appropriate amount of restitution to be paid for the theft or damage of any venerated object, which may be higher than the monetary value of the venerated object due to its venerated status.

(e) Any other penalty as deemed appropriate by the Trial Court.

End.

Adopted – BC- _ _ - _ - _

FINANCE ADMINISTRATION

Fiscal Impact Statement



MEMORANDUM

TO: Lawrence Barton, Chief Financial Officer

FROM: RaLinda Ninham-Lamberies, Assistant Chief Financial Officer

DATE: August 17, 2021

RE: **Fiscal Impact of the Public Peace Law**

I. Estimated Fiscal Impact Summary

Law: Public Peace Law		
Implementing Agency	Oneida Nation Judiciary	
	Oneida Police Department	
	Oneida Law Office	
	Comprehensive Housing Division	
	Fiscal Year 2022	Ten Year Estimate
Total Estimated Fiscal Impact	Indeterminate	Indeterminate

II. Background

A. Legislative History

This law would set forth community standards and expectations which preserve peace, harmony, safety, health, and general welfare. The Law was drafted after hearing concerns from Oneida Business Committee and community members regarding issues and problems occurring in neighborhoods throughout the Reservation.

B. Summary of Content

The law prohibits a person from committing a civil infraction. The law details what constitutes various civil infractions and organizes civil infractions into the following categories:

- Civil infractions against property:
 - Damage to property;

- Reckless damage or destruction;
 - Trespass;
 - Theft;
 - Retail theft;
 - Loitering;
 - Fraud; and
 - Negligent handling of burning material.
- Civil infractions against the peace:
 - Disorderly conduct;
 - Carrying a prohibited weapon;
 - Gang related activity;
 - Throwing or shooting projectiles;
 - Obstructing streets and sidewalks;
 - Nuisance;
 - Maintaining a chronic nuisance house; and
 - Interfering with lawful arrest or resisting arrest.
- Civil infractions against government:
 - Disrupting a meeting or government function;
 - Breach of confidentiality; and
 - Threatening an official.
- Civil infractions against the person:
 - Assault;
 - Harassment;
 - Abuse of individuals at risk; and
 - Truancy.
- Civil infractions involving alcohol, tobacco, and drugs:
 - Public intoxication;
 - Unauthorized alcohol beverage;
 - Underage possession of alcohol;
 - Furnishing alcohol beverages to minors;
 - Underage possession of tobacco;
 - Furnishing tobacco to minors;
 - Misrepresentation of identification card;
 - Possession of prohibited drugs;
 - Maintaining a drug house; and
 - Determination of a prohibited drug.
- Civil infractions affecting health and safety:
 - Littering;
 - Unsightly areas;
 - Depositing human waste; and

- Exposure of a communicable or infectious disease.

Enforcement of the law is delegated to the Oneida Police Department to investigate complaints and to issue citations for violations of the Law. The Trial Court has jurisdiction over any action brought under this Law. Violations of the Law may include fines and other penalties, as well as conditional orders as determined by the Trial Court. The Law requires notification of citations within Comprehensive Housing units by the Oneida Police Department to Oneida Law Office attorney assigned to the Comprehensive Housing Division.

III. Methodology and Assumptions

A “Fiscal Impact Statement” means an estimate of the total identifiable fiscal year financial effects associated with legislation and includes startup costs, personnel, office, documentation costs, as well as an estimate of the amount of time necessary for an agency to comply with the Law after implementation.

Finance does NOT identify the source of funding for the estimated cost or allocate any funds to the legislation.

The analysis was completed based on the information provided as of the date of this memo.

IV. Agency

The Oneida Police Department has identified the Law can be implemented within existing financial resources currently available to the Oneida Police Department.

The Oneida Judiciary has not provided information additional financial resources would be necessary to implement the Law.

Comprehensive Housing has determined existing policies and procedures would need to be either be written or amended in accordance with the Law. This will require working sessions with various entities including Elder Services, OPD, TAP, Zoning, Behavioral Health, and Comprehensive Housing. Estimated timeline is six (6) months.

Comprehensive Housing has identified a potential increase in the number of rental terminations and homeowner lease terminations that may occur with implementing the Law. These terminations involve personnel time, land lease changes, Law Office personnel time, and Judiciary time.

Comprehensive Housing has identified the fiscal impact may include the cost to buy home at the appraised cost offset by the cost to address any safety/code violations identified by a 3rd party home inspection. There is a loss of mortgage income and interest while the home is being renovated. There is an increased cost to maintain the utilities and maintenance of the home while vacant. The renovation may include addressing deficiencies not noted in the 3rd party inspection which would be an additional cost. The Law currently has no provision to identify terminated homeowners or renters as ineligible. There may be additional expenses assisting the terminated homeowner or renter a replacement housing unit.

At the time of the financial analysis, information to assess the financial impact brought forward by Comprehensive Housing was unavailable due to a lack of historical trends. The financial impact is indeterminate.

The Law includes the ability to implement fines which may be used to reduce the fiscal impact, however, at the time of the analysis information required to assess the impact such as number of citations to be issued and schedule of fines was unavailable. Due to these variables, the financial impact of this section of the Law is indeterminate.

V. Financial Impact

The financial impact of the Law is indeterminate.

VI. Recommendation

Finance Department does not make a recommendation regarding course of action in this matter. Rather, it is the purpose of this report to disclose potential financial impact of this legislation, so that the Oneida Business Committee and General Tribal Council has the information with which to render a decision

Oneida Nation

Post Office Box 365

Phone: (920)869-2214



Oneida, WI 54155

BC Resolution # _____ Public Peace Law Citation Schedule

- 1
2
3 **WHEREAS,** the Oneida Nation is a federally recognized Indian government and a treaty tribe
4 recognized by the laws of the United States of America; and
5
6 **WHEREAS,** the Oneida General Tribal Council is the governing body of the Oneida Nation; and
7
8 **WHEREAS,** the Oneida Business Committee has been delegated the authority of Article IV, Section 1,
9 of the Oneida Tribal Constitution by the Oneida General Tribal Council; and
10
11 **WHEREAS,** the Public Peace law ("the Law") was adopted by the Oneida Business Committee through
12 resolution BC- - - - -; and
13
14 **WHEREAS,** the purpose of the Law is to set forth community standards and expectations which
15 preserve the peace, harmony, safety, health, and general welfare of individuals who live
16 within the boundaries of the Reservation; and
17
18 **WHEREAS,** the Law prohibits any person from committing a civil infraction under this Law; and
19
20 **WHEREAS,** the Law sets forth various civil infractions including:
21
 - Civil infractions against property;
 - Civil infractions against the peace;
 - Civil infractions against government;
 - Civil infractions against the person;
 - Civil infractions involving alcohol, tobacco, and drugs;
 - Civil Infractions affecting health and safety; and
27
28 **WHEREAS,** the Law provides that an individual who violates a provision of this Law by committing a
29 civil infraction may be subject to the issuance of a citation by an Oneida Police Department
30 officer; and
31
32 **WHEREAS,** any citation issued for a violation of this Law shall be processed in accordance with the
33 procedure contained in the Nation's laws and policies governing citations; and
34
35 **WHEREAS,** the Trial Court is delegated jurisdiction over any action brought under this Law; and
36
37 **WHEREAS,** the Law delegates authority to the Oneida Business Committee to adopt through resolution
38 a citation schedule which sets forth specific fine amounts for violations of this Law; and
39
40 **NOW THEREFORE BE IT RESOLVED,** that the Oneida Business Committee hereby sets forth the
41 following citation schedule to be used for violations of the Public Peace law:
42

PUBLIC PEACE LAW CITATION SCHEDULE					
Violation	Reference	1 st Offense	2 nd Offense	3 rd Offense or More	Mandatory Appearance Required?
Civil Infractions Against Property					
Damage to Property	309.5-1	Loss less than \$50			Yes
		\$50	\$150	\$200	
		Loss more than \$20, less than \$250			
		\$250	\$500	\$1000	
		Loss \$250 or more			
		\$500	\$750	\$2000	
Reckless Damage or Destruction	309.5-2	Loss less than \$20			Yes
		\$50	\$150	\$200	
		Loss more than \$20, less than \$250			
		\$250	\$500	\$1000	
		Loss \$250 or more			
		\$500	\$750	\$2000	
Trespass	309.5-3	\$250	\$500	\$1000	Yes
Theft	309.5-4	Theft less than \$50			Yes
		\$50	\$150	\$200	
		Theft more than \$20, less than \$250			
		\$250	\$500	\$1000	
		Theft \$250 or more			
		\$500	\$750	\$2000	
Retail Theft	309.5-5	Theft less than \$50			Yes, if value of retail theft more than \$50 in value. - No, if value of retail theft less than \$50 in value.
		\$50	\$150	\$200	
		Theft more than \$20, less than \$250			
		\$250	\$500	\$1000	
		Theft \$250 or more			
		\$500	\$750	\$2000	
Loitering	309.5-6	\$100	\$200	\$300	No
Fraud	309.5-7	Loss less than \$50			Yes
		\$50	\$150	\$200	
		Loss more than \$20, less than \$250			
		\$250	\$500	\$1000	
		Loss \$250 or more			
		\$500	\$750	\$2000	
Negligent Handling of Burning Material	309.5-8	\$100	\$200	\$500	No
Civil Infractions Against the Peace					
Disorderly Conduct	309.6-1	\$250	\$500	\$1000	No for 1 st or 2 nd Offense —

BC Resolution # _____
Public Peace Law Citation Schedule
Page 3 of 4

					Yes for 3 rd Offense or More
Carrying a Prohibited Weapon	309.6-2	\$250	\$500	\$1000	No
Gang Related Activity	309.6-3	\$250	\$500	\$1000	No
Throwing or Shooting a Projectile	309.6-4	\$100	\$200	\$300	No
Obstructing Streets or Sidewalks	309.6-5	\$25	\$50	\$100	No
Nuisance	309.6-6	\$100	\$200	\$300	Yes
Maintaining a Chronic Nuisance House	309.6-7	\$250	\$500	\$1000	Yes
Interfering with Lawful Arrest or Resisting Arrest	309.6-8	\$250	\$500	\$1000	Yes
<i>Civil Infractions Against Government</i>					
Disrupting a Meeting or Government Function	309.7-1	\$100	\$250	\$500	No for 1 st Offense – Yes for 2 nd Offense or More
Breach of Confidentiality	309.7-2	\$100	\$250	\$500	No for 1 st Offense – Yes for 2 nd Offense or More
Threatening an Official	309.7-3	\$250	\$500	\$1000	Yes
<i>Civil Infractions Against the Person</i>					
Assault	309.8-1	\$250	\$500	\$1000	Yes
Harassment	309.8-2	\$100	\$300	\$500	Yes
Abuse of Individuals at Risk	309.8-3	\$500	\$750	\$1000	Yes
Truancy	309.8-4	\$50	\$75	\$100	Yes
<i>Civil Infractions Involving Alcohol, Tobacco, and Drugs</i>					
Public Intoxication	309.9-1	\$100	\$200	\$300	No
Unauthorized Alcohol Beverage	309.9-2	\$100	\$200	\$300	No
Underage Possession of Alcohol	309.9-3	\$100	\$200	\$300	Yes
Furnishing Alcohol Beverages to Minors	309.9-4	\$250	\$500	\$1000	Yes
Underage Possession of Tobacco	309.9-5	\$50	\$75	\$100	Yes
Furnishing Tobacco to Minors	309.9-6	\$150	\$300	\$500	Yes
Misrepresentation of Identification Card	309.9-7	\$100	\$200	\$300	Yes
Possession of Prohibited Drugs	309.9-8	\$250	\$500	\$1000	Yes
Manufacturing Prohibited Drugs	309.9-9	\$750	\$1000	\$2000	Yes
Maintaining a Drug House	309.9-10	\$750	\$1000	\$2000	Yes
<i>Civil Infractions Affecting Health and Safety</i>					
Littering	309.10-1	\$25	\$50	\$100	No
Unsanitary Areas	309.10-2	\$100	\$250	\$350	No for 1st or 2nd Offense – Yes for 3rd Offense or More

BC Resolution # _____
Public Peace Law Citation Schedule
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Depositing Human Waste	309.10-3	\$100	\$200	\$300	No
Exposure of a Communicable or Infectious Disease	309.10-4	\$500	\$750	\$1000	Yes

BE IT FURTHER RESOLVED, that in addition to the fines listed above, additional penalties issued by the Trial Court may include community service, participation in counseling or other programs, restitution, or any other penalty as deemed appropriate by the Trial Court as provided for by the Public Peace law.

BE IT FURTHER RESOLVED, in addition to the fine amount as provided in the citation schedule above, any citation issued for a violation of this Law shall also include court costs as assessed by the Oneida Nation Judiciary.

BE IT FURTHER RESOLVED, criminal charges and referrals may be appropriate in certain cases and are not prohibited.

BE IT FURTHER RESOLVED, the Oneida Police Department officer issuing the citation shall have the discretion to require a mandatory appearance of the offender at the Trial Court's citation pre-hearing for any violation of this Law if deemed appropriate.

BE IT FURTHER RESOLVED, the issuance of a citation to any offender who has not attained the age of eighteen (18) years shall require the mandatory appearance of the offender and their parent(s), guardian(s), or legal custodian(s) at the Trial Court's citation pre-hearing.

BE IT FURTHER RESOLVED, for any offender who has not attained the age of eighteen (18) years, a violation committed within twelve (12) months of a previous violation shall be considered a second or subsequent violation.

BE IT FINALLY RESOLVED, the Oneida Business Committee hereby adopts this resolution which shall become effective on September 22, 2021.



Statement of Effect

Public Peace Law Citation Schedule

Summary

Through this resolution the Oneida Business Committee adopts a citation schedule for violations of the Public Peace law.

Submitted by: Clorissa N. Santiago, Senior Staff Attorney, Legislative Reference Office
Date: August 27, 2021

Analysis by the Legislative Reference Office

The Public Peace law (“the Law”) was adopted 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].

The Law sets forth various civil infractions and prohibits any person from committing a civil infraction. [3 O.C. 309.4-4]. Civil infractions provided for in the Law include:

- Civil infractions against property [3 O.C. 309.5];
- Civil infractions against the peace [3 O.C. 309.6];
- Civil infractions against government [3 O.C. 309.7];
- Civil infractions against the person [3 O.C. 309.8];
- Civil infractions involving alcohol, tobacco, and drugs [3 O.C. 309.9]; and
- Civil Infractions affecting health and safety [3 O.C. 309.10].

Officers of the Oneida Police Department are delegated the authority to issue a citation to any individual who violates a provision of this Law by committing a civil infraction. [3 O.C. 309.4-3, 309.11-1]. Any citation issued for a violation of this Law shall be processed in accordance with the procedures contained in the Nation’s laws and policies governing citations, which is the Citations law. [3 O.C. 309.11-1(b)]. The Nation’s Trial Court is then delegated jurisdiction over any action brought under this Law. [3 O.C. 309.4-1].

One penalty the Trial Court may utilize upon a finding that an individual has committed a violation of the Law is the issuance of fines. [3 O.C. 309.11-2(a)]. The Law delegates authority to the Oneida Business Committee to adopt through resolution a citation schedule which sets forth specific fine amounts for violations of this Law. [3 O.C. 309.11-2(a)].

This resolution sets forth the citation schedule which includes the specific fine amounts for various violations of this Law. This resolution also sets forth additional information regarding citations, including:

- Whether a mandatory appearance at the citation pre-hearing is required for each violation of the Law in accordance with the Citations law [8 O.C. 807.6-1(a)];

- This resolution also requires a mandatory appearance at the citation pre-hearing for an offender who has not attained the age of eighteen (18) years, along with their parent(s), guardian(s), or legal custodian(s), no matter what violation occurred.
- This resolution also delegates discretion to the Oneida Police Department officer issuing the citation to require a mandatory appearance of the offender at the Trial Court's citation pre-hearing for any violation of this Law if deemed appropriate.
- Criminal charges and referrals may be appropriate in certain cases and are not prohibited by this Law;
- In addition to the fine amount as provided in the citation schedule, any citation issued for a violation of this Law shall also include court costs as assessed by the Oneida Nation Judiciary; and
- When determining whether a violation is a subsequent violation for an offender who has not attained the age of eighteen (18), a violation committed within twelve (12) months of a previous violation shall be considered a second or subsequent violation.

Upon adoption by the Oneida Business Committee this resolution will become effective on September 22, 2021.

Conclusion

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



Legislative Operating Committee
September 1, 2021

Oneida General Welfare Law Amendments

Submission Date: 12/18/18	Public Meeting: N/A
LOC Sponsor: Jennifer Webster	Emergency Enacted: 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 was set to expire on August 10, 2021. The Oneida Business Committee extended the emergency amendments to the Oneida General Welfare law on July 28, 2021, through the adoption of resolution BC-07-28-21-M. The emergency amendments to the Oneida General Welfare law will expire on February 10, 2022.*

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.

7/21/21 LOC: Motion by Marie Summers to approve the Oneida General Welfare law emergency amendments extension packet and forward to the Oneida Business Committee for consideration; seconded by Jennifer Webster. Motion carried unanimously.

7/28/21 OBC: Motion by David P. Jordan to adopt resolution 07-28-21-M Extension of the Emergency Amendments to the Oneida General Welfare Law, seconded by Jennifer Webster. Motion carried.

8/26/21: *Work Meeting.* Present: David P. Jordan, Jennifer Webster, Marie Summers, Daniel Guzman King, Clorissa N. Santiago, Carmen Vanlanen, 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 draft of amendments to the Oneida General Welfare law to move forward for permanent adoption.

Next Steps:

- Approve the draft of the Oneida General Welfare law and direct that a legislative analysis be completed.

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
1001.2. Adoption, Amendment, Repeal
1001.3. Definitions
1001.4. General Welfare Assistance
1001.5. Approved Program Guidelines
1001.6. Non-Recourse Designation
1001.7. Governing Law; Sovereignty
1001.8. Federal Trust Obligations

1001.1. Purpose and Policy

1001.1-1. *Purpose.* The purpose of this law is to ~~provide~~govern how the Nation provides 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.~~(a) 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 (c) 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) (d) "Limited term" means a defined start and end date, or utilizes third-party funding and is not intended to be permanent.~~

~~(e) "Member" means an individual who is an enrolled member of the Nation.~~

~~(f) "Nation" means the Oneida Nation.~~

~~(ig) "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. General Welfare Assistance

1001.4-1. General. The Nation may provide general welfare assistance to eligible members on a non-taxable basis pursuant to the principles of General Welfare Exclusion. 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. General Welfare Exclusion provides that any assistance shall be treated as non-taxable under federal law so long as it:

- (a) satisfies the requirements for exclusion under 26 U.S.C. §139E;
- (b) 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
- (c) meets the criteria of the General Test under the I.R.S. General Criteria of General Welfare exclusion listed in I.R.S. Rev. Proc. 2014-35, section 5.02(1).

1001.4-2. General Test. The General Test provides criteria used to determine if any assistance 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:

- (a) The assistance is paid on behalf of the Nation;
- (b) The assistance was provided pursuant to an approved program;
- (c) The assistance does not discriminate in favor of members of the governing body of the Nation;
- (d) The assistance is available to any member who meets the guidelines of the approved program;
- (e) The assistance is provided for the promotion of general welfare;
- (f) The assistance is not lavish or extravagant;
- (g) The assistance is not compensation for services; and
- (h) The assistance is not a per capita payment.

1001.4-3. Approved Programs. Any assistance provided by the Nation under the General Welfare Exclusion shall occur through an approved program and qualify as non-taxable under the principles of the General Welfare Exclusion to the fullest extent permitted at law.

- (a) 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.
- (b) Each approved program shall be limited to purposes consistent with treatment under the General Welfare Exclusion as to purpose, eligibility, and funding.
- (d) An approved program shall meet all criteria of the General Test.
- (d) Assistance provided through an approved program is not subject to information reporting by the Nation to the Internal Revenue Service.

1001.4-4. Ratification of Prior Acts

~~1001.4-1.~~ This law ~~is~~shall 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. Approved Program Guidelines ~~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.~~

Creation of an Approved Program. An approved program shall be adopted by the Oneida Business Committee~~1001.5-2. The Internal Revenue Service, through I.R.S. Revenue Procedure 2014-35, listed and detailed examples of Safe Harbors~~a resolution or law of the Nation. Approved programs under which, if approved adopted by the Oneida Business Committee are considered in force and effect and in writing, need would be presumed, and benefits would be excluded from gross income.~~1001.5-3. Benefits authorized by accordance with this law are intended to qualify non-taxable under~~

(a) Law. An approved program shall be adopted by the Oneida Business Committee through a law if the principles approved program will function on a permanent basis.

(1) Adoption of an approved program by the Oneida Business Committee through a law of the Nation shall comply with the process and procedures of the Legislative Procedures Act.

(b) Resolution. An approved program shall be adopted by the Oneida Business Committee through a resolution if the approved program will function for a limited term.

(1) An approved program to be considered for adoption through resolution by the Oneida Business Committee shall be accompanied by a statement of effect and submitted in accordance with the Oneida Business Committee's submission procedure and deadlines.

(c) Contents of Proposed Approved Programs. The law or resolution establishing an approved program shall contain the following information:

(1) Name of the approved program;

(2) Purpose of the approved program;

(3) Eligibility rules and limitations for approved program;

(4) Funding source for approved program;

(5) How the approved program qualifies for General Welfare Exclusion; and

(6) Start and end date of approved program, if applicable.

1001.5-2. Eligibility. Assistance provided by an approved program shall be limited to members of the Nation. Each approved program shall set forth any specific eligibility rules and limitations applied to the fullest extent permitted at law that program.

1001.5-4.3. Funding of Approved Programs. 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. The Oneida Business Committee shall designate approved programs for which funds shall be budgeted each fiscal year, consistent with the purposes of this law. Approved programs may also be funded through third-party funding if available.

~~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~~ 1001.5-4. Use of Assistance. All assistance provided through an approved program 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 any recipient who forfeited their assistance.

1001.5-5. Anti-Alienation. Assistance provided to a member through an approved program shall not be subject to anticipation, alienation, sale, transfer, assignment, pledge, encumbrance, attachment or garnishment by creditors of the member.

~~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~~assistance under this law. ~~Benefits~~Assistance 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.

1001.6-2. The Oneida Business Committee reserves the right to cancel, adjust, modify or revoke any benefit. ~~The approved~~

1001.6-3. 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~~members. 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.

Emergency Adopted ~~BC-08-12-20-D~~
 Emergency Amended – BC-02-10-21-B
 Emergency ~~Extension~~Extended – BC-07-28-21-M
 Adopted – BC- - - -

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. General Welfare Assistance
1001.5. Approved Program Guidelines

1001.6. Non-Recourse Designation
1001.7. Governing Law; Sovereignty
1001.8. Federal Trust Obligations

1001.1. Purpose and Policy

1001.1-1. *Purpose.* The purpose of this law is to govern how the Nation provides assistance to eligible members on a non-taxable basis, pursuant to the principles of the General Welfare Exclusion.

(a) 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 members under certain circumstances on a non-taxable basis.

1001.1-3. *Policy.* It is the policy of the Nation to provide assistance to 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 by resolution BC-__-__-__-__.

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.

(c) "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.

(d) "Limited term" means a defined start and end date, or utilizes third-party funding and is not intended to be permanent.

(e) "Member" means an individual who is an enrolled member of the Nation.

(f) "Nation" means the Oneida Nation.

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

1001.4. General Welfare Assistance

1001.4-1. *General.* The Nation may provide general welfare assistance to eligible members on a non-taxable basis pursuant to the principles of General Welfare Exclusion. 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. General Welfare Exclusion provides that any assistance shall be treated as non-taxable under federal law so long as it:

(a) satisfies the requirements for exclusion under 26 U.S.C. §139E;

(b) 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

(c) meets the criteria of the General Test under the I.R.S. General Criteria of General Welfare exclusion listed in I.R.S. Rev. Proc. 2014-35, section 5.02(1).

1001.4-2. *General Test.* The General Test provides criteria used to determine if any assistance 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:

(a) The assistance is paid on behalf of the Nation;

(b) The assistance was provided pursuant to an approved program;

(c) The assistance does not discriminate in favor of members of the governing body of the Nation;

(d) The assistance is available to any member who meets the guidelines of the approved program;

(e) The assistance is provided for the promotion of general welfare;

(f) The assistance is not lavish or extravagant;

(g) The assistance is not compensation for services; and

(h) The assistance is not a per capita payment.

1001.4-3. *Approved Programs.* Any assistance provided by the Nation under the General Welfare Exclusion shall occur through an approved program and qualify as non-taxable under the principles of the General Welfare Exclusion to the fullest extent permitted at law.

(a) 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.

(b) Each approved program shall be limited to purposes consistent with treatment under the General Welfare Exclusion as to purpose, eligibility, and funding.

(d) An approved program shall meet all criteria of the General Test.

(d) Assistance provided through an approved program is not subject to information reporting by the Nation to the Internal Revenue Service.

1001.4-4. *Ratification of Prior Acts.* This law shall not 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. 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. Approved Program Guidelines

1001.5-1. *Creation of an Approved Program.* An approved program shall be adopted by the Oneida Business Committee through a resolution or law of the Nation. Approved programs adopted by the Oneida Business Committee are considered in force and effect and in accordance with this law

(a) *Law.* An approved program shall be adopted by the Oneida Business Committee through a law if the approved program will function on a permanent basis.

(1) Adoption of an approved program by the Oneida Business Committee through a law of the Nation shall comply with the process and procedures of the Legislative Procedures Act.

(b) *Resolution.* An approved program shall be adopted by the Oneida Business Committee through a resolution if the approved program will function for a limited term.

(1) An approved program to be considered for adoption through resolution by the Oneida Business Committee shall be accompanied by a statement of effect and submitted in accordance with the Oneida Business Committee's submission procedure and deadlines.

(c) *Contents of Proposed Approved Programs.* The law or resolution establishing an approved program shall contain the following information:

(1) Name of the approved program;

(2) Purpose of the approved program;

(3) Eligibility rules and limitations for approved program;

(4) Funding source for approved program;

(5) How the approved program qualifies for General Welfare Exclusion; and

(6) Start and end date of approved program, if applicable.

1001.5-2. *Eligibility.* Assistance provided by an approved program shall be limited to members of the Nation. Each approved program shall set forth any specific eligibility rules and limitations applied to that program.

1001.5-3. *Funding of Approved Programs.* 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. The Oneida Business Committee shall designate approved programs for which funds shall be budgeted each fiscal year, consistent with the purposes of this law. Approved programs may also be funded through third-party funding if available.

1001.5-4. *Use of Assistance.* All assistance provided through an approved program 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 any recipient who forfeited their assistance.

1001.5-5. *Anti-Alienation.* Assistance provided to a member through an approved program shall not be subject to anticipation, alienation, sale, transfer, assignment, pledge, encumbrance, attachment or garnishment by creditors of the member.

1001.6. Non-Recourse Designation

1001.6-1. The Nation does not guarantee assistance under this law. Assistance 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.

1001.6-2. The Oneida Business Committee reserves the right to cancel, adjust, modify or revoke any benefit.

1001.6-3. 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 members. The Nation shall be entitled to government-to-government consultation and coordination with the federal government in regard to these obligations.

End.

Emergency Adopted – BC-08-12-20-D
 Emergency Amended – BC-02-10-21-B
 Emergency Extended – BC-07-28-21-M
 Adopted – BC-__-__-__-__



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



AGENDA REQUEST FORM

- 1) Request Date: August 27, 2021
- 2) Contact Person(s): David P. Jordan
 Dept: OBC/LOC
 Phone Number: (920) 869-4483 Email: djordan1@oneidanation.org
- 3) Agenda Title: Disability Fund Policy Amendments
- 4) Detailed description of the item and the reason/justification it is being brought before the LOC:
Based on input from community members, want to review the Disability
Fund policies and consider amendments to make the Fund more
accessible to disabled members of the Nation in need.

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

- | | |
|----------|----------|
| 1) _____ | 3) _____ |
| 2) _____ | 4) _____ |

- 5) Please list any laws, policies or resolutions that might be affected:

- 6) Please list all other departments or person(s) you have brought your concern to:

- 7) Do you consider this request urgent? ☐ Yes ☐ No

If yes, please indicate why:

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

Signature of Requester:

Please send this form and all supporting materials to:

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



TO: Legislative Operating Committee
FROM: Kristen M. Hooker, Legislative Reference Office Staff Attorney
DATE: September 1, 2021
RE: Certification of Leasing Law Rule No. 5 – Tribal Housing Reacquisition of Individual Fee and Trust Title (THRIFTT)

The Legislative Reference Office (“LOC”) has reviewed the certification packet provided by the Director of the Nation’s Department of Public Works (“DPW”) for Leasing law Rule No. 5 – Tribal Housing Reacquisition of Individual Fee and Trust Title (THRIFTT) (hereafter “Rule”). The purpose of the Rule is to increase the Nation’s land base while maintaining individual homeownership. Through the THRIFTT program, eligible homeowners can sell their land to the Nation and then enter into a residential lease with the Comprehensive Housing Division that will allow them to retain ownership of the improvements, as well as rights to the land upon which those improvements are located.

The Rule would become effective within ten (10) business days following its adoption by the Oneida Business Committee.

Administrative Record

The certification packet contains all documentation required by the Administrative Rulemaking law for a complete administrative record. The certification packet contains:

- Memorandum from the DPW Director requesting that the LOC find good cause to certify the Rule despite being presented for certification outside of the time limits allowed after the public comment period has expired;
- Memorandum from the Residential and Finance Area Manager, Lisa Rauschenbach, that contains the Rule’s procedural timeline;
- Draft of the final Rule;
- Memorandum from the DPW Director, Jacque Boyle, approving the Rule;
- Minutes from the Oneida Land Commission, approving the Rule;
- Summary Report;
- Financial analysis showing a financial impact of sixty thousand dollars (\$60,000);
- Statement of Effect;¹
- Public meeting notice as it appeared in the Kalihwisaks;
- Public meeting sign-in sheet;
- Transcript from the public meeting;

¹ The Statement of Effect u/d/o February 10, 2020 that was included within the agency’s certification packet is not the most current version as it was updated on July 13, 2021 to account for the fact that the Real Property Rule referenced in the February 10, 2020 version was replaced by a reference to Land Management’s Land Acquisition for Residential Leasing Standard Operating Procedure. The July 13, 2021 version is attached to this certification memo.

- Memorandum reviewing and considering the public comments that were submitted on the Rule; and
- An additional draft of the Rule considered at the public meeting was not provided because, per the agency, only minimal revisions were made from the public meeting Rule to the final draft of the Rule.

Procedural Requirements

The certification packet demonstrates that the amendments to the Rule comply with the procedural requirements contained in the Administrative Rulemaking law; provided, the LOC determines that good cause exists to go outside of the six (6) month time limit for submitting the Rule to the LOC for certification after the public comment period had expired. *[1 O.C. 106.7-1(a)]*.

Section 106.7 of the Administrative Rulemaking law states as follows with respect to the deadline for submitting a rule to the LOC for certification:

After the public comment period has expired and the authorized agency has considered all public comments received, the authorized agency shall submit the proposed rule and all items contained in the administrative record described in section 106.11 to the Legislative Operating Committee. . . . The authorized agency shall submit the rule for certification by the Legislative Operating Committee within six (6) months after the public comment period has expired, unless the Legislative Operating Committee determines there is good cause to go outside the time limits.

[1 O.C. 106.7-1(a)].

The DPW Director has included a memorandum within the certification packet, seeking a finding of good cause by the LOC based on the information contained therein. Contingent upon such finding to overcome the above-referenced timing issue, in accordance with the Administrative Rulemaking law:

- A public meeting notice for the Rule was published in the Kalihwisaks and on the Oneida Register on December 19, 2019;
- A public meeting for the Rule was held on January 9, 2020;
- The public comment period was held open until January 17, 2020 (the six (6) month window for submission to the LOC in accordance with section 106.7 expired in July of 2020);
- Oral comments received during the public meeting and written comments submitted during the public meeting comment period were reviewed/considered on February 10, 2020; and
- The Oneida Land Commission approved the amendments to the Rule on November 25, 2019.

Rulemaking Authority

The Leasing law was adopted for purposes of setting forth the Nation's authority to issue, review, approve and enforce leases. *[6 O.C. 602.1-1]*. The Leasing law delegates authority to the Oneida Land Commission and Land Management to jointly develop rules related to obtaining a residential, agricultural, or business lease. *[6 O.C. 602.5-1]*. Land Management is defined as "the Division of Land Management or other entity responsible for entering into leases of tribal land." *[6 O.C. 602.3-*

I(i)]. Per the Nation's Real Property law, CHD is the entity responsible for processing all leases of Tribal land for residential purposes. *[6 O.C. 601.9-1]*. Thus, CHD is Land Management for purposes of the rulemaking authority delegated under the Leasing law.

This Rule does not exceed the rulemaking authority granted under the law for which the Rule is being promulgated.

Conclusion

Subject to the above-referenced good cause finding by the Legislative Operating Committee and incorporation of the Statement of Effect attached hereto into the record, promulgation of Leasing law Rule No. 5 – Tribal Housing Reacquisition of Individual Fee and Trust Title (THRIFTT) complies with all requirements of the Administrative Rulemaking law.



Statement of Effect

Leasing Law Rule No. 5 – Tribal Housing Reacquisition of Individual Fee and Trust Title (THRIFTT)

Summary

The purpose of Leasing Law Rule No. 5 – Tribal Housing Reacquisition of Individual Fee and Trust Title (THRIFTT) is to increase the Oneida Nation's land base while maintaining individual homeownership. Through the THRIFTT program, eligible homeowners can sell their land to the Nation and then enter into a residential lease with the Comprehensive Housing Division that will allow them to retain ownership of the improvements, as well as rights to the land upon which those improvements are located.

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

Date: July 13, 2021

Analysis by the Legislative Reference Office

The Administrative Rulemaking law affords authorized agencies the opportunity to promulgate rules interpreting the provisions of any law enforced or administered by it; provided, the rule does not exceed the rulemaking authority granted under the law for which the rule is being promulgated. [1 O.C. 106.4-1]. Rulemaking authority is defined as the delegation of authority to authorized agencies found in the Nation's laws, other than the Administrative Rulemaking law, which allows authorized agencies to implement, interpret and/or enforce a law of the Nation. [1 O.C. 106.3-1(i)]. And, an authorized agency is defined as "any board, committee, commission, department, program or officer of the Nation that has been granted rulemaking authority." [1 O.C. 106.3-1(a)].

The Leasing law was adopted for the purpose of setting out the Nation's authority to issue, review, approve and enforce leases. [6 O.C. 602.1-1]. The Leasing law delegates authority to the Oneida Land Commission and Land Management to jointly develop rules related to obtaining a residential, agricultural or business lease. [6 O.C. 602.5-1]. Land Management is defined as "the Division of Land Management or other entity responsible for entering into leases of tribal land." [6 O.C. 602.3-1(i)]. Per the Nation's Real Property law, the Comprehensive Housing Division ("CHD") is the entity that is responsible for processing all leases of Tribal land for residential purposes. [6 O.C. 601.9-1]. Thus, CHD is Land Management for purposes of the rulemaking authority delegated under the Leasing law.

The Leasing law further provides that Land Management shall develop, and the Oneida Land Commission shall approve, the format and requirements set out in the lease document applications for different types of leases, as well as additional procedures and processes to be followed when offering and awarding lease documents. [6 O.C. 602.5-1(a)].

The THRIFTT program was created to increase the Nation's land base, while still maintaining individual homeownership, by providing eligible homeowners an opportunity to sell their land to

the Nation and then enter into a residential lease with CHD that will allow them to retain ownership of the improvements, as well as certain rights to the land upon which those improvements are located. Leasing Law Rule No. 5 – Tribal Housing Reacquisition of Individual Fee and Trust Title (THRIFTT) sets certain eligibility requirements, application processes and approval procedures to govern administration of the THRIFTT program, including that property is sold pursuant to the Land Management’s Land Acquisition for Residential Leasing Standard Operating Procedure and leased in accordance with the Leasing law, as well as the requirements of the Residential Leasing Rule promulgated thereunder.

Conclusion

This analysis did not include a review or analysis of the Land Management’s Land Acquisition for Residential Leasing Standard Operating Procedure that is referred to within the Rule. Provided it does not conflict with the Nation’s laws or the authority granted therein, there are no legal bars to adopting Leasing Law Rule No. 5 – Tribal Housing Reacquisition of Individual Fee and Trust Title (THRIFTT).



To: David P. Jordan, Legislative Operating Committee Chairman

From: Jacque Boyle, DPW Director **Jacque Boyle**

Digitally signed by Jacque Boyle
DN: cn=Jacque Boyle, o=Oneida Nation, ou=DPW,
email=jboyle@oneidanation.org, c=US
Date: 2021.08.09 11:44:03 -0500

Date: July 29, 2021

Re: Certification of Leasing Law Rules: No. 5 – THRIFTT Program & No. 6 – HIP Program

Comprehensive Housing Division (“CHD”) received the memorandum from the Legislative Operating Committee regarding the certification of Leasing Rules 5 & 6 for the THRIFTT and HIPP Rules respectively (collectively, “Rules”) and is appreciative of your explanation of the remaining hurdles to certification of the rules.

Comprehensive Housing Division respectfully requests consideration from the Legislative Operating Committee for certification of the rules even though the public meeting comments were collected more than six (6) months from the date CHD submitted them for certification based on good cause. *See* 1 O.C. 106-7(a)(1). For both Rules there were staffing issues at play as well as the onset and the Oneida Nation’s response to COVID-19, which reallocated available funding for transactions pursuant to the Rules.

In terms of staffing, CHD staff were working under the guidance of CHD attorney, Krystal John, who took an unexpectedly early maternity leave in the first week of February 2020 just as CHD was preparing to submit the rules for certification. These rules were and are a priority for CHD and the Oneida Land Commission. In the time after the comment period closed for the public meeting on January 17, 2020 and the time of our attorney’s unexpected leave, we had already reviewed comments, drafted responses, made minimal revisions and forwarded the finished rules to the Oneida Land Commission for their consideration. With our attorney’s unexpected early leave, we paused the work on the rules and presumed we would pick it up with her when she returned from maternity leave, which would have been within the allowable six (6) month period for certification. Instead, CHD had to shift its focus to the COVID-19 response and its impacts on CHD staff, tenants, and lessees. It was during this time that CHD and the CEDD began reporting to DPW and priorities were established to address the vacant housing units and address homelessness. My focus was on creating processes to reduce the vacancy rates and develop plans for the CARES funding. Because there was not available Tribal Contribution funding to implement the HIP or THRIFTT programs at the time, the work to pass these rules was not as urgent given competing issues needing attention. Oneida’s response to the global COVID-19 pandemic required the rerouting of the land acquisition budget to the general fund, so there was no longer any available budget to complete acquisitions pursuant to the Rules. With so many other things to focus on to keep CHD running as smoothly as possible throughout the COVID-19 pandemic, CHD de-prioritized the Rules because it was temporarily financially impossible to

implement them. Since the adoption of BC Resolution 06-09-21- A, which re-allocated funds to acquisitions pursuant to the Rules, CHD has been working diligently to move these Rules forward for certification.

While CHD understands the importance of the public comment period and receipt of input from the community, CHD truly believes it is presenting rules that would not be largely, if at all, impacted by the offering of an additional comment period. Further, CHD strongly believes that the community would be the only party harmed by any further delay in certifying and implementing these Rules that help Oneida tribal members achieve affordable homeownership. Again, Comprehensive Housing Division respectfully requests consideration from the Legislative Operating Committee for certification of the rules even though the public meeting comments were collected more than six (6) months from the date CHD submitted them for certification based on good cause as identified in this memorandum. *See* 1 O.C. 106-7(a)(1).

Comprehensive Housing Division



TO: Legislative Operating Committee

FROM: Lisa Rauschenbach, Residential & Finance Area Manager *LR*

DATE: June 23, 2020

SUBJECT: Request for Certification of Procedural Compliance
Leasing Rule #5 - Tribal Housing Reacquisition of Individual Fee and Trust Title (THRIFTT)

The Comprehensive Housing Division (CHD) and the Oneida Land Commission are exercising their joint rulemaking authority to implement a new Rule for Tribal Housing Reacquisition of Individual Fee and Trust Title (THRIFTT).

There were 11 people in attendance at the public meeting and written comments were submitted by 3. (attached). Minimal revisions were made since the public comment period such that was determined that an additional public meeting was not necessary.

Rulemaking Timeline	
Required Action	Date Completed
Public Meeting notice for the rule is posted in the Kaliwisaks and on the Oneida Register	December 19, 2019
Public Meeting held	January 9, 2020
Public Comment Period closed	January 17, 2020

The following attachments are included for your review:

1. Leasing Rule #5 – Tribal Housing Reacquisition of Individual Fee and Trust Title (THRIFTT)
2. Department of Public Works Director Approval Memo
3. Oneida Land Commission Minutes approving Rule
4. Summary Report
5. Financial Analysis
6. Statement of Effect
7. Copy of Public Meeting Published in the Kaliwisaks -December 19, 2019, issue pg.39
8. Sign in sheet from the January 9, 2020 Public Meeting
9. Public meeting transcription and comments from the January 9, 2020 meeting.

Following certification and the Oneida Business Committee adoption, this rule shall become effective in ten (10) business days.



Title 6. Property and Land – Chapter 602 LEASING

Rule #5 – Tribal Housing Reacquisition of Individual Fee and Trust Title (THRIFTT)

- 1.1 Purpose and Authority
- 1.2 Adoption, Amendment and Repeal
- 1.3 Definitions
- 1.4 General
- 1.5 Eligible Homeowners
- 1.6 Eligible Properties
- 1.7 Required Process

1.1. Purpose and Authority

1.1-1. *Purpose.* The purpose for this rule is to increase the Nation's land base while maintaining individual homeownership by allowing eligible homeowners to sell their land to the Nation and enter a residential lease. Upon sale, the homeowner will retain ownership of the improvements and rights to the land through a residential lease with the Comprehensive Housing Division pursuant to the Leasing Law and the requirements of the Residential Leasing Rule.

1.1-2. *Authority.* The Leasing Law section 602.5-1 delegates rulemaking authority to the Comprehensive Housing Division and the Oneida Land Commission pursuant to the Administrative Rulemaking law.

1.2. Adoption, Amendment and Repeal

1.2-1. This rule was adopted by the Comprehensive Housing Division and the Oneida Land Commission in accordance with the procedures of the Administrative Rulemaking law.

1.2-2. This rule may be amended or repealed by the Comprehensive Housing Division and the Oneida Land Commission and/or the Oneida Business Committee pursuant to the procedures set out in the Administrative Rulemaking law.

1.2-3. Should a provision of this rule or the application thereof to any person or circumstances be held as invalid, such invalidity shall not affect other provisions of this rule which are considered to have legal force without the invalid portions.

1.2-4. In the event of a conflict between a provision of this rule and a provision of another rule, internal policy, procedure, or other regulation; the provisions of this rule shall control.

1.2-5. This rule supersedes all prior rules, regulations, internal policies or other requirements relating to entering a residential lease following sale of land with maintenance of the improvements.

1.3. Definitions

1.3-1. This section shall govern the definitions of words and phrases used within this rule. All words not defined herein shall be used in their ordinary and everyday sense.

- (a) "Appraisal" means a valuation or estimation of value of property completed by a disinterested person of suitable qualifications. For trust property, the appraiser must be a Certified General Appraiser.

- (b) “Defect” means a condition that would have a significant adverse effect on the value of the property; that would significantly impair the health or safety of future occupants of the property; or that if not repaired, removed or replaced would significantly shorten or adversely affect the expected normal life of the premises.
- (c) “Improvement” means buildings, other structures, and associated infrastructure attached to land.
- (d) “Offer to Purchase” means the written agreement in which the Nation commits to purchase a seller’s land under certain circumstances.
- (e) “Refinancing” means an exchange of an old debt for a new debt, as by renegotiating a different interest rate, term of the debt, or by repaying the existing loan with money acquired from a new loan.
- (f) “Residential Lease” means the legal document issued by the Nation pursuant to its applicable leasing laws and rules which establishes a buyer’s right to occupy Tribal land for residential purposes.
- (g) “Survey” means the measurement of the boundaries of land and its area. A survey will reveal building setbacks as well as any encroachments.
- (h) “Tax Assessed Value” means the value the local taxing authority uses to distinguish the value of the land from the improvements.
- (i) “Tribal fee land” means land held in fee status by the Nation.
- (j) “Tribal Trust Land” means the surface estate of land or any interest therein held by the United States in trust for the Nation; land held by the Nation subject to federal restrictions against alienation or encumbrance; land reserved for federal purposes; and/or land held by the United States in trust for the Nation under Section 17 of the Indian Reorganization Act, 25 U.S.C §477, et. seq.

1.4. General

1.4-1. *Program Education.* CHD and Bay Bank shall make these rules and all relevant educational pieces and required paperwork available electronically on its website and in hard-copy format at their respective offices.

1.4-2. *Subject to Available Funding.* All offers submitted to the Nation are subject to the Nation’s available funding with all purchases taking place pursuant to ~~Real Property Rule No. 4~~ Land Management’s Land Acquisition for Residential Leasing Standard Operating Procedure.

1.4-3. *Nation Determines Defects.* The Nation reserves the sole right to determine whether defects exist in relation to the contingencies related to the title commitment, survey and environmental investigation required under the Land Acquisition for Residential Leasing Rule.

1.4-4. *Real Estates Taxes.* All homeowners, upon signing a residential lease, will be responsible for all taxes assessed against the improvements. The homeowner’s real estate tax payment shall be the percentage of the total assessed taxes equal to the assessed value of the improvements divided by the assessed value of the improvements and the land combined plus any municipal fees and/or special assessments. If/when the property converts from tribal fee land to tribal trust land, the homeowner will have no tax responsibility for the improvements.

1.4-5. *Increased Lease Fee for Non Tribal Members.* If there is no tribal member party on the residential lease at the time it is entered, the lessee shall pay an increased annual residential lease fee equal the amount of taxes assessed against the land plus any municipal fees and/or special assessments. If/when the property converts from tribal fee land to tribal trust land, the lessee’s annual residential lease fee will be held at the prior year’s rate for the remaining duration of the

lease.

1.4-6. *Financing*. In the event refinancing or a new loan is required for the improvements, homeowners may secure said financing from Bay Bank or the Comprehensive Housing Division Finance Department, provided that any financing secured from the Comprehensive Housing Division is subject to the Mortgage and Foreclosure law and any accompanying rules.

1.4-6. *THRIFTT Program E-Mail Address and Shared Drive*. Comprehensive Housing Division shall work with the Nation's MIS Department to establish a THRIFTT Program e-mail, which shall be available to accept all required submittals electronically, and a shared drive so that THRIFTT Program documents may be jointly accessed by the Comprehensive Housing Division and Land Management. The Comprehensive Housing Division Residential Leasing Specialist shall be the THRIFTT point of contact and the administrator of the shared THRIFTT Program e-mail and shall be the only party to respond to homeowner e-mails.

1.5. Eligible Homeowners

1.5-1. In order to be eligible to participate in the THRIFTT Program and enter a THRIFTT Residential Lease, the homeowner must:

- (a) If the property is subject to liens, have adequate equity in the improvements to cover the value of the mortgaged improvements or be able to secure refinancing or a new loan;
- (b) Meet any applicable minimum down payment requirements and/or refinancing guidelines; and
- (c) Meet the requirements pursuant to the Residential Leasing rule.

1.6. Eligible Properties

1.6-1. In order for a property to be eligible for an offer to purchase pursuant to the THRIFTT Program, it must comply with the requirements of ~~Real Property Rule No. 1—Land Management's~~ Land Acquisition for Residential Leasing ~~Rule~~Standard Operating Procedure.

1.7. Required Process

1.7-1. *Initial Meeting with CHD*. In order to initiate the THRIFTT process, the homeowner shall schedule a meeting with CHD Residential Leasing Specialist. At the initial meeting the Residential Leasing Specialist shall review the THRIFTT application and checklist with the homeowner. The Residential Leasing Specialist shall forward the address to the Acquisition Manager to confirm it is an eligible property in accordance with ~~Real Property Rule No. 1—Land Management's~~ Land Acquisition for Residential Leasing ~~Standard Operating Procedure~~. The Residential Leasing Specialist shall collect information from the homeowner and the Acquisition Manager to determine if the homeowner and property are eligible and, if eligible, determine whether the next steps are with the financing party or the Land Management Acquisition Manager.

(a) The Residential Leasing Specialist shall:

- (1) Review the applicant's information to determine if the homeowner is eligible for a residential lease, and collect any Land Commission approvals that may be required pursuant to the Residential Leasing Rule.
- (2) If the homeowner is eligible, forward all information to the Acquisition Manager to complete review and notify the homeowner if anything in the Acquisition Manager's review determines the property is ineligible;

(3) If the homeowner and their property are eligible, notice the homeowner that they are tentatively eligible and direct them to obtain an appraisal for the land only with a company approved by the Nation and submit to the Residential Leasing Specialist upon receipt.

(4) If the property is either not subject to any liens, or the appraised value of the land exceeds the amount of any liens on the property:

(A) Forward any offer to purchase received from the Acquisition Manager to the homeowner and notify the Acquisition Manager whether it is accepted by the homeowner; and

(B) Take the homeowner through the residential lease process once the offer to purchase is accepted by the homeowner.

(5) If the homeowner and their property are eligible and the property is subject to liens that exceed the appraised value of the property:

(A) Forward all information and direct the homeowner to Bay Bank or the Comprehensive Housing Division Finance Department for pre-approval for refinancing or a new loan;

(B) Have the homeowner complete the residential lease application and complete a residential lease upon notice from Bay Bank or the Comprehensive Housing Division Finance Department that the homeowner secured adequate financing based on final loan approval; and

(C) Forward any offer to purchase received from the Acquisition Manager to the homeowner and notify Bay Bank or Comprehensive Housing Division Finance Department and the Acquisition Manager whether it is accepted by the homeowner.

(b) The Acquisition Manager shall:

(1) Notify the Residential Leasing Specialist of any time acquisition funds are depleted or near depletion.

(2) Do all checks required under ~~Real Property Rule No. 1—Land Management's~~ Land Acquisition for Residential Leasing Standard Operating Procedure to determine if the property is eligible and notify the Residential Leasing Specialist if there are any defects to title that would make the homeowner or their property ineligible pursuant to ~~Real Property Rule No. 1—Land Management's~~ Land Acquisition for Residential Leasing Standard Operating Procedure.

(3) If the property is eligible and is either not subject to any liens, or the appraised value of the land exceeds the amount of any liens on the property, prepare an offer to purchase and forward to the Residential Leasing Specialist, provided that the Acquisition Manager shall obtain any Land Commission approvals required under ~~Real Property Rule No. 1—Land Management's~~ Land Acquisition for Residential Leasing Standard Operating Procedure.

(4) If the property is eligible and the property is subject to liens that exceed the appraised value of the property, prepare an offer to purchase upon receipt of financing pre-approval and forward to the Residential Leasing Specialist, provided that the Acquisition Manager shall obtain any Land Commission approvals required under ~~Real Property Rule No. 1—Land Management's~~ Land Acquisition for Residential Leasing Standard Operating Procedure.

- (5) Ensure all offers to purchase which require the homeowner to secure financing include a contingency that the homeowner is able to secure adequate financing based on final loan approval.

1.7-2. *When Financing is Required.* If preapproval is required based on 1.7-1, the homeowner shall request preapproval from Bay Bank or the Comprehensive Housing Division Finance Department which will provide the maximum amount of financing available towards refinancing or a new loan. Bay Bank or the Comprehensive Housing Division Finance Department shall forward a copy of the homeowner's preapproval to the Acquisition Manager and the Residential Leasing Specialist.

- (a) *Accepting an Offer to Purchase.* Offers to purchase issued by the Oneida Nation are not negotiable. Homeowners wishing to accept an offer to purchase shall sign the offer and return it to the Residential Leasing Specialist within the timeframe provided in the offer to purchase.
- (b) *Final Loan Approval.* Upon receipt of a completed offer to purchase from the Residential Leasing Specialist, Bay Bank or the Comprehensive Housing Division Finance Department shall process the loan to seek full approval and notify the Residential Leasing Specialist and provide a copy of the final loan approval or notice that the loan was not approved. If the loan is not approved, the Residential Leasing Specialist shall confirm with the homeowner that they are not eligible for a THRIFTT residential lease.
- (c) *Assignment of Lease for Financing.* If there is a refinancing or a new loan and the property is held in fee title, upon receipt of the final loan approval, the Residential Leasing Specialist shall forward information, including the closing date, to the Senior Loan Officer to create an assignment of lease for financing using the closing date as the effective date. The Senior Loan Officer shall forward the assignment of lease for financing to the Residential Leasing Specialist prior to the closing date.

1.7-3. *Land Commission Approval.* Land Commission approval is deemed granted based on approval of this rule and is not required for each purchase except as specifically noted in the Residential Leasing Rule or ~~the Real Property Rule No. 1—Land Management's~~ Land Acquisition for Residential Leasing Standard Operating Procedure.

1.7-4. *BIA Approval for Individual Trust Land.* For any offer to purchase individual trust title the Land Title and Trust Manager shall prepare the following to be sent for the BIA's consideration for approval:

- (a) The appraisal noting the value of the land and the improvements separately;
- (b) If refinancing or a new loan is required, a certified Title Status Report and any refinancing or loan documents;
- (c) If no refinancing or new loan is required, an informational Title Status Report;
- (d) Proof of the Tribal member's enrollment;
- (e) An application for trust deed indicating voluntary sale by the homeowner; and
- (f) The deed to restricted Indian land.

1.7-5. *Closing.* Closing responsibilities are distributed as follows:

- (a) The Acquisition Manager shall attend closing and:
 - (1) Bring the check for the value of the land to the closing;
 - (2) Bring any other documents required by the Nation to the closing, which may include affidavits; and
 - (3) Sign closing documents on behalf of the Nation.

- 230 (b) The Residential Leasing Specialist shall attend closing and:
- 231 (1) Bring the residential lease documents that have been signed on behalf of the
- 232 Nation to the closing; and
- 233 (2) If applicable, bring the assignment of lease for financing that has been signed
- 234 on behalf of the Nation to the closing.
- 235 (c) The homeowner shall sign the following documents at the closing:
- 236 (1) Any applicable loan documents;
- 237 (2) Closing statements;
- 238 (3) The three (3) original residential leases;
- 239 (4) If applicable, the assignment of lease for financing;
- 240 (5) The deed; and
- 241 (6) Any other required documents.
- 242 (d) If there is a refinancing or new loan, the financing party shall bring the following to
- 243 the closing:
- 244 (1) The loan documents and any other bank required documents; and
- 245 (2) Closing statements for the improvements.
- 246 (e) If the offer to purchase is for fee title, Bay Title shall bring the following to the
- 247 closing:
- 248 (1) Closing statements for the land and improvements;
- 249 (2) The deed; and
- 250 (3) Any other required documents.
- 251 (f) If the offer to purchase is for individual trust land, the Land Title and Trust Manager
- 252 shall:
- 253 (1) Bring the deed to restricted Indian land to the closing;
- 254 (2) Bring the application for trust deed indicating voluntary sale by the
- 255 homeowner to the closing;
- 256 (3) Bring any other required documents to the closing; and
- 257 (4) Send the payment check for the land to the BIA lockbox.
- 258 1.7-6. *Post-Closing*. Post-Closing responsibilities are distributed as follows:
- 259 (a) If there was a refinancing or a new loan, Bay Bank shall:
- 260 (1) Provide Bay Title with the mortgage, the assignment of lease for financing
- 261 and an original residential lease;
- 262 (2) Ensure that Bay Title recorded the mortgage and the assignment of lease for
- 263 financing; and
- 264 (3) Provide the original recorded mortgage and assignment of lease for financing
- 265 to Comprehensive Housing Division's Finance Department.
- 266 (b) CHD shall:
- 267 (1) Ensure that Bay Title provided a final title policy and provide said policy to
- 268 the Acquisition Manager to be included in the Land Management file;
- 269 (2) Ensure that Bay Title complied with Wisconsin's electronic transfer return
- 270 requirements;
- 271 (3) Ensure that Bay Title recorded the deed with the county register of deeds;
- 272 (4) Once all the original recorded documents have been received, record the
- 273 following with the Oneida Nation Register of Deeds:
- 274 (A) The deed;
- 275 (B) The residential lease;

- (C) If applicable, the mortgage; and
(D) If applicable, the assignment of lease for financing.
(5) If there was a refinancing or a new loan through Bay Bank, return the original mortgage and assignment of lease for financing to Bay Bank once they have been recorded with the Oneida Nation Register of Deeds.

End.

Original effective date: [add effective date established by authorized entity] (Certified by LOC on)



To: Legislative Operating Committee
From: Jacque Boyle, Public Works Director
Date: May 13, 2021
RE: THRIFTT Rule

A handwritten signature in black ink, appearing to read "Jacque Boyle", written over the "From:" line of the header.

I approve of Leasing Rule #5 Tribal Housing Reacquisition of Individual Fee and Trust Title (THRIFTT), which is presented in this packet and includes all supporting documentation.



Oneida Land Commission

Regular Meeting
5:00 p.m. Tuesday, November 12, 2019
Little Bear Conference Room

Minutes

REGULAR MEETING

Present: Vice Chair Rebecca Webster, Secretary Michael Mousseau, Commissioners: Julie Barton, Sherrole Benton, Patricia Cornelius Donald McLester

Not Present: Chair Rae Skenandore

Others Present: Aliskwet Ellis, Jennifer Garcia, Michelle Hill, Jeff House, JoAnne House, Brenda John, Krystal John, Steve Linskins, Dana McLester, Troy Parr, Patrick Pelky, Lisa Rauschenbach, Nicole Rommel, Beverly Scow, Debbie Thundercloud, Diane Wilson, Jeff Witte

I. CALL TO ORDER AND ROLL CALL

Meeting called to order by Vice-Chair Rebecca Webster at 5:01 p.m.

II. ADOPT THE AGENDA

Motion by Donald McLester to adopt the agenda with an addition of VII.N. Grant for a Trail - Planning and XI.D. Holding Company; seconded by Julie Barton. Motion carried unanimously:

Ayes: Julie Barton, Sherrole Benton, Patricia Cornelius, Donald McLester,
Michael Mousseau

III. TASK LIST

No update.

IV. READING OF MINUTES

A. Approve 2019 10 03 Emergency Meeting Minutes

Motion by Donald McLester to approve the October 3rd, 2019 Emergency Meeting Minutes; seconded by Patricia Cornelius. Motion carried unanimously:

Ayes: Julie Barton, Sherrole Benton, Patricia Cornelius, Donald McLester,
Michael Mousseau

B. Approve 2019 10 14 Regular Monthly Meeting Minutes

Motion by Julie Barton to approve the October 14th, 2019 Regular Meeting Minutes; seconded by Patricia Cornelius. Motion carried unanimously:

Ayes: Julie Barton, Sherrole Benton, Patricia Cornelius, Donald McLester,
Michael Mousseau

Item VII. D. addressed next.

V. TABLED BUSINESS

None.

VI. OLD BUSINESS

None.

VII. NEW BUSINESS

A. E-poll #1 – Lee Cornelius

Motion by Michael Mousseau to accept E-Poll and enter into the record; seconded by Julie Barton. Motion carried unanimously:

Ayes: Julie Barton, Sherrole Benton, Patricia Cornelius, Donald McLester,
Michael Mousseau

B. E-poll #2 – Lee Cornelius

Motion by Michael Mousseau to accept E-Poll and enter into the record; seconded by Donald McLester. Motion carried unanimously:

Ayes: Julie Barton, Sherrole Benton, Patricia Cornelius, Donald McLester,
Michael Mousseau

C. Non-tribal Member Lessees – Jennifer Garcia

Motion by Michael Mousseau for:

1.a. OCHD to bring requests for lease eligibility under 1:4-1. (a) (3) of the Residential Leasing Rule to the Land Commission for approval.

1.b. Residential Lease fees to exclusively non-tribal members shall be calculated by requiring lessees to pay land and improvement tax while the property is in fee and pay the previous portion of the taxes attributable to the land for the remainder of the lease when the property is taken into trust.

2. Oneida Land Commission to hereby rescind the Oneida Land Commission Resolution #LC-05-12-2008-F which sets out the full fare residential lease rates and recognize the practices contained in the Residential Leasing Rule to apply to pre-HEARTH leases.

3. Cap acreage under Residential Leases to three (3) contiguous acres to be used for residential and agricultural purposes, but not commercial purposes without meeting requirements of Tribal Law and obtaining Oneida Land Commission approval.

; seconded by Julie Barton, Motion carried:

Ayes: Julie Barton, Sherrole Benton, Patricia Cornelius, Michael Mousseau
Opposed: Donald McLester

Item VII. E. addressed next.

D. Land Use Phase II – Louis Cottrell

Motion by Sherrole Benton to approve the Phase II report and to set use of this property aside for one (1) year to explore developing the site for Wise Women Gathering place's permanent supportive housing project; seconded by Julie Barton. Motion carried:

Ayes: Julie Barton, Sherrole Benton, Patricia Cornelius, Donald McLester
 Abstained: Michael Mousseau

Item VII. G. addressed next.

E. Probates and Domiciliary letters – Carla Clark

Motion by Michael Mousseau to set a tentative hearing date for January 13, 2020 contingent upon a legal opinion confirming the request complies with Tribal Law and direct Land Management to attempt to collect full information to hold a full probate hearing if the current request does not comply with Tribal Law; seconded by Julie Barton. Motion carried unanimously;

Ayes: Julie Barton, Sherrole Benton, Patricia Cornelius, Donald McLester,
 Michael Mousseau

F. HBO Rule #4 – Krystal John

Motion by Michael Mousseau to approve the rule to be forwarded to the LRO for a statement of effect for the purpose of setting a public meeting with the following two changes – 1. Increase minimum financing to \$100,000 & 2. Create an exception for the Land Commission to approve financing less than \$100,000; seconded by Julie Barton. Motion carried unanimously;

Ayes: Julie Barton, Sherrole Benton, Patricia Cornelius, Donald McLester,
 Michael Mousseau

Item VII. H. addressed next.

G. Expansion of Bellin Retention Pond – Becky Demmuth

Motion by Julie Barton to accept as FYI; seconded by Patricia Cornelius. Motion carried unanimously;

Ayes: Julie Barton, Sherrole Benton, Patricia Cornelius, Donald McLester,
 Michael Mousseau

Motion by Donald McLester to go into Executive Session at 5:22 p.m.; seconded by Patricia Cornelius. Motion carried unanimously;

Ayes: Julie Barton, Sherrole Benton, Patricia Cornelius, Donald McLester,
 Michael Mousseau

Motion by Patricia Cornelius to come out of Executive Session at 5:51 p.m.; seconded by Donald McLester. Motion carried unanimously;

Ayes: Julie Barton, Sherrole Benton, Patricia Cornelius, Donald McLester,
 Michael Mousseau

Item VII A. addressed next.

H. Official e-mail – Rae Skenandore

Motion by Donald McLester to accept as FYI; seconded by Patricia Cornelius. Motion carried unanimously;

Ayes: Julie Barton, Sherrole Benton, Patricia Cornelius, Donald McLester,
 Michael Mousseau

I. Real Property Rule # 1 – Land Acquisition for Residential Leasing – Krystal John

Motion by Michael Mousseau to approve the rule to be forwarded to the LRO for a statement of effect for the purpose of setting a public meeting with the modification to allow Land Commission to set the list of approved financiers by resolution; seconded by Donald McLester. Motion carried unanimously;

Ayes: Julie Barton, Patricia Cornelius, Donald McLester, Michael Mousseau
 Not Present: Sherrole Benton

J. CHD Parking Lot Update – Dana McLester

Motion by Julie Barton to accept as FYI; seconded by Patricia Cornelius. Motion carried unanimously:
 Ayes: Julie Barton, Patricia Cornelius, Donald McLester, Michael Mousseau
 Not Present: Sherrole Benton

K. Bay Bank Financing Program – Nicole Rommel

Motion by Michael Mousseau to approve the official request; seconded by Donald McLester. Motion carried unanimously:
 Ayes: Julie Barton, Patricia Cornelius, Donald McLester, Michael Mousseau
 Not Present: Sherrole Benton

L. THRIFTT – Leasing rule – Krystal John

Motion by Michael Mousseau to approve the rule to be forwarded to the LRO for a statement of effect for the purpose of setting a public meeting noting Section 1.4-6 THRIFTT program e-mail address and shared drive as well as the changes made in Item VII. C. Non-tribal members Lessees; seconded by Donald McLester. Motion carried unanimously:
 Ayes: Julie Barton, Sherrole Benton, Patricia Cornelius, Donald McLester, Michael Mousseau

M. HIPP Rule – Krystal John

Motion by Donald McLester to approve the rule to be forwarded to the LRO for a statement of effect for the purpose of setting a public meeting with the changes made in Item VII. C. Non-tribal members Lessees; seconded by Michael Mousseau. Motion carried unanimously:
 Ayes: Julie Barton, Sherrole Benton, Patricia Cornelius, Donald McLester, Michael Mousseau

N. Grant for a Trail – Planning

Motion by Michael Mousseau to support the concept of developing trails for safely crossing Mason St. and side roads and working with adjoining land owners; seconded by Donald McLester. Motion carried unanimously:
 Ayes: Julie Barton, Sherrole Benton, Patricia Cornelius, Donald McLester, Michael Mousseau

VIII. REPORTS

None.

IX. OTHER BUSINESS

None.

X. ADDITIONS

None.

XI. EXECUTIVE SESSION

Motion by Donald McLester to go into Executive Session at 8:20 p.m.; seconded by Pat Cornelius. Motion carried unanimously:

Ayes: Julie Barton, Sherrole Benton, Patricia Cornelius, Donald McLester,
Michael Mousseau

Motion by Donald McLester to come out of Executive Session at 9:10 p.m.; seconded by Pat Cornelius. Motion carried unanimously:

Ayes: Julie Barton, Sherrole Benton, Patricia Cornelius, Donald McLester,
Michael Mousseau

A. Other

1. Partnership Drive LLC. – Becky Demmuth

Motion by Donald McLester to accept as FYI and to set up an E-poll when proper approvals have been obtained.; seconded by Julie Barton. Motion carried unanimously:

Ayes: Julie Barton, Sherrole Benton, Patricia Cornelius, Donald McLester,
Michael Mousseau

2. OLC Performance Assurance Audit reissued – Rae Skenandore

Motion by Sherrole Benton for Michael Mousseau and Nicole Rommel to prepare response to three (3) audit issues by November 25th; seconded by Patricia Cornelius. Motion carried unanimously:

Ayes: Julie Barton, Sherrole Benton, Patricia Cornelius, Donald McLester,
Michael Mousseau

3. Discussion on Church on 172 – Pat Cornelius

Motion by Patricia Cornelius to accept as FYI; seconded by Julie Barton. Motion carried unanimously:

Ayes: Julie Barton, Sherrole Benton, Patricia Cornelius, Donald McLester,
Michael Mousseau

B. Leases/Commercial

1. Commercial Lease request – Diane Wilson

Motion by Michael Mousseau to deny the Commercial Lease request and to begin the process to re-zone the property to commercial in anticipation of the lease being set to expire/renew in three (3) years; seconded by Patricia Cornelius. Motion carried unanimously:

Ayes: Julie Barton, Sherrole Benton, Patricia Cornelius, Donald McLester,
Michael Mousseau

C. HIP

1. 10201902H – MaryJo Nash 177 179

Motion by Donald McLester to approve file #10201902H Residential Lease, Assignment of lease for financing and loan contingent upon all HIP rules and parameters having been met along with the commitment letter from the bank and Resolution 10-14-19-A; seconded by Sherrole Benton. Motion carried unanimously:

Ayes: Julie Barton, Sherrole Benton, Patricia Cornelius, Donald McLester,
Michael Mousseau

2. 11201901H – MaryJo Nash

Motion by Sherrole Benton to approve file #1201901H Residential Lease, Assignment of lease for financing and loan contingent upon all HIP rules and parameters having been met along with the commitment letter from the bank and Resolution 10-14-19-B, seconded by Julie Barton. Motion carried unanimously:

Ayes: Julie Barton, Sherrole Benton, Patricia Cornelius, Donald McLester, Michael Mousseau

D. Holding Company

Motion by Patricia Cornelius to accept as FYI; seconded by Donald McLester. Motion carried unanimously:

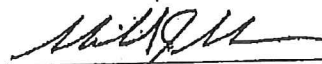
Ayes: Julie Barton, Sherrole Benton, Patricia Cornelius, Donald McLester, Michael Mousseau

XII. ADJOURNMENT

Motion by Donald McLester to adjourn at 9:14 pm; seconded by Julie Barton. Motion carried unanimously:

Ayes: Julie Barton, Sherrole Benton, Patricia Cornelius, Donald McLester, Michael Mousseau

Minutes prepared by Aliskwet Ells, BCC Recording Clerk
Minutes approved as presented/corrected on November 25, 2019



Michael Mousseau, Secretary
ONEIDA LAND COMMISSION

**Summary Report for
Tribal Housing Reacquisition of Individual Fee and Trust Title (THRIFTT)**

Original effective date: N/A

Amendment effective date: N/A

Name of rule: Tribal Housing Reacquisition of Individual Fee and Trust Title (THRIFTT)

Name of law being interpreted: Title 6, Property and Land - Chapter 602 Leasing

Rule number: 5

Other laws or rules that may be affected: N/A

Brief summary of the proposed rule: The purpose of the rule is to set the process and requirements for the Nation to buy land from interested parties and also to enter a residential lease with the selling party for continued use of the homesite.

Statement of Effect: Obtained after requesting from the Legislative Reference Office.

Financial Analysis: See Attached.

**Financial Analysis for
Tribal Housing Reacquisition of Individual Fee and Trust Title (THRIFTT)**

Type of Cost	Description/Comment	Dollar Amount
Start Up Costs	Would be absorbed within the current budget	\$0
Personnel	An additional residential leasing specialist needed to assist in the management of increased number of residential leases.	\$60,000 (fringe included)
Office	N/A	\$0
Documentation Costs	N/A	\$0
Estimate of time necessary for an individual or agency to comply with the rule after implementation	One week	\$0
Other:	N/A	\$0
Total Cost (Annual)	N/A	\$60,000



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



Statement of Effect

Leasing Law Rule No. 5 – Tribal Housing Reacquisition of Individual Fee and Trust Title (THRIFTT)

Summary

The purpose of Leasing Law Rule No. 5 – Tribal Housing Reacquisition of Individual Fee and Trust Title (THRIFTT) is to increase the Oneida Nation's land base while maintaining individual homeownership. Through the THRIFTT program, eligible homeowners can sell their land to the Nation and then enter into a residential lease with the Comprehensive Housing Division, per the Nation's Leasing law and Real Property Rule No. 1 – Land Acquisition for Residential Leasing, which allows the homeowners to retain ownership of the improvements and rights to the land they sold.

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

Date: February 10, 2020

Analysis by the Legislative Reference Office

The Administrative Rulemaking law affords authorized agencies the opportunity to promulgate rules interpreting the provisions of any law enforced or administered by it; provided, the rule does not exceed the rulemaking authority granted under the law for which the rule is being promulgated. [1 O.C. 106.4-1]. Leasing Law Rule No. 5 – Tribal Housing Reacquisition of Individual Fee and Trust Title (THRIFTT) ("Rule No. 5") was promulgated under the authority granted in section 602.5-1 of the Nation's Leasing law.

The Leasing law ("Law") was adopted for the purpose of setting out the Nation's authority to issue, review, approve and enforce leases. The Law delegates authority to the Oneida Land Commission and Land Management to jointly develop rules related to obtaining a residential, agricultural or business lease. [6 O.C. 602.5-1]. Specifically, the Law provides that Land Management shall develop, and the Oneida Land Commission shall approve, the format and requirements set out in the lease document applications for different types of leases, as well as additional procedures and processes to be followed when offering and awarding lease documents. [6 O.C. 602.5-1(a)].

The THRIFTT program operates to increase the Nation's land base while maintaining individual homeownership by allowing eligible homeowners to sell their land to the Nation and then enter into a residential lease with the Comprehensive Housing Division that allows them to retain ownership of the improvements and rights to the land they sold. Rule No. 5 sets certain eligibility requirements, application processes, and approval procedures to govern operation of the THRIFTT program, which include that property is sold and leased in compliance with Real Property Rule No. 1 – Land Acquisition for Residential Leasing and the Nation's Leasing law.

Conclusion

There are no legal bars to adopting Leasing Law Rule No. 5 – Tribal Housing Reacquisition of Individual Fee and Trust Title (THRIFTT).

NOTICE OF PUBLIC MEETING

TO BE HELD

January 9, 2020 at 9:00 A.M.

IN THE

OBC Conference Room
2nd Floor Norbert Hill Center

In accordance with the Administrative Rulemaking Law, the Oneida Comprehensive Housing Division (CHD), Land Management Area and Oneida Land Commission are hosting this Public Meeting to gather feedback from the community regarding the following rules:

Real Property Rule No. 1 — Land Acquisition for Residential Leasing

This is a proposal to adopt a new rule which would:

- ♦ Identify requirements for eligible parcels of land for residential purchases on behalf of individual homeowners for programs including but not limited to HIP and THRETT, and
- ♦ Set the acquisition process and any required approvals.

Leasing Rule No. 4 — Home Building Opportunities Residential Leasing (HBO)

This is a proposal to adopt a new rule (former SOP) which would:

- ♦ Modify the application/selection process for parties to apply for vacant lots for the purpose of home building; and
- ♦ Set timelines following selection to enter a residential lease and complete necessary loan, planning and construction phases.

Leasing Rule No. 5 — Tribal Housing Reacquisition of Individual Fee and Trust Title (THRETT)

This is a proposal to adopt a new rule which would:

- ♦ Set the process and requirements for the Nation to buy land from interested parties and enter a residential lease with the selling party for continued use of the homesite.

Leasing Rule No. 6 — Home Ownership by Independent Purchase (HIP) Program

This is a proposal to amend a rule which would:

- ♦ Modify the existing HIP process based on the division of CHD and Land Management;
- ♦ Incorporate updated residential leasing rules allowing parties to have more than 1 lease at a time; and
- ♦ Open the process up to non-Tribal Members.

To obtain copies of the Public Meeting documents for this proposal, please visit www.oneida-nh.gov/Register/PublicMeetings.

PUBLIC COMMENT PERIOD

OPEN UNTIL January 16, 2020

During the Public Comment Period, all interested persons may submit written comments and/or a transcript of any testimony/spoken comments made during the Public Meeting. These may be submitted to the Comprehensive Housing Division by U.S. mail, interoffice mail, e-mail or fax.

Oneida Comprehensive Housing Division
2913 Commissioner Street, Oneida, WI 54155

tthomas@oneidanation.org

PH: 715.860.0000 FAX: 715.860.0000

Oneida Nation
Comprehensive Housing Division
Land Management
Land Commission
PO Box 365 • Oneida, WI 54155-0365



COMPREHENSIVE HOUSING DIVISION, LAND MANAGEMENT AND LAND COMMISSION
PUBLIC MEETING for

Real Property Rule #1: Land Acquisition for Residential Leasing

Leasing Rule #4: Home Building Opportunities (HBO)

Leasing Rule #5: Tribal Housing Reacquisition of Individual Fee and Trust Title (THRIFTT)

Leasing Rule #6: Home Ownership by Independent Purchase (HIP) Program

Business Committee Conference Room-2nd Floor Norbert Hill Center
January 9, 2020 9:00 a.m.

PUBLIC MEETING SIGN IN SHEET

	Name: (Print clearly)	Email Address / Phone #	Department/Roll #	Oral Testimony (Y) or (N)
1.	Bart Cornellus	Chopper dude 662 yaloo 920-246-8287	0756	N
2.	Jason Aguerre	jason.aguerre75@ 920-615-6466 Smt1	—	N
3.	Patrick Young	psyoung@new.ric.com 920-676-3389	—	N
4.	Jeff Young	jy2906@att.net 920-410-3128	6614	N
5.	James Petter	920-8694574	9774	N
6.	Amy Hacker	W1351 Tall Feather	8104	N
7.	Trish King		935	N
8.	Chuck McCarrere	McCarrere 4860 @ BARRIC 920 530 3693 com		
9.	Kim Nishimoto	920-562-0176	921	N
10.	Laura Laitinen-Warren	920/676-6202	9834	
11.	Emio Stenem		4382	Y
12.				

Oneida Nation
 Comprehensive Housing Division
 Land Management
 Land Commission
 PO Box 365 • Oneida, WI 54155-0365



COMPREHENSIVE HOUSING DIVISION, LAND MANAGEMENT AND LAND COMMISSION

PUBLIC MEETING for

Real Property Rule #1: Land Acquisition for Residential Leasing

Leasing Rule #4: Home Building Opportunities (HBO)

Leasing Rule #5: Tribal Housing Reacquisition of Individual Fee and Trust Title (THRIFTT)

Leasing Rule #6: Home Ownership by Independent Purchase (HIP) Program

Business Committee Conference Room-2nd Floor Norbert Hill Center

January 9, 2020 9:00 a.m.

PUBLIC MEETING SIGN IN SHEET

	Name: (Print clearly)	Email Address / Phone #	Department/Roll #	Oral Testimony (Y) or (N)
1.				
2.				
3.				
4.				
5.				
6.				
7.				
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11.				
12.				

Comprehensive Housing Division



PUBLIC MEETING COMMENT RESPONSE MEMO ISSUED BY THE ONEIDA LAND COMMISSION, COMPREHENSIVE HOUSING DIVISION and LAND MANAGEMENT on FEBRUARY 10, 2020

- Real Property Rule #1 – Land Acquisition for Residential Leasing
- Leasing Rule #4 – Home Building Opportunities (HBO) Residential Leasing
- Leasing Rule #5 – Tribal Housing Reacquisition of Individual Fee and Trust Title (THRIFTT)
- Leasing Rule #6 – Homeownership by Independent Purchase (HIP) Program

This public meeting was held at the Business Committee Conference Room-2nd Floor Norbert Hill Center, on January 9, 2020 at 9:00 a.m. Following the meeting, public comment was held open until January 16, 2020 for written comments. Both verbal and written comments were received. Present at the meeting on behalf of the hosting parties was: Dana McLester, Comprehensive Housing Division; Kelly McAndrews, Attorney, Lisa Rauschenbach, Residential and Finance Area Manager, Jenny Garcia, Residential Leasing Specialist.

REAL PROPERTY RULE NO. 1 – LAND ACQUISITION FOR RESIDENTIAL LEASING

Question: Amy Hacker: I was just wondering if there is like a list of land or where they can like find out where they can get the land to do for the HIP or the THRIFTT to try to build or? So it's just looking for a like where to find a list of land to be able to lease or build on.

Response: There is no list for land not owned by Nation. The HIP and THRIFTT programs are created to acquire land not owned by the Nation within the boundaries and meets the requirements of the program for properties that already have a home on it. As far as building, we do not have a program where the Nation buys vacant land for the purpose of building. We do have a separate program, Home Building Opportunities that allows Tribal members to lease land already owned by the Nation for the purpose of building. When those lots are available, the HBO properties list will be maintained on the CHD website and includes advertising.

Question: Bart Cornelius: My question is, I already own a house and it's not on tribal land but it's in the reservation boundaries. I know we were trying to make a plan before when I was on the Board for Oneida that the something about buying the house and the land and then leasing it back. Does this fall into this category? That's.

Response: Yes, as long as the property meets the requirements of this rule, we would be authorized to purchase the land. The applicant will also have to meet the requirements of the Tribal Housing Reacquisition of Individual Fee and Trust Title (THRIFTT) Rule under the Leasing Law. Through this program, you sell the land and maintain ownership of the improvements and enter into a residential lease with the Nation to lease the land back.

Question: Fred Muscavitch (Written Comment): The back-up document says that the time expected to go through the process is 0. I would like to see a realistic timeline.

Response: That is a realistic timeline for the acquisition rule. Land Management is already performing this function, the only real change is removal of approvals from Land Commission.

Question: Fred Muscavitch: One issue which stands out for me is the suggestion that the Land Commission is slow-acting and will relinquish its ability to review individual applications by allowing these new rules to act as LC approval. Is there a belief that these rules will open the floodgates and have 10-20-30 applications a month? I do not agree with articles 1.5. b that relinquishes LC approval for each applicant. This is repeated in Title 6 Rule 5 1. 7-3 and 1. 7-6.

Response: The Oneida Land Commission has set their requirements for leases through the Leasing law which is HEARTH and rules so that there is no need to approve on a case by case basis (except that non-Tribal member leases require individual approval). The leasing law and rules include approval of financing. Based on the changes that were amended previously through leasing, the only thing Land Commission was still approving related to HIP was the acquisition of the land itself. The acquisition rule removes that approval, again because substantial requirements are included in the rule for land eligibility in relation to cost, location and potential title defects and encroachments.

LEASING RULE NO. 4 – HOME BUILDING OPPORTUNITIES

Question: Jason Aguirre (Written Comment) For the Home Builder Opportunity the major hurdle is little to no land available to members currently. Is there land currently available?

Response: There are not any lots currently available as CHD wanted to solidify the process before reoffering lots. We anticipate offering 36 HBO lots in September 2020 in Bread Creek Village (Overland and Florist) with another 36 anticipated to become available at a date to be determined in 2020 in Cattail Marsh (West of Chief Hill Drive). Will this program extend to non-tribal members? No

Question: Jason Aguirre (Written Comment) Can tribal members work with non Bay Bank lenders for these programs? Particularly the section 184 program there are other eligible lenders that can lend here in WI.

Response: We are not aware of any other lenders that offer the 184 program that are willing to use the Residential Lease as collateral. The rule limits available lenders to Bay Bank and CHD.

Question: Jason Aguirre (Written Comment) Is there an annual budget for CHD financed properties? Is this made public?

Response: There is a budget for CHD approved by GTC. There is not an annual budget for CHD's loan program, it is a revolving program funded by loan payments from existing loans. Currently, CHD does not have loans generally available except for Veterans. Aside from the Veteran loans, the only loans currently available are for residential sales offered by CHD.

Question: Jason Aguirre (Written Comment) Are CHD residential sales going to be open to non-tribal members?

Response: No.

Question: Jason Aguirre (Written Comment) Regarding the down payment loan through the CHD for use in coordination with the section 184 loan program:

Response: When CHD is offering loans, there is a down payment loan available, see the Mortgage and Foreclosure law and corresponding rule. At present, aside from the Veteran loans, the only loans currently available are for residential sales offered by CHD.

Question: Jason Aguirre (Written Comment) What are the qualifications?

Response: The eligibility requirements can be found in the Mortgage and Foreclosure law and corresponding rule.

Question: Jason Aguirre (Written Comment) What is the maximum loan amount?

Response: Pursuant to the Mortgage and Foreclosure rule, section 1.10-2. Down Payments, "Tribal members applying for a TLC loan for the purpose of securing a down payment may receive a maximum loan amount of the 2.25% of the total purchase price, as required by HUD's section 184 loan program."

Question: Jason Aguirre (Written Comment) Are these loans directly through CHD or is this a loan through Bay Bank?

Response: If the loan is offered pursuant to the Mortgage and Foreclosure law and corresponding rule it is solely a CHD loan.

Question: Jason Aguirre (Written Comment) Is there a Register of Deeds department within the Oneida organization?

Response: Yes, the Oneida Nation Register of Deeds.

Question: Jason Aguirre (Written Comment) If so where is it located?

Response: The Oneida Nation Register of Deeds is managed by Land Management.

Question: Jason Aguirre (Written Comment) Who are the contacts?

Response: Land Management is the contact.

Question: Jason Aguirre (Written Comment) Is there a list of tribally owned properties that will be available to build on in the future?

Response: Once the proposed HBO rules are adopted, any vacant residential lots that become available specific to building a home will be advertised and the proposed HBO process will be followed. The HBO rules do not allow Tribal members to select *any* vacant lot owned by the Nation within the boundaries, they must be designated and prepared for HBO.

Question: Jason Aguirre (Written Comment) For the HBO program can the Tribal member use any builder they want?

Response: The HBO program requires check ins for the lessees to ensure the construction process is moving along, but does not restrict which builders maybe used.

LEASING RULE NO. 5 – TRIBAL REACQUISITION OF INDIVIDUAL FEE AND TRUST TITLE (THRIFTT)

Question: Chuck McCarol: A I I just have a question. A because I just got this packet in the mail yesterday and I haven't really gone through any of this but, ah, the question is if I were to locate a parcel of land within the tribal a boundaries, ah it's already owned by the tribe, would that property be available for me to lease so that I could in turn build a home?

Response: The program you are talking about is Home Building Opportunity Program (HBO). Once the proposed HBO rules are adopted, any vacant residential lots that become available specific to building a home will be advertised and the proposed HBO process will be followed. The HBO rules do not allow Tribal members to select *any* vacant lot owned by the Nation within the boundaries, they must be designated and prepared for HBO.

Question: Justine Hill (Written Comment) Has the Nation considered all the impacts of opening land leases to non-tribal member in the THRIFTT Rule?

Response: The rule has followed the administrative rulemaking process for more information regarding policy considerations please see the Oneida Land Commission's policy statement regarding opening the HIP and THRIFTT programs to non-Tribal members.

Question: Fred Muscavitch (Written Comment): Clause 1.5 talks about liens on properties and tries to negate the liens with a few "unless"es. We should require that all liens be paid off (except the refinance). No liens.

Response: The intent was to allow only liens from lenders willing to provide a partial satisfaction (i.e. Bay Bank). We will provide a revision that clarifies that one of the following must be true to be eligible:

- A. There are no existing liens;
- B. The purchase of the land will satisfy any existing liens;
- C. There is an existing lien with either Bay Bank or CHD with adequate equity in the improvements to cover the value of the mortgaged improvements after a partial satisfaction of mortgage is provided for the land value; or
- D. The applicant is able to secure refinancing through Bay Bank or CHD.

Question: Jason Aguirre (Written Comment) Regarding the THRIFTT program and being open to non-tribal members: Will non tribal people be eligible for current homes owned by tribal members both on trust and non-trust properties?

Response: CHD has requested that for the time being Land Commission only approve residential leases to non-tribal members where the purchase of the improvements would also expand the Nation's land base.

Question: Jason Aguirre (Written Comment) Will the lease with non-tribal members be different than the lease currently being used for tribal members?

Response: The only difference in lease terms will be the lease fee. When the land is in fee status, both Tribal members and non-Tribal members alike will be responsible to pay the improvement taxes with the lease fee for non-Tribal members set at the amount of the Nation's land tax responsibility. When the land goes into trust, the non-Tribal members' annual lease fee will lock into the amount of the Nation's land tax responsibility for the last taxed year and the requirement to pay improvement taxes will drop off. Regardless of fee or trust status, the lease fee for Tribal members is \$150 with a \$25 processing fee for the entire duration of the lease. This will be clarified further in the general section of the general section of both the HIP and THRIFFT rules.

Question: Jason Aguirre (Written Comment) Will the public have access to these documents?

Response: It is unclear what documents are being references. All rules are posted on the Oneida Register located at: <https://oneida-nsn.gov/government/register/laws/#TITLE-6-PROPERTY-LAND>. Requests for any other related documents should be forward to Land Management for acquisitions and CHD for any other part of the process.

Question: Jason Aguirre (Written Comment) In THRIFFT transactions: Why limit to appraised value or assessed value? Why not use one or the other depending on what is in the Tribe's best interest for each situation? For example if the market value is higher than the assessed value the Tribe could offer to pay assessed value. If the market value is lower than assessed value (this does happen) then the Tribe could offer to pay market value.

Response: All THRIFFT transactions will use the appraised value and all HIP transactions will use the tax assessed value – see Acquisition for Residential Leasing 1.4-1. The consideration is the same within the programs for all participants for seller fairness and equity. We would ideally like to use appraised value for all programs which follows the market more closely, but the tax assessed value is required for HIP in order to maintain the loan approval timelines.

Question: Jason Aguirre (Written Comment) For the THRIFFT program is the application and checklist available for public view?

Response: Yes, once the program is operating all required documents will be available on CHD's website.

Question: Jason Aguirre (Written Comment) Is the list of appraisal companies approved by the Oneida Nation available for public view?

Response: Based on consideration of this question, we will be revising the requirement in THRIFFT to require use of the Nation's appraiser (the Nation will order the appraisal) with costs paid up front from the seller and reimbursed to seller through closing. If the seller walks away, the Nation will not reimburse the seller for the appraisal.

Question: Jason Aguirre (Written Comment) I noticed a possible discrepancy in Title 6. Chapter 602 Leasing Rule #5 1.4-4 General

"If the homeowner is not a Tribal member, upon signing the lease, they will be responsible for all taxes assessed against the property and the improvements." This seems to contradict the Oneida Land Commission Statement of Policy January 2020 under Other Policy Considerations. At least how I interpret that. #7 "opening residential leasing to non-Oneidas would give them a reason to support the Nation's fee to trust process since they would directly benefit through lower lease / tax payments." So would they be required to pay all taxes? Or only taxes on improvements until the land would be placed in trust? Additionally my industry opinion is that it may be difficult to get a non-tribal member to agree to sell their land to the Tribe yet still pay taxes on that land. Thank you for your time.

Response: When the land is in fee status, both Tribal members and non-Tribal members alike will be responsible to pay the improvement taxes with the lease fee for non-Tribal members set at the amount of the Nation's land tax responsibility. When the land goes into trust, the non-Tribal members' annual lease fee will lock into the amount of the Nation's land tax responsibility for the last taxed year and the requirement to pay improvement taxes will drop off.

Question: Fred Muscavitch (Written Comment) In Title 6 Rule 5 1.4-5 there is a word missing.

Response: Thank you – It will be corrected.

Question: Jason Aguirre (Written Comment): For the HIP/THRIFT programs are 1-4 unit properties eligible?

Response: Single family dwellings only.

Question: Jason Aguirre (Written Comment): I believe at least allowing 2 unit duplexes to be part of this program will allow even more tribal members to realize home ownership especially during this very low inventory real estate market.

Response: We do not currently have any processes that would allow for purchase of a duplex or a multi-family unit through the Nation's homeownership programs.

LEASING RULE NO 6 – HOMEOWNERSHIP BY INDEPENDENT PURCHASE (HIP) PROGRAM

Question: Patrick Young: Good Morning. For the record my name is Patrick Young. My wife is a tribal member, we own a tribal home. Ah, as it stands now with the HIP Process, if we want to use the HIP Process, we have to sell our home, move into an apartment or a duplex, and then use the HIP process to purchase a new home. Um, I'm also a Licensed Real Estate Broker. So I deal with this, and I've deal with the HIP Program a several times and this process and there's always an objection that comes up when the tribal member says okay right now I'm doing this well with my life. If I want to buy a bigger home or purchase a different home what is the process? Well that process is, you have to sell this home, move into a duplex or an apartment and then use the HIP Process to come back in or buy a tribal home to come back in. So allowing tribal members to have more than one lease would be advantageous to them because they could negotiate on selling their home and buying a new home and moving the transaction

along like a regular real estate a process. Um, so I think they should consider doing that because it's an objection that we encounter on a regular basis when we're selling a tribal homes and and and HIP homes. And we have also been involved in the first member to member a sale of of of a home. And that's another, that's the same question that comes up. If I want a bigger home or I want to move myself up to a a nicer home in the future what's the process? Again that object objection continues to come up. So I think that this by implementing this would be advantageous to the tribal member. Thank you.

Response: Yes, allowing for more than one residential lease at a time is advantageous to the tribal member – it was already included in the Residential Leasing rule, and now with these amendments will be included in the HIP Process as well. The proposed amendments update the residential leasing portion of the HIP rule to allow parties to have more than one lease at a time.

Question: Patricia King: Morning. Trish King, Um I just have a comment on the educational information and training in regards to um Land Management and working with others involved in the parties. As far as the operations go that that's um very good and I appreciate the effort to try and do that to educate realtors and the bank and Land Management and the operations in how they work together a to accomplish this goal. Um, within this Rule, the only question I have is has there been any kind of public meetings in regards to how all of these Rules work together um, for the public for for rather than public hearing where we can only give comment? Um, so a two way communication to the member would be helpful and how these work and what the actual impact is. And I understand there's a deadline date of um January 16 to um make written comments. So I haven't had a chance either to go thoroughly through all of these documents. But I would like to understand what the impact is. Um, it's confusing cause the LOC um Statement of Effect refers to Rule No. 1 and I'm thinking that the amendment in Rule No. 1 is changed to allow these other laws go together. But it's confusing because it says there are legal bars that doesn't allow for um rulemaking. So, I need clarification on that and I would um a definitely like to see a a community event that helps people understand what the benefits are with these rules, and how they can apply and how it could affect them. Um, also I don't know if any of the rules just generally talk about single units verses a individual buying a multifamily complex and using the HIP Program. Is that allowable? A because then they would be allowed to sublease I understand. So if that's available um that might also help some of our tribal members to get housing that's more affordable um that fall between the cracks of Housing and HUD and um the General Assistance Programs that we have. So there're there're people out there that just miss that some some reason so um if people can help them get housing in that manner then I think a using our own members to do that as well as non-members to help us do that would be beneficial. Thank you.

Response: I am understanding you to be asking the following questions:

Question: Patricia King: Will there be a community meeting explaining how these rules work together and what the benefit to each rule is?

Response: In following the administrative rulemaking law we provided notice in the Kaliwisaks, in addition to the requirements we mailed a notice to all Tribal Members to solicit more feedback from

community members. Once the rules have been adopted the Comprehensive Housing Division and Land Management will hold informational/open house meetings with the community to explain the inner workings of the programs.

Question: Patricia King: Can you explain the LOC's statement of effect referencing legal bars to adoption and rulemaking authority?

Response: When the rules went to public meeting the position of the LOC was that the Real Property law did not delegate rulemaking authority to Land Management to implement the Real Property Rule #1 – Land Acquisition for Residential Leasing. That rule is the part of the HIP and THRIFTT programs that actually allows for the acquisition of land and the remainder of the rules pertain to leasing and other programs requirements. Since then, the Legislative Operating Committee considered a request for emergency amendments to the Real Property Law on January 15th, 2020 to add in a delegation of rulemaking authority to the Oneida Land Commission and Land Management as it relates to the approval and denial, and processing of land acquisitions. Those emergency amendments were approved by the Oneida Business Committee on January 22, 2020 – there are no present bars to adopting these rules.

Question: Patricia King: Do any of the rules allow Tribal members to purchase a multi-family complex and lease the land from the tribe and then sublease the units out to help provide additional housing within the community?

Response: We do not currently have any processes that would allow for purchase of a duplex or a multi-family unit through the Nation's homeownership programs.

Question: Ernie Stevens III: Morning, Ernie Stevens III. Um I have a couple ge, a few a general comments a I think they pertain I believe they pertain to a Rule No. 1, 5, and 6. Um, so one of them is, a in the law it states contingent I don't know the exact verbiage I forgot I'm sorry. It states um, I'll just, of course now I'm not going to find it. This regards um the the funding available funding. Um, just a recommendation to to kind of have that part figured out. The last time that was discussed there's no plan of what that looks like from Bay Bank to Land Management, um Housing and the options for financing and funding available for THRIFTT and HIP and and as if these are implemented, what fiscal impact this has is to have a better understanding of that and a communicate that thoroughly um cause that's that's the part that to me is very unclear and concerns me as I support these. Um, but from a fiscal standpoint not just the financing for membership to a to receive for housing a potential homeownership. But um, the impacts of tax um liability. So if this a THRIFTT for example is successful for membership and non-membership in acquiring properties in Hobart for example, tax bases, I will use the word, ridiculous, and and so we are going to take that on so if that's successful and suddenly we have a line of people um res assuming the funding is even there and whatever that level of funding is available if it's all utilized by membership and non-membership, what's that tax liability going to be. Um, so that's one concern that I think needs to be thoroughly figured out and communicated to the membership and and potential clients or customers I should say. Um, the other one is a, give me a sec here, I apologize. I think it also pertains to all three of them. Um, it was okay taxes I covered that one,

um, I'm sorry I'm just blanking here. Oh, so um, I think this is also pertains to a list of a I guess that Bay Bank, Housing, Land Management, possibly other areas, could possible have and again as if and and when THRIFTT and HIP and these new rules are successful in there implementation, um, it would be helpful as as far as the a um restrictive covenant, having and understanding and list, map, a plat map or whatever that is, um for all entities to have, somewhere where they know exactly where to find it, so when membership, or a member comes in, and they want to find a home and they have a specific budget, specific location needs, specific tax payment abilities, all those factors, um, having an understanding of what homes have and don't have restrictive covenants I think it's going to be crucial timing. Because as we know we are competing with other people for these homes. We're going to lose that, um, a a if if we don't have that process laid out in front of us as a a we a try to find a membership, I'm sorry, find homes. And then also um I think lastly, kinda going off of what Trish said, is the communication. Ah when we hold public meetings if we know the answer we just provide it. A I think the gentleman, Patrick, I believe, um, made the statement, but if he would've had asked, you know, does this fix that problem, it does. A but I think a he was aware of that. So I think things like that, but I think if it's a simple yes, a just let them know to ease their anxiety there at least because a I think that's the big one for me is, does it fix that problem? As a current homeowner who has been wanting to um, get a new home, but it's it's the competitiveness nature of it, I can't get a home because of that process. I know that it fixes that so those those kinds of things I think to what Trish was saying is a better way to communicate that. Um, this process happened pretty quickly. A gentleman back here um also mentioned that he just got this yesterday, so um, to be able to comment to to garner those com those those answers, needs to be improved. Um but in the mean time if we are able to provide that answer here in these meetings, then please do so. A thank you.

Response: My understanding is that the following questions are being asked:

Question: Ernie Stevens III: Is there financial planning for available funding for these programs?

Response: There is no acquisition budget for HIP and THRIFTT programs specifically. Available funding is based on the acquisition budget. To date, the Nation has never run out of available acquisition funding for HIP purchases.

Question: Ernie Stevens III: Is there a plan for covering tax liability for the newly acquired parcels?

Response: Currently tax liability for land is covered by the Oneida Business Committee. There is question right now about changing that and possibly shifting that responsibility back to Land Management. The residential leases to non-tribal members do include increased fees to the Comprehensive Housing Division that could potentially be allocated to payment of taxes while awaiting completion of the fee to trust process. The tax liability for the Nation would remain the same for Tribal Members as the Nations pays for the taxes on the land until the land goes into trust with the Tribal member paying taxes for the improvements.

Question: Ernie Stevens III: Will there be a listing of all available homes for purchase within the reservation boundaries that includes searchable metrics like restrictive covenants, tax costs, purchase price and location?

Response: There is no list for land not owned by Nation. The HIP and THRIFTT programs are created to acquire land not owned by the Nation within the boundaries and meets the requirements of the program. To create a searchable list would require the Nation to have access to all residential listings, which is not the case. For help navigating this information, use of a realtor would be beneficial.

Question: Ernie Stevens III: The informational mailout was just received by someone in the room yesterday – that process needs to be improved upon.

Response: The mailout you are referencing having just been received was something that CHD, Land Management and the Land Commission did in excess of the requirements of the Administrative Rulemaking law to solicit more feedback from community members. It was sent out as soon as possible once the hearing date was determined and printing could accommodate – as a reminder there is a 10 day written comment period following the in-person public meeting. In following the Administrative Rulemaking law we provided notice in the Kaliwisaks as required.

Question: Ernie Stevens III: It is frustrating that answers are not provided where they could be immediately. There should be more information provided to the community.

Response: Once the rules have been adopted the Comprehensive Housing Division and Land Management will hold informational/open house meetings. For consistency purposes, we use these public meetings only to solicit feedback but we do respond through written memorandum, which is shared with all commenters.

Question: Patricia King: Again, Trish King again. Um, I just want to make one a positive comment because I think this is a a the four law or a rules a allow for um, some flexibility in the programming and it it allows us to get to our goals of providing homes for the membership. And so I think you know I want I support the all of them and the concept of what's trying to be accomplished. Um, but I really wanna just talk about the communication because that's, that's where we need most of the support. Um and this will be new Rules I am understanding, so ah then in a year from now we will be assessing how well they are working and we can consider the amendments, any amendments at that time. So I just want to offer um some support to continue with the effort and keep working with Housing and the banks and um, I know it's just Bay Bank, so that that causes some um back log possibly. Um but the initiative overall is is beneficial for the people. So I think that is what what I want to make um clear. Thank you.

Response: There is no question included. Comprehensive Housing Division, Land Management and Land Commission appreciate the words of support and encouragement from Treasurer King.

Question: Jason Aguirre (Written Comment) The most recent HIP program information I had it shows that the land value cannot exceed \$75,000 to be eligible. In the land commission statement of policy that number was at \$100,000. Is \$100,000 a new maximum?

Response: Yes, \$100,000 is the new maximum stated in the Land Acquisition for Residential Leasing.

Question: Jason Aguirre (Written Comment). When are the HIP amendments expected to go into effect?

Response: The earliest date the rules could be adopted by the Oneida Business Committee is February 26, 2020 and there is no anticipated waiting period for HIP to become effective.

GENERAL WRITTEN COMMENTS

Question: Justine Hill: I'm not quite understanding the term, non-tribal. Does that mean non-Oneida or does that include other tribes?

Response: The term non-tribal is not defined, but Tribal member is defined in the Residential Leasing Rule as "an individual who is an enrolled member of the [Oneida] Nation." The Residential Leasing rule is incorporated into each of the programs so a non-Tribal member is anyone who is not enrolled Oneida.

Question: Justine Hill: Maybe we can just start out with buying other Tribe's members' land in the area, just to test the waters.

Response: There is no way to measure if this route would achieve the Land Commission's stated policy goal of increased tribal land base, jurisdiction and sovereignty.

Question: Justine Hill: How does this [opening HIP and THRIFT to non-tribal members] affect foreclosures?

Response: There is no impact on foreclosures. Comprehensive Housing Division has a memorandum of understanding with Bay Bank regarding foreclosures on leases premises which gives the Nation the right of first refusal.

Question: Justine Hill: Who holds their [non-tribal member's] mortgage?

Response: Bay Bank would hold the non-tribal mortgages because our Mortgage and Foreclosure law requires the applicant to be a Tribal member in order to be eligible.

Question: Justine Hill: Will they [non-tribal members] have to go through Bay Bank as well?

Response: Yes, HIP and THRIFT rules both identify the Nation's CHD and Bay Bank as the only available lenders, so based on the response above, the non-Tribals would have to go through Bay Bank.

Question: Justine Hill: Are the tribal courts notified of the changes?

Response: The public notice goes to everyone so through the public notice process they will have been notified. They have also been informally noticed in a meeting with CHD.

Question: Justine Hill: We will have more vacant units that sit if no one wants to buy a house without the land or if nobody can afford the mortgage. Since they will be under our laws and rules, if they get in trouble with the law, do they lose their lease (home) too like Oneida members do?

Response: It is unclear what is being reference or implied in the first sentence. As far as the second sentence/question, anyone using the HIP/THRIFT programs would be required to have a lease with the Nation that would make the Nation's rules and laws apply to the non-Tribal lessees. Non-tribal lessees would be subject to the same lease enforcement as non-tribal members, meaning the lessee could lose their home if they violate their residential lease.

Question: Justine Hill: What are some of the other hidden costs to these changes? And I don't just mean financial costs. My largest concern is the treatment of tribal members/children when the word gets out. Why not just seek vacant land/homes?

Response: Not sure of what hidden costs are being referred to. Without specific examples, the best response we are able to provide is that all residential leases will be subject to the same lease terms and enforcement. We currently purchase homes and vacant land through strategic land acquisition purchases however that does not achieve the social and political goals discussed in the Oneida Land Commission's policy statement. Those goals include giving non-Tribal members a vested interest in our fee-to-trust process, tribal government and the relationships between our government and surrounding municipalities.

Question: Justine Hill: These changes could have an impact on the relationships we have with other municipalities. I know that the Nation pays in lieu of taxes, but with the Nation seeking negotiations with Green Bay on a Service Agreement, will this hinder those efforts?

Response: The Intergovernmental Affairs Area, the Law Office and the Business Committee are all aware of these pending changes and there is no current concern related to any potential negotiations with the City of Green Bay. In addition, the Nation is moving away from making payments in lieu of taxes and towards cooperative governance agreements where we co-fund mutually beneficial projects and initiatives.

Question: Justine Hill: Some Oneida community members have expressed they don't like the idea of non-natives being able to move into their neighborhood. Are you looking at the big picture or just your efforts to obtain land?

Response: The acquisition component is without a doubt a big part of expanding these programs. It is important for us to remember that we retain ownership of our land when entering a lease with a non-Tribal member and are able to contractually extend our laws and rules to those properties where we otherwise would not have jurisdiction. As much as it is about increased land ownership and jurisdiction, it is also about relationship building with our surrounding communities. In addition, there is nothing in place currently that would prevent a non-tribal member with fee land from selling to another non-Tribal within the boundaries. If anything non-Tribal members living within our boundaries following our laws/rules is better for Tribal members than non-Tribal members living within our boundaries following only the local municipalities laws/rules.

Question: Justine Hill: How many leases can someone hold? Is there a limit?

Response: Two leases can be held and that is the limit.

Question: Justine Hill: I haven't received any kind of notice in the mail for these rule changes via USPS to date. And I agree that community meetings should be held to better understand these changes and to contribute to the thought process and the outcomes of these changes prior to making these decisions. At least give the membership more advance notice of changes when a Public Meeting is scheduled with a copy of the new rule(s).

Response: The mailout you are referencing was something that CHD, Land Management and the Land Commission did in excess of the requirements of the Administrative Rulemaking law to solicit more feedback from community members. It was sent out as soon as possible once the hearing date was determined and printing could accommodate – as a reminder there is a 10 day written comment period following the in-person public meeting. In following the Administrative Rulemaking law we provided notice in the Kaliwisaks as required. Once the rules have been adopted, the Comprehensive Housing Division and Land Management will hold informational/open house meetings to explain one on one the changes that have been made.

Question: Fred Muscavitch: Are we using non-Tribal to mean anyone who is not an enrolled member of the Oneida Nation? Perhaps it should be non-Nation member.

Response: The term non-tribal is not defined, but Tribal member is defined in the Residential Leasing Rule as "an individual who is an enrolled member of the [Oneida] Nation." The Residential Leasing rule is incorporated into each of the programs so a non-Tribal member is anyone who is not enrolled Oneida.

Question: Fred Muscavitch: The rule change allows non-Tribals to get a mortgage from the CHO (Comprehensive Housing Div). I strongly oppose this. The Acquisition funds could be deeply affected by this. In my opinion and in various GTC and BC documents, the key purpose of the Land Commission is to reacquire the land as quickly as possible. Buying residential lots is very costly and ill-advised.

Response: That is not accurate. These rules indicate that Bay Bank and CHD are able to be potential lenders, but the Mortgage and Foreclosure law has not been amended so CHD would continue to require applicants be Tribal members in order to receive financing from CHD.

Question: Fred Muscavitch: I oppose the change to allow more than one lease to a person. This change is open to great abuse.

Response: That change has already occurred through the Residential Leasing rules, which are not the subject of this public meeting. These rules merely extend that allowance to participants in the HIP program.

Question: Fred Muscavitch: In summary, I'd like to say that the Land Commission's role is basically to reacquire the land as best it can and to serve our nation's people. The new rules spell out ways to slow acquisition at a higher cost, it opens avenues to assist non-Tribal people to use resources established for Tribal members, and it takes decision making out of the hands of the Land Commission. I am available to discuss my concerns.

Response: Land Management, CHD and the Oneida Land Commission thank you for your feedback.

Statement: Jason Aguirre: Hello, Thanks to all that work to put these programs together. As a real estate agent it is very encouraging to see these programs work as designed and help Oneida families to live the dream of home ownership. Recently I have been working with numerous Tribal families to utilize these programs and the following are a number of questions/ concerns that have come up during these conversations.

Question: Jason Aguirre (Written Comment): Is there any specific department or individual/s who understand the full scope of real estate services offered through the Tribe?

Response: CHD is the central point of contact for consumers for all of these programs.

Question: Jason Aguirre (Written Comment) I see an amendment allowing more than 1 lease to be held by a tribal member is being proposed. I think this is a great addition and allows for more flexibility to those individuals affected. Is there a maximum number of leases? If the goal of the Tribe is to acquire land and an individual Tribal member is able to acquire say 3 or more properties through this program I feel it is a win win situation. The Tribal member can work to build wealth (own and operate rental homes) and the Tribe continues to acquire land.

Response: The maximum is set by the Residential Lease rule and is two (2).



TO: Legislative Operating Committee
FROM: Kristen M. Hooker, Legislative Reference Office Staff Attorney
DATE: September 1, 2021
RE: Certification of amendments to Leasing Law Rule No. 6 – Homeownership by Independent Purchase (HIP) Program

The Legislative Reference Office (“LOC”) has reviewed the certification packet provided by the Director of the Nation’s Department of Public Works (“DPW”) for amendments to Leasing law Rule No. 6 – Homeownership by Independent Purchase (HIP) Program (“Rule”). The purpose of the Rule is to expand the services being offered by the Nation through a program in which the prospective lessee buyer initiates a purchase where the buyer purchases the improvements; the Nation purchases the land per the Land Management’s Land Acquisition for Residential Leasing Standard Operating Procedure; and the buyer then enters into a HIP residential lease for the land through the Comprehensive Housing Division (“CHD”).

Amendments to the Rule are being pursued to modify the existing HIP Program process based on the division of CHD and Land Management; to incorporate the updated residential leasing rules which now allow parties to have more than one (1) lease at a time; and to open up the program to non-Tribal members. The amended Rule would become effective within ten (10) business days following its adoption by the Oneida Business Committee.

Administrative Record

The certification packet contains all documentation required by the Administrative Rulemaking law for a complete administrative record. The certification packet contains:

- Memorandum from the DPW Director requesting that the LOC find good cause to certify the Rule despite being presented for certification outside of the time limits allowed after the public comment period has expired;
- Memorandum from the Residential and Finance Area Manager, Lisa Rauschenbach, that contains the Rule’s procedural timeline;
- Redline draft of the final Rule, showing the changes that are being proposed to the current version, along with a chart that provides further explanation regarding the same;
- Memorandum from the DPW Director, Jacque Boyle, approving the Rule;
- Minutes from the Oneida Land Commission, approving the Rule;
- Summary Report;¹

¹ The Administrative Rulemaking law states that the administrative record must include the “effective dates of the original rule and any rule amendments subsequently made as established by the authorized agency.” [1 O.C. 106.11-1(i)]. The Summary Report submitted by the agency incorrectly indicates that an original date of effectiveness for the current version of the Rule is “not applicable”. This appears to be an oversight, however, as the agency states the Rule is being amended and the date of original effectiveness (February 22, 2016) is provided in the redline draft included in the certification packet. Notwithstanding the discrepancy, the effective date of the original Rule is included in the

- Financial analysis showing a financial impact of sixty thousand dollars (\$60,000);
- Statement of Effect;
- Public meeting notice as it appeared in the Kalihwisaks;
- Public meeting sign-in sheet;
- Transcript from the public meeting;
- Memorandum reviewing and considering the public comments that were submitted on the Rule; and
- An additional draft of the Rule considered at the public meeting was not provided because no changes were made from the public meeting Rule to the final draft of the Rule.

Procedural Requirements

The certification packet demonstrates that the amendments to the Rule comply with the procedural requirements contained in the Administrative Rulemaking law; provided, the LOC determines that good cause exists to go outside of the six (6) month time limit for submitting the Rule to the LOC for certification after the public comment period had expired. *[1 O.C. 106.7-1(a)]*.

Section 106.7 of the Administrative Rulemaking law states as follows with respect to the deadline for submitting a rule to the LOC for certification:

After the public comment period has expired and the authorized agency has considered all public comments received, the authorized agency shall submit the proposed rule and all items contained in the administrative record described in section 106.11 to the Legislative Operating Committee. . . . The authorized agency shall submit the rule for certification by the Legislative Operating Committee within six (6) months after the public comment period has expired, unless the Legislative Operating Committee determines there is good cause to go outside the time limits.

[1 O.C. 106.7-1(a)].

The DPW Director has included a memorandum within the certification packet, seeking a finding of good cause by the LOC based on the information contained therein. Contingent upon such finding to overcome the above-referenced timing issue, in accordance with the Administrative Rulemaking law:

- A public meeting notice for the Rule was published in the Kalihwisaks and on the Oneida Register on December 19, 2019;
- A public meeting for the Rule was held on January 9, 2020;
- The public comment period was held open until January 17, 2020 (the six (6) month window for submission to the LOC in accordance with section 106.7 expired in July of 2020);
- Oral comments received during the public meeting and written comments submitted during the public meeting comment period were reviewed/considered on February 10, 2020; and
- The Oneida Land Commission approved the amendments to the Rule on November 25, 2019.

administrative record, and thus, substantially complies with the requirements of the Administrative Rulemaking law. *[See 1 O.C. 106.4-3 (“Any rule hereafter adopted is valid only if adopted in substantial compliance with this law.”)]*.

Rulemaking Authority

The Leasing law was adopted for purposes of setting forth the Nation's authority to issue, review, approve and enforce leases. [6 O.C. 602.1-1]. The Leasing law delegates authority to the Oneida Land Commission and Land Management to jointly develop rules related to obtaining a residential, agricultural, or business lease. [6 O.C. 602.5-1]. Land Management is defined as "the Division of Land Management or other entity responsible for entering into leases of tribal land." [6 O.C. 602.3-1(i)]. Per the Nation's Real Property law, CHD is the entity responsible for processing all leases of Tribal land for residential purposes. [6 O.C. 601.9-1]. Thus, CHD is Land Management for purposes of the rulemaking authority delegated under the Leasing law.

The amendments to this Rule do not exceed the rulemaking authority granted under the law for which the Rule is being promulgated.

Conclusion

Subject to the above-referenced good cause finding by the Legislative Operating Committee, promulgation of the amendments to Leasing law Rule No. 6 – Homeownership by Independent Purchase (HIP) Program complies with all requirements of the Administrative Rulemaking law.



To: David P. Jordan, Legislative Operating Committee Chairman

From: Jacque Boyle, DPW Director **Jacque Boyle**

Digitally signed by Jacque Boyle
DN: cn=Jacque Boyle, o=Oneida Nation, ou=DPW,
email=jboyle@oneidanation.org, c=US
Date: 2021.08.09 11:44:03 -0500

Date: July 29, 2021

Re: Certification of Leasing Law Rules: No. 5 – THRIFTT Program & No. 6 – HIP Program

Comprehensive Housing Division (“CHD”) received the memorandum from the Legislative Operating Committee regarding the certification of Leasing Rules 5 & 6 for the THRIFTT and HIPP Rules respectively (collectively, “Rules”) and is appreciative of your explanation of the remaining hurdles to certification of the rules.

Comprehensive Housing Division respectfully requests consideration from the Legislative Operating Committee for certification of the rules even though the public meeting comments were collected more than six (6) months from the date CHD submitted them for certification based on good cause. *See* 1 O.C. 106-7(a)(1). For both Rules there were staffing issues at play as well as the onset and the Oneida Nation’s response to COVID-19, which reallocated available funding for transactions pursuant to the Rules.

In terms of staffing, CHD staff were working under the guidance of CHD attorney, Krystal John, who took an unexpectedly early maternity leave in the first week of February 2020 just as CHD was preparing to submit the rules for certification. These rules were and are a priority for CHD and the Oneida Land Commission. In the time after the comment period closed for the public meeting on January 17, 2020 and the time of our attorney’s unexpected leave, we had already reviewed comments, drafted responses, made minimal revisions and forwarded the finished rules to the Oneida Land Commission for their consideration. With our attorney’s unexpected early leave, we paused the work on the rules and presumed we would pick it up with her when she returned from maternity leave, which would have been within the allowable six (6) month period for certification. Instead, CHD had to shift its focus to the COVID-19 response and its impacts on CHD staff, tenants, and lessees. It was during this time that CHD and the CEDD began reporting to DPW and priorities were established to address the vacant housing units and address homelessness. My focus was on creating processes to reduce the vacancy rates and develop plans for the CARES funding. Because there was not available Tribal Contribution funding to implement the HIP or THRIFTT programs at the time, the work to pass these rules was not as urgent given competing issues needing attention. Oneida’s response to the global COVID-19 pandemic required the rerouting of the land acquisition budget to the general fund, so there was no longer any available budget to complete acquisitions pursuant to the Rules. With so many other things to focus on to keep CHD running as smoothly as possible throughout the COVID-19 pandemic, CHD de-prioritized the Rules because it was temporarily financially impossible to

implement them. Since the adoption of BC Resolution 06-09-21- A, which re-allocated funds to acquisitions pursuant to the Rules, CHD has been working diligently to move these Rules forward for certification.

While CHD understands the importance of the public comment period and receipt of input from the community, CHD truly believes it is presenting rules that would not be largely, if at all, impacted by the offering of an additional comment period. Further, CHD strongly believes that the community would be the only party harmed by any further delay in certifying and implementing these Rules that help Oneida tribal members achieve affordable homeownership. Again, Comprehensive Housing Division respectfully requests consideration from the Legislative Operating Committee for certification of the rules even though the public meeting comments were collected more than six (6) months from the date CHD submitted them for certification based on good cause as identified in this memorandum. *See* 1 O.C. 106-7(a)(1).

Comprehensive Housing Division



TO: Legislative Operating Committee

FROM: Lisa Rauschenbach, Residential & Finance Area Manager *LR*

DATE: June 23, 2020

SUBJECT: Request for Certification of Procedural Compliance
Leasing Rule #6 – Homeownership by Independent Purchase Program (HIPP)

The Comprehensive Housing Division (CHD) and the Oneida Land Commission are exercising their joint rulemaking authority to implement a new Rule for Homeownership by Independent Purchase Program (HIPP)

There were 11 people in attendance at the public meeting and written comments were submitted by 3. (attached). The revisions made since public comment are demonstrated in the attached redline drafts.

Rulemaking Timeline	
Required Action	Date Completed
Public Meeting notice for the rule is posted in the Kaliwisaks and on the Oneida Register	December 19, 2019
Public Meeting held	January 9, 2020
Public Comment Period closed	January 17, 2020

The following attachments are included for your review:

1. Leasing Rule #6 – Homeownership by Independent Purchase Program (HIPP)
2. Department of Public Works Director Approval Memo
3. Oneida Land Commission Minutes approving Rule
4. Summary Report
5. Financial Analysis
6. Statement of Effect
7. Copy of Public Meeting Published in the Kaliwisaks -December 19, 2019, issue pg.39
8. Sign in sheet from the January 9, 2020 Public Meeting
9. Public meeting transcription and comments from the January 9, 2020 meeting.

Following certification and the Oneida Business Committee adoption, this rule shall become effective immediately.



Title 6. Property and Land – Chapter 602

LEASING

Rule # 6 – Homeownership by Independent Purchase (HIP) Program

- 1.1. Purpose and Policy
- 1.2. Adoption, Amendment and Repeal
- 1.3. Definitions
- 1.4. General
- 1.5. Eligible Buyers
- 1.6. Eligible Properties
- 1.7. Required Process

1.1. Purpose and Authority

1.1-1. *Purpose.* The purpose of the Homeownership by Independent Purchase (HIP) Program is to expand the services being offered by the Nation by providing a program in which the prospective lessee buyer initiates a purchase in which the buyer purchases the improvements and the Nation purchases the land pursuant to Land Management's Land Acquisition for Residential Leasing Standard Operating Procedure ~~Real Property Rule No. 1 Land Acquisition for Residential Leasing~~. The buyer will then enter a HIP residential lease for the land through the Comprehensive Housing Division.

1.1-2. *Authority.* The Leasing Law section 602.5-1 delegates rulemaking authority to the Comprehensive Housing Division and the Oneida Land Commission pursuant to the Administrative Rulemaking law.

1.2. Adoption, Amendment and Repeal

1.2-1. This rule was adopted by the Comprehensive Housing Division and the Oneida Land Commission in accordance with the procedures of the Administrative Rulemaking law.

1.2-2. This rule may be amended or repealed by the Comprehensive Housing Division and the Oneida Land Commission and/or the Oneida Business Committee pursuant to the procedures set out in the Administrative Rulemaking law.

1.2-3. Should a provision of this rule or the application thereof to any person or circumstances be held as invalid, such invalidity shall not affect other provisions of this rule which are considered to have legal force without the invalid portions.

1.2-4. In the event of a conflict between a provision of this rule and a provision of another rule, internal policy, procedure, or other regulation; the provisions of this rule shall control.

1.2-5. This rule supersedes all prior rules, regulations, internal policies or other requirements relating to entering a residential lease following simultaneous purchase of improvements by the buyer and the land by the Nation.

1.3. Definitions

1.3-1. This section governs the definitions of words and phrases used within this rule. All words not defined herein are to be used in their ordinary and everyday sense.

- (a) "Buyer" means the potential lessee entering into the offer to purchase to purchase the improvements.
- (b) "Defect" means a condition that would have a significant adverse effect on the value of the property; that would significantly impair the health or safety of future occupants of the property; or that if not repaired, removed or replaced would significantly shorten or adversely affect the expected normal life of the premises.
- (c) "Improvement" means buildings, other structures, and associated infrastructure

attached to land.

- (g) "Offer to Purchase" means the written contract made by the buyer, accepted by the seller and approved by the Nation in which the buyer agrees to purchase the improvements upon the land and the Nation agrees to purchase to land.
- (h) "Reservation" means all the property within the exterior boundaries of the Reservation of the Nation, as created pursuant to the 1838 Treaty with the Oneida 7 Stat. 566, and any lands added thereto pursuant to federal law.
- (i) "Residential Lease" means the legal document issued by the Nation pursuant to its applicable leasing laws and rules which establishes a buyer's right to occupy Tribal land for residential purposes.
- (j) "Survey" means the measurement of the boundaries of land and its area. A survey will reveal building setbacks as well as any encroachments.
- (k) ~~(k)~~ "Tax Assessed Value" means the value the local taxing authority uses to distinguish the value of the land from the improvements.
- ~~(k)~~(l) "Total Purchase Price" means the total amount offered to the seller for the acquisition of the improvements and the land.
- ~~(m)~~ "Tribal Fee Land" means land held in fee status by the Nation.
- ~~(n)~~ "Tribal Trust Land" means the surface estate of land or any interest therein held by the United States in trust for the Nation; land held by the Nation subject to federal restrictions against alienation or encumbrance; land reserved for federal purposes; and/or land held by the United States in trust for the Nation under Section 17 of the Indian Reorganization Act, 25 U.S.C §477, et. seq.

1.4. General

1.4-1. *Program Education.* CHD ~~and Bay Bank~~ shall make these rules and all relevant educational pieces and required paperwork available electronically on its website and in hard-copy format at their respective offices.

1.4-2. *Subject to Available Funding.* All offers submitted to the Nation are subject to the Nation's available funding with all purchases taking place pursuant to Land Management's Land Acquisition for Residential Leasing Standard Operating Procedure ~~Real Property Rule No. 1~~ Land Acquisition for Residential Leasing.

1.4-3. *Nation Determines Defects.* The Nation reserves the sole right to determine whether defects exist in relation to the contingencies related to the title commitment, survey and environmental investigation required under Land Management's Land Acquisition for Residential Leasing Standard Operating Procedure ~~the Land Acquisition for Residential Leasing Rule.~~

1.4-4. ~~Real Estate~~ Estate Taxes. ~~If the homeowner is a Tribal member~~ All homeowners, upon signing ~~thea~~ a residential lease, ~~they~~ will be responsible for all taxes assessed against the improvements ~~and not the land~~. The homeowner's real estate tax payment shall be the percentage of the total assessed taxes equal to the assessed value of the improvements divided by the assessed value of the improvements and the land combined plus any municipal fees and/or special assessments. ~~If/when the property converts from tribal fee land to tribal trust land, the homeowner is not a Tribal member, upon signing the lease, they will be responsible~~ have no tax responsibility for all taxes assessed against the property and the improvements, including any municipal fees and/or special assessments.

~~1.4 5. Financing. In the event refinancing or a new~~ 1.4-5. Increased Lease Fee for Non-Tribal

Members. If there is no tribal member party on the residential lease at the time it is entered, the lessee shall pay an increased annual residential lease fee equal the amount of taxes assessed against the land plus any municipal fees and/or special assessments. If/when the property converts from tribal fee land to tribal trust land, the lessee's annual residential lease fee will be held at the prior year's rate for the remaining duration of the lease.

1.4-6. Financing. In the event a loan is required for the improvements, homeowners may secure said financing from Bay Bank or the Comprehensive Housing Division Finance Department, provided that any financing secured from the Comprehensive Housing Division is subject the Mortgage and Foreclosure law and any accompanying rules.

1.4-67. HIP Program E-Mail Address and Shared Drive. Comprehensive Housing Division shall work with the Nation's MIS Department to establish a HIP Program e-mail, which shall be available to accept all required submittals electronically, and a shared drive so that HIP Program documents may be jointly accessed by the Comprehensive Housing Division and Land Management. The Comprehensive Housing Division Residential Leasing Specialist shall be the HIP point of contact and the administrator of the shared HIP Program e-mail and shall be the only party to respond to buyer e-mails, except that the Acquisition Manager is authorized to respond to offers to purchase that require an immediate response outside of business hours in accordance with section 1.7-45.

1.5. Eligible Buyers

1.5-1. In order to be eligible to participate in the HIP Program, the buyer must:

~~(a) Meet the requirements pursuant the Residential Leasing rule;~~

~~(b)(a)~~ Have adequate funds available for the purchase of the improvements or be able to secure financing, including any required down payments, provided that the total purchase price after the tax assessed value of the land is deducted may not exceed \$250,000; and

~~(c) Meet any applicable minimum down payment requirements established by Bay Bank and HUD's guidelines for refinancing; and~~

~~(d)(b)~~ Be eligible to enter a residential lease with the Oneida Nation based on the Leasing law and any applicable residential leasing rules.

1.6. Eligible Properties

1.6-1. In order for a property to be eligible for an offer to purchase pursuant to the ~~THRIFT~~ HIP Program, it must comply with the requirements of Land Management's Land Acquisition for Residential Leasing Standard Operating Procedure~~Real Property Rule No. 1—Land Acquisition for Residential Leasing Rule.~~

1.7. Required Process

1.7-1. Residential Lease Application. In order to initiate the HIP process, the buyer shall complete an Oneida residential lease application with either the Residential Leasing Specialist or the lender, which shall include notice of process provisions related to this program.

~~1.7-2. Pre-approval. In order to initiate the HIP process~~Once the Oneida residential lease application is complete, the buyer shall request a certificate of pre-approval from Bay Bank and/or the Comprehensive Housing Division Finance Department which expires within one hundred twenty (120) days and provides the maximum amount of financing available towards a home purchase. Bay Bank and/or the Comprehensive Housing Division Finance Department

141 The lender shall provide a copy of the pre-approval to the Residential Leasing Specialist.

142 1.7-23. *Real Estate Agent Representation Optional*. Upon receipt of a certificate of pre-approval,
 143 the buyer may choose to be represented by a real estate agent, but representation is not required.
 144 The buyer may request a list of real estate agents familiar with the HIP Program from the
 145 Residential Leasing Specialist. The Acquisition Manager shall maintain said list based on the
 146 real estate agents that have completed the training pursuant to Land Management's Land
 147 Acquisition for Residential Leasing Standard Operating Procedure Real Property Rule No. 1—
 148 Land Acquisition for Residential Leasing Rule and shall provide updated lists to the Residential
 149 Leasing Specialist as needed.

150 1.7-34. If the buyer finds a potentially eligible property they would like to purchase, the buyer
 151 shall make an offer to purchase to the seller using the offer to purchase form available with
 152 Comprehensive Housing Division. The Nation may not assist buyers in making and/or
 153 negotiating an offer to purchase.

154 (a) The offer to purchase form available with the Comprehensive Housing Division must,
 155 at a minimum, contain contingencies relating to:

- 156 (1) The real estate condition report in the format required by Wisconsin law;
- 157 (2) The home inspection, which is an examination of the improvements'
 158 construction, condition and internal systems to establish the structural and
 159 mechanical integrity completed by certified home inspector.
- 160 (3) The environmental inspection, which must be completed by the Nation at the
 161 Nation's expense;
- 162 (4) The title commitment, which is the document by which a title insurer
 163 discloses to all interested parties the liens, defects, burdens and obligations
 164 that affect the subject property;
- 165 (5) The survey or plat map, which provides the measurement of the boundaries of
 166 land and its area and reveals building setbacks as well as any encroachments;
- 167 (6) If the property is on a septic system, the septic system inspection;
- 168 (7) If the property is served by a well, the well water testing, which must analyze
 169 the water's bacteria and nitrate levels, and, if in Outagamie County, the
 170 arsenic levels, to determine whether the water is safe for human consumption;
- 171 (8) If the property is served by a well, the well system inspection, which reveals
 172 information such as the well depth, date of construction, protective clay
 173 layers, drilling stipulations; and
- 174 (9) The closing papers and costs; and
- 175 (9)(10) The requirement that the Oneida Land Commission approve any
 176 residential lease which does not include a Tribal member party.

177 (b) All terms of the offer to purchase are non-negotiable with the exception of the
 178 following:

- 179 (1) Whether the buyer or seller is responsible for paying for the reports and forms
 180 required by the contingencies, except the environmental report, which is the
 181 responsibility of the Nation;
- 182 (2) The closing date, provided that, it must be a minimum of sixty (60) calendar
 183 days from the date the offer is accepted by all required approving parties
 184 unless an alternative closing date is agreed upon by all parties;
- 185 (3) The purchase price for the improvements; the purchase price of the land must
 186 be determined by the tax assessed value of the land;

- (4) The items included in the purchase price;
- (5) The amount of the earnest money; and
- (6) The closing prorations.

1.7-45. *Nation's Approval*. If the buyer makes an offer to purchase that is accepted by the seller, the buyer shall present the accepted offer to purchase to the Leasing Specialist within five (5) calendar days from the date of acceptance; this initiates the Nation's approval process.

(a) Immediately upon receipt of an accepted offer, the Residential Leasing Specialist shall:

- (1) Forward the offer to purchase to the Acquisition Manager along with the buyer's pre-approval and residential lease application;
- (2) If the offer to purchase is not submitted with the Land History Questionnaire and/or the Real Estate Condition Report, provide notice to the buyer that said documents must be submitted to the Comprehensive Housing Division within five (5) business days from the date the offer to purchase is submitted – when received, the Leasing Specialist shall immediately forward said documents to the Acquisition Manager; and
- (3) Notice the buyer that the survey is due to the Comprehensive Housing Division no later than twenty (20) calendar days prior to closing. Immediately upon receipt of a survey from the buyer, the Leasing Specialist shall forward the survey to the Acquisition Manager.

(b) Upon receipt of an accepted offer, the Acquisition Manager shall:

- (1) Notify the Residential Leasing Specialist of any time acquisition funds are depleted or near depletion.
- (2) Do all checks required under Land Management's Land Acquisition for Residential Leasing Standard Operating Procedure ~~Real Property Rule No. 1 – Land Acquisition for Residential Leasing~~ to determine if the property is eligible and notify the Residential Leasing Specialist if there are any defects to title that would make the homeowner or their property ineligible pursuant to Land Management's Land Acquisition for Residential Leasing Standard Operating Procedure ~~Real Property Rule No. 1 – Land Acquisition for Residential Leasing~~.
- (3) If the property is determined to be eligible sign the offer to purchase on behalf of the Nation and forward to the Residential Leasing Specialist, provided that prior to signing, the Acquisition Manager shall obtain any Land Commission approvals required under Land Management's Land Acquisition for Residential Leasing Standard Operating Procedure ~~Real Property Rule No. 1 – Land Acquisition for Residential Leasing~~.

(c) Upon receipt of an offer to purchase signed by the Nation, the Residential Leasing Specialist shall:

- (1) ~~forward~~ Forward the offer to purchase received from the Acquisition Manager to the homeowner and the ~~financing party~~ lender; and
- (2) Obtain any Oneida Land Commission approvals required in order to enter a residential lease with the buyer (i.e. if there is not a Tribal member included as a party to the residential lease).

(d) If, subsequent to signing the offer to purchase, the Nation has a concern related to the contingencies, the Acquisition Manager or their designee shall work with relevant

parties to resolve the issue and shall immediately notify the Residential Leasing Specialist and the ~~financing party~~ lender of the issue and provide instructions as to whether and how the issue may be corrected so that the information is able to be communicated to the buyer and ~~eligible~~ eligibility is able to be confirmed in accordance with Land Management's Land Acquisition for Residential Leasing Standard Operating Procedure ~~Real Property Rule No. 1—Land Acquisition for Residential Leasing Rule.~~

1.7-56. *Pre-Closing.* The ~~financing party~~ lender shall notify the buyer, the Residential Leasing Specialist and the Acquisition Manager of the date, time and location of the closing.

~~(a) Prior to the closing date, the Residential Leasing Specialist and the Acquisition Manager shall obtain any required Oneida Land Commission approvals required pursuant to any applicable rules.~~

~~(b)~~ If Bay Bank is providing financing, then upon receipt of closing date, the Residential Leasing Specialist shall forward information, including the closing date, to the Senior Loan Officer to create an assignment of lease for financing using the closing date as the effective date. The Senior Loan Officer shall provide the assignment of lease for financing to the Residential Leasing Specialist prior to the closing date.

1.7-67. *Land Commission Approval.* Land Commission approval is deemed granted based on approval of this rule and is not required for each purchase except as specifically noted in the Residential Leasing Rule or Land Management's Land Acquisition for Residential Leasing Standard Operating Procedure ~~the Real Property Rule No. 1—Land Acquisition for Residential Leasing.~~

1.7-78. *Closing.* Closing responsibilities are distributed as follows:

(a) The Acquisition Manager shall attend closing and:

- (1) Bring the check for the value of the land to the closing;
- (2) Bring any other documents required by the Nation to the closing, which may include affidavits; and
- (3) Sign closing documents on behalf of the Nation.

(b) The Residential Leasing Specialist shall attend closing and:

- (1) Bring the residential lease documents that have been signed on behalf of the Nation to the closing; and
- ~~(2) Bring~~ (2) If Bay Bank is providing financing, bring the assignments of lease for financing that has been signed on behalf of the Nation to the closing.

(c) The homeowner shall sign the following documents at the closing:

- (1) Any applicable loan documents;
- (2) Closing statements;
- (3) The three (3) original residential leases;
- (4) If applicable, the assignment of lease for financing;
- ~~(5) The deed;~~ and
- ~~(6)~~ Any other required documents.

(d) The ~~financing party~~ lender shall bring the following to the closing:

- (1) The loan documents and any other bank required documents; and
- (2) Closing statements for the improvements.

(e) Bay Title shall bring the following to the closing:

- (1) Closing statements for the land and improvements;
- (2) The deed; and

(3) Any other required documents.

1.7-69. Post-Closing.

(a) If Bay Bank is the lender, Postpost-Closing closing responsibilities are distributed as follows:

(1) ~~(a) The financing party~~ Bay Bank shall:

(1A) Provide Bay Title with the mortgage, the assignment of lease for financing and an original residential lease;

(2B) Ensure that Bay Title recorded the mortgage and the assignment of lease for financing; and

(3C) Provide the original recorded mortgage and assignment of lease for financing to the Comprehensive Housing Division's Finance Department.

(b2) ~~The Comprehensive Housing Division~~ Acquisition Manager shall:

(1A) Ensure that Bay Title provided a final title policy ~~and provide said policy to the Acquisition Manager to be~~ include said policy in the Land Management file;

(2B) Ensure that Bay Title complied with Wisconsin's electronic transfer return requirements;

(3C) Ensure that Bay Title recorded the deed with the county register of deeds and once received, record the county recorded deed with the Oneida Nation Register of Deed;

(43) ~~The Comprehensive Housing Division~~ shall:

(A) Once all the original recorded documents have been received, record the following with the Oneida Nation Register of Deeds:

~~(A) —The deed;~~

~~(B1) —The residential lease;~~

~~(C2) If applicable, the mortgage; and~~

~~(D3) If applicable, the assignment of lease for financing.~~

(5B) ~~As applicable, r~~Return the original mortgage and assignment of lease for financing to Bay Bank once they have been recorded with the Oneida Nation Register of Deeds.

(b) If the Comprehensive Housing Division Finance Department is the lender, post-closing responsibilities are distributed as follows:

(1) The Acquisition Manager shall:

(A) Ensure that Bay Title provided a final title policy include said policy in the Land Management file;

(B) Ensure that Bay Title complied with Wisconsin's electronic transfer return requirements;

(C) Ensure that Bay Title recorded the deed with the county register of deeds and once received, record the county recorded deed with the Oneida Nation Register of Deed;

(2) The Comprehensive Housing Division shall record the following with the Oneida Nation Register of Deeds:

(A) The residential lease; and

(B) The mortgage.

End.

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329

Original effective date: 02-22-2016

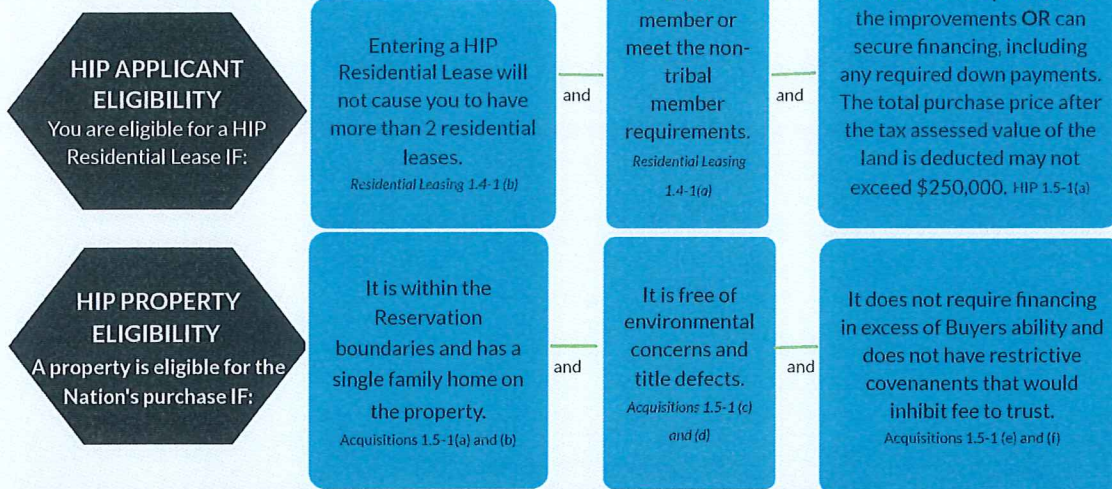
Amendment effective date:

330

Homeownership by Independent Purchase (HIP)



The HIP Program works with the HIP rule and Acquisition for Residential Leasing rule to create a process where the applicant purchases the improvements while the Nation simultaneously purchases the land for a property within Reservation boundaries.



HIP PROCESS - The HIP Process is initiated by an interested buyer contacting CHD or Bay Bank. Upon inquiry, CHD or Bay Bank will have the buyer fill out an application, notice them of the HIP email for communications with CHD and the real estate agents familiar with the HIP process for use at their discretion, and direct them to get a financial preapproval from the lender (Bay Bank or CHD Financing Department). CHD's Leasing Specialist is the Nation's primary HIP contact.

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Seller Accepts Offer to Purchase (OTP): Buyer searches for a home within the Nation's boundaries until a seller accepts their OTP using the form provided by CHD (see HIP 1.7-3(b) for which OTP terms are negotiable). Leasing Specialist is available to perform boundary checks for potential properties. Buyer must submit the signed OTP to the Leasing Specialist within 5 calendar days of acceptance by Seller. HIP 1.7-5

Leasing Specialist Receives an Accepted OTP: (1) Leasing Specialist immediately forwards the seller accepted OTP, application and prequalification letter to the Acquisition Manager. (2) If the OTP doesn't include a Land History Questionnaire and/or the Real Estate Condition Report, the Leasing Specialist shall notice the Buyer they must be submitted within 5 business days from submitting the OTP. (3) The Leasing Specialist shall notice the buyer a survey is due back to the Leasing Specialist no later than 20 days prior to closing. All forms submitted to Leasing Specialist shall be immediately forwarded to the Acquisition Manager. HIP 1.7-5(a)

Acquisition Manager Receives an Accepted OTP: (1) The Acquisition Manager shall perform all checks required under the Acquisition for Residential Leasing rule to ensure the property is eligible and notice the Leasing Specialist if there are any defects that make the property ineligible. (See HIP 1.7-5(b)(3) if defects are discovered after the Nation signs the OTP) (2) If all checks show the property is eligible, the Acquisition Manager shall sign the OTP on behalf of the Nation and return to the Leasing Specialist. (3) Leasing Specialist shall forward the fully executed OTP to the Buyer and the lender and obtain any required Land Commission lease approvals. HIP 1.7-5(c)

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Closing Date and Land Commission Approvals: The lender shall notice the Buyer, the Leasing Specialist and the Acquisition Manager of the date, time and location of closing. HIP 1.7-6

Assignment of Lease for Financing: If Bay Bank is the lender, the Leasing Specialist shall forward information related to closing to the Senior Loan Officer to create an assignment of lease for financing to be provided to the Leasing Specialist prior to closing. HIP 1.7-6

CLOSING

Acquisition Manager: The Acquisition Manager shall attend closing and (1) bring the check for the value of the land to closing; (2) bring any other documents required by the Nation to the closing; and (3) sign closing documents on behalf of the Nation. HIP 1.7-8(a)

Leasing Specialist: The Leasing Specialist shall attend closing and bring the lease documents signed on behalf of the Nation and, if Bay Bank is the lender, the assignment of lease for financing. The leasing specialist shall collect the residential lease fee and processing fee at closing unless agreed otherwise. HIP 1.7-8(b)

Homeowner: The homeowner shall attend the closing and sign the following documents at closing: (1) any applicable loan documents; (2) closing documents; (3) 3 original residential leases; (4) if applicable, the assignment of lease for financing; and (5) any other required documents. HIP 1.7-8(c)

Lender: The lender shall attend closing and bring the loan documents, closing statements for improvements and any other documents required by the lender. HIP 1.7-8(d)

Bay Title: Bay Title shall attend the closing and bring the closing documents for the improvements and land, the deed, and any other required documents. HIP 1.7-8(e)

POST CLOSING

If Bay Bank is the Lender, post-closing responsibilities are as follows:

Bay Bank shall: (A) Provide Bay Title with the mortgage, the assignment of lease for financing and an original residential lease; (B) Ensure Bay Title recorded the mortgage and the assignment of lease for financing; and (C) Provide the original recorded mortgage and assignment of lease for financing to the CHD Finance Department. HIP 1.7-9(a)(1)

Acquisition Manager shall: (A) Ensure Bay Title provided a final title policy and include said policy in the Land Management file; (B) Ensure Bay Title complied with WI's electronic transfer return requirements; and (C) Ensure Bay Title recorded the deed with the county register of deeds and, once received, record the county recorded deed with the Oneida Nation Register of Deeds. HIP 1.7-9(a)(2)


CHD shall: (A) Once all the original recorded documents have been received, record the following with the Oneida Nation Register of Deeds: the residential lease and, if applicable, the mortgage and assignment of lease for financing; and (B) Return the original mortgage and assignment of lease for financing to Bay Bank once they have been recorded with the Oneida Nation Register of Deeds. HIP 1.7-9(a)(3)

If the CHD Finance Department is the Lender, post-closing responsibilities are as follows:

The Acquisition Manager shall: (A) Ensure Bay Title provided a final title policy include said policy in the Land Management file; (B) Ensure Bay Title complied with WI's electronic transfer return requirements; and (C) Ensure Bay Title recorded the deed with the county register of deeds and once received, record the county recorded deed with the Oneida Nation Register of Deeds. HIP 1.7-9(b)(1)

CHD shall record the residential lease and the mortgage with the Oneida Nation Register of Deeds. HIP 1.7-9(b)(2)



To: Legislative Operating Committee
From: Jacque Boyle, Public Works Director 
Date: May 13, 2021
RE: Land Acquisition for Residential Leasing Rule

I approve of Leasing Rule #6 – Homeownership by Independent Purchase (HIP) Program, which is presented in this packet and includes all supporting documentation.



Oneida Land Commission

Regular Meeting
5:00 p.m. Tuesday, November 12, 2019
Little Bear Conference Room

Minutes

REGULAR MEETING

Present: Vice Chair Rebecca Webster, Secretary Michael Mousseau, Commissioners: Julie Barton, Sherrole Benton, Patricia Cornelius Donald McLester

Not Present: Chair Rae Skenandore

Others Present: Aliskwet Ellis, Jennifer Garcia, Michelle Hill, Jeff House, JoAnne House, Brenda John, Krystal John, Steve Linskins, Dana McLester, Troy Parr, Patrick Pelky, Lisa Rauschenbach, Nicole Rommel, Beverly Scow, Debbie Thundercloud, Diane Wilson, Jeff Witte

I. CALL TO ORDER AND ROLL CALL

Meeting called to order by Vice-Chair Rebecca Webster at 5:01 p.m.

II. ADOPT THE AGENDA

Motion by Donald McLester to adopt the agenda with an addition of VII.N. Grant for a Trall - Planning and XI.D. Holding Company; seconded by Julie Barton. Motion carried unanimously:

Ayes: Julie Barton, Sherrole Benton, Patricia Cornelius, Donald McLester,
Michael Mousseau

III. TASK LIST

No update.

IV. READING OF MINUTES

A. Approve 2019 10 03 Emergency Meeting Minutes

Motion by Donald McLester to approve the October 3rd, 2019 Emergency Meeting Minutes; seconded by Patricia Cornelius. Motion carried unanimously:

Ayes: Julie Barton, Sherrole Benton, Patricia Cornelius, Donald McLester,
Michael Mousseau

B. Approve 2019 10 14 Regular Monthly Meeting Minutes

Motion by Julie Barton to approve the October 14th, 2019 Regular Meeting Minutes; seconded by Patricia Cornelius. Motion carried unanimously:

Ayes: Julie Barton, Sherrole Benton, Patricia Cornelius, Donald McLester,
Michael Mousseau

Item VII. D. addressed next.

V. TABLED BUSINESS

None.

VI. OLD BUSINESS

None.

VII. NEW BUSINESS

A. E-poll #1 – Lee Cornelius

Motion by Michael Mousseau to accept E-Poll and enter into the record; seconded by Julie Barton. Motion carried unanimously:

Ayes: Julie Barton, Sherrole Benton, Patricia Cornelius, Donald McLester,
Michael Mousseau

B. E-poll #2 – Lee Cornelius

Motion by Michael Mousseau to accept E-Poll and enter into the record; seconded by Donald McLester. Motion carried unanimously:

Ayes: Julie Barton, Sherrole Benton, Patricia Cornelius, Donald McLester,
Michael Mousseau

C. Non-tribal Member Lessees – Jennifer Garcia

Motion by Michael Mousseau for:

1.a. OCHD to bring requests for lease eligibility under 1:4-1. (a) (3) of the Residential Leasing Rule to the Land Commission for approval.

1.b. Residential Lease fees to exclusively non-tribal members shall be calculated by requiring lessees to pay land and improvement tax while the property is in fee and pay the previous portion of the taxes attributable to the land for the remainder of the lease when the property is taken into trust.

2. Oneida Land Commission to hereby rescind the Oneida Land Commission Resolution #LC-05-12-2008-F which sets out the full fare residential lease rates and recognize the practices contained in the Residential Leasing Rule to apply to pre-HEARTH leases.

3. Cap acreage under Residential Leases to three (3) contiguous acres to be used for residential and agricultural purposes, but not commercial purposes without meeting requirements of Tribal Law and obtaining Oneida Land Commission approval.

; seconded by Julie Barton. Motion carried:

Ayes: Julie Barton, Sherrole Benton, Patricia Cornelius, Michael Mousseau
Opposed: Donald McLester

Item VII. E. addressed next.

D. Land Use Phase II – Louis Cottrell

Motion by Sherrole Benton to approve the Phase II report and to set use of this property aside for one (1) year to explore developing the site for Wise Women Gathering place's permanent supportive housing project; seconded by Julie Barton. Motion carried:

Ayes: Julie Barton, Sherrole Benton, Patricia Cornelius, Donald McLester
 Abstained: Michael Mousseau

Item VII. G. addressed next.

E. Probates and Domiciliary letters – Carla Clark

Motion by Michael Mousseau to set a tentative hearing date for January 13, 2020 contingent upon a legal opinion confirming the request complies with Tribal Law and direct Land Management to attempt to collect full information to hold a full probate hearing if the current request does not comply with Tribal Law; seconded by Julie Barton. Motion carried unanimously:

Ayes: Julie Barton, Sherrole Benton, Patricia Cornelius, Donald McLester,
 Michael Mousseau

F. HBO Rule #4 – Krystal John

Motion by Michael Mousseau to approve the rule to be forwarded to the LRO for a statement of effect for the purpose of setting a public meeting with the following two changes – 1. Increase minimum financing to \$100,000 & 2. Create an exception for the Land Commission to approve financing less than \$100,000; seconded by Julie Barton. Motion carried unanimously:

Ayes: Julie Barton, Sherrole Benton, Patricia Cornelius, Donald McLester,
 Michael Mousseau

Item VII. H. addressed next.

G. Expansion of Bellin Retention Pond – Becky Demmith

Motion by Julie Barton to accept as FYI; seconded by Patricia Cornelius. Motion carried unanimously:

Ayes: Julie Barton, Sherrole Benton, Patricia Cornelius, Donald McLester,
 Michael Mousseau

Motion by Donald McLester to go into Executive Session at 5:22 p.m.; seconded by Patricia Cornelius. Motion carried unanimously:

Ayes: Julie Barton, Sherrole Benton, Patricia Cornelius, Donald McLester,
 Michael Mousseau

Motion by Patricia Cornelius to come out of Executive Session at 5:51 p.m.; seconded by Donald McLester. Motion carried unanimously:

Ayes: Julie Barton, Sherrole Benton, Patricia Cornelius, Donald McLester,
 Michael Mousseau

Item VII A. addressed next.

H. Official e-mail – Rae Skenandore

Motion by Donald McLester to accept as FYI; seconded by Patricia Cornelius. Motion carried unanimously:

Ayes: Julie Barton, Sherrole Benton, Patricia Cornelius, Donald McLester,
 Michael Mousseau

I. Real Property Rule # 1 – Land Acquisition for Residential Leasing – Krystal John

Motion by Michael Mousseau to approve the rule to be forwarded to the LRO for a statement of effect for the purpose of setting a public meeting with the modification to allow Land Commission to set the list of approved financiers by resolution; seconded by Donald McLester. Motion carried unanimously:

Ayes: Julie Barton, Patricia Cornelius, Donald McLester, Michael Mousseau
 Not Present: Sherrole Benton

J. CHD Parking Lot Update – Dana McLester

Motion by Julie Barton to accept as FYI; seconded by Patricia Cornelius. Motion carried unanimously:

Ayes: Julie Barton, Patricia Cornelius, Donald McLester, Michael Mousseau
 Not Present: Sherrole Benton

K. Bay Bank Financing Program – Nicole Rommel

Motion by Michael Mousseau to approve the official request; seconded by Donald McLester. Motion carried unanimously:

Ayes: Julie Barton, Patricia Cornelius, Donald McLester, Michael Mousseau
 Not Present: Sherrole Benton

L. THRIFTT – Leasing rule – Krystal John

Motion by Michael Mousseau to approve the rule to be forwarded to the LRO for a statement of effect for the purpose of setting a public meeting noting Section 1.4-6 THRIFTT program e-mail address and shared drive as well as the changes made in Item VII. C. Non-tribal members Lessees; seconded by Donald McLester. Motion carried unanimously:

Ayes: Julie Barton, Sherrole Benton, Patricia Cornelius, Donald McLester,
 Michael Mousseau

M. HIPP Rule – Krystal John

Motion by Donald McLester to approve the rule to be forwarded to the LRO for a statement of effect for the purpose of setting a public meeting with the changes made in Item VII. C. Non-tribal members Lessees; seconded by Michael Mousseau. Motion carried unanimously:

Ayes: Julie Barton, Sherrole Benton, Patricia Cornelius, Donald McLester,
 Michael Mousseau

N. Grant for a Trail – Planning

Motion by Michael Mousseau to support the concept of developing trails for safely crossing Mason St. and side roads and working with adjoining land owners; seconded by Donald McLester. Motion carried unanimously:

Ayes: Julie Barton, Sherrole Benton, Patricia Cornelius, Donald McLester,
 Michael Mousseau

VIII. REPORTS

None.

IX. OTHER BUSINESS

None.

X. ADDITIONS

None.

XI. EXECUTIVE SESSION

Motion by Donald McLester to go into Executive Session at 8:20 p.m.; seconded by Pat Cornelius. Motion carried unanimously:

Ayes: Julie Barton, Sherrole Benton, Patricia Cornelius, Donald McLester,
Michael Mousseau

Motion by Donald McLester to come out of Executive Session at 9:10 p.m.; seconded by Pat Cornelius. Motion carried unanimously:

Ayes: Julie Barton, Sherrole Benton, Patricia Cornelius, Donald McLester,
Michael Mousseau

A. Other

1. Partnership Drive LLC. – Becky Demmith

Motion by Donald McLester to accept as FYI and to set up an E-poll when proper approvals have been obtained.; seconded by Julie Barton. Motion carried unanimously:

Ayes: Julie Barton, Sherrole Benton, Patricia Cornelius, Donald McLester,
Michael Mousseau

2. OLC Performance Assurance Audit reissued – Rae Skenandore

Motion by Sherrole Benton for Michael Mousseau and Nicole Rommel to prepare response to three (3) audit issues by November 25th; seconded by Patricia Cornelius. Motion carried unanimously:

Ayes: Julie Barton, Sherrole Benton, Patricia Cornelius, Donald McLester,
Michael Mousseau

3. Discussion on Church on 172 – Pat Cornelius

Motion by Patricia Cornelius to accept as FYI; seconded by Julie Barton. Motion carried unanimously:

Ayes: Julie Barton, Sherrole Benton, Patricia Cornelius, Donald McLester,
Michael Mousseau

B. Leases/Commercial

1. Commercial Lease request – Diane Wilson

Motion by Michael Mousseau to deny the Commercial Lease request and to begin the process to re-zone the property to commercial in anticipation of the lease being set to expire/renew in three (3) years; seconded by Patricia Cornelius. Motion carried unanimously:

Ayes: Julie Barton, Sherrole Benton, Patricia Cornelius, Donald McLester,
Michael Mousseau

C. HIP

1. 10201902H – MaryJo Nash 177 179

Motion by Donald McLester to approve file #10201902H Residential Lease, Assignment of lease for financing and loan contingent upon all HIP rules and parameters having been met along with the commitment letter from the bank and Resolution 10-14-19-A; seconded by Sherrole Benton. Motion carried unanimously:

Ayes: Julie Barton, Sherrole Benton, Patricia Cornelius, Donald McLester,
Michael Mousseau

2. 11201901H – MaryJo Nash

Motion by Sherrole Benton to approve file #11201901H Residential Lease, Assignment of lease for financing and loan contingent upon all HIP rules and parameters having been met along with the commitment letter from the bank and Resolution 10-14-19-B, seconded by Julie Barton. Motion carried unanimously:

Ayes: Julie Barton, Sherrole Benton, Patricia Cornelius, Donald McLester, Michael Mousseau

D. Holding Company

Motion by Patricia Cornelius to accept as FYI; seconded by Donald McLester. Motion carried unanimously:


Ayes: Julie Barton, Sherrole Benton, Patricia Cornelius, Donald McLester, Michael Mousseau

XII. ADJOURNMENT

Motion by Donald McLester to adjourn at 9:14 pm; seconded by Julie Barton. Motion carried unanimously:

Ayes: Julie Barton, Sherrole Benton, Patricia Cornelius, Donald McLester, Michael Mousseau

Minutes prepared by Allskwet Ellis, BCC Recording Clerk
Minutes approved as presented/corrected on November 25, 2019



Michael Mousseau, Secretary
ONEIDA LAND COMMISSION

**Summary Report for
Home Ownership by Independent Purchase (HIP) Program**

Original effective date: N/A

Amendment effective date: N/A

Name of rule: Home Ownership by Independent Purchase (HIP) Program

Name of law being interpreted: Title 6. Property and Land – Chapter 602 Leasing

Rule number: 6

Other laws or rules that may be affected: N/A

Brief summary of the proposed rule: The purpose is to amend the rule to modify the existing HIP process based on the division of Comprehensive Housing Division and Land Management, to incorporate updated residential leasing rules allowing parties to have more than 1 lease at a time and to open up the process to non-Tribal members.

Statement of Effect: Obtained after requesting from the Legislative Reference Office.

Financial Analysis: See Attached.

**Financial Analysis for
Home Ownership by Independent Purchase (HIP) Program**

Type of Cost	Description/Comment	Dollar Amount
Start Up Costs	Would be absorbed within the current budget	\$0
Personnel	An additional residential leasing specialist needed to assist in the management of increased number of residential leases.	\$60,000 (including fringe)
Office	N/A	\$0
Documentation Costs	N/A	\$0
Estimate of time necessary for an individual or agency to comply with the rule after implementation	One week	\$0
Other:	N/A	\$0
Total Cost (Annual)	N/A	\$60,000



Statement of Effect

Leasing Law Rule No. 6 – Homeownership by Independent Purchase (HIP) Program

Summary

The purpose of the Leasing Law Rule No. 6 – Homeownership by Independent Purchase (HIP) Program is to expand the services being offered by the Nation through a program in which the prospective lessee buyer initiates a purchase where the buyer purchases the improvements; the Nation purchases the land per the Land Management's Land Acquisition for Residential Leasing Standard Operating Procedure; and the buyer then enters into a HIP residential lease for the land through the Comprehensive Housing Division.

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

Date: July 13, 2021

Analysis by the Legislative Reference Office

The Administrative Rulemaking law provides authorized agencies the opportunity to promulgate rules interpreting the provisions of any law enforced or administered by it; provided that, a rule may not exceed the rulemaking authority granted under the law for which the rule is being promulgated. [1 O.C. 106.4-1]. Rulemaking authority is defined as the delegation of authority to authorized agencies found in the Nation's laws, other than the Administrative Rulemaking law, which allows authorized agencies to implement, interpret and/or enforce a law of the Nation. [1 O.C. 106.3-1(i)]. And, an authorized agency is defined as "any board, committee, commission, department, program or officer of the Nation that has been granted rulemaking authority." [1 O.C. 106.3-1(a)].

The Leasing law was adopted for the purpose of setting out the Nation's authority to issue, review, approve and enforce leases. [6 O.C. 602.1-1]. The Leasing law delegates authority to the Oneida Land Commission and Land Management to jointly develop rules related to obtaining a residential, agricultural, or business lease. [6 O.C. 602.5-1]. Land Management is defined as "the Division of Land Management or other entity responsible for entering into leases of tribal land." [6 O.C. 602.3-1(i)]. Per the Nation's Real Property law, the Comprehensive Housing Division ("CHD") is the entity that is responsible for processing all leases of Tribal land for residential purposes. [6 O.C. 601.9-1]. Thus, CHD is Land Management for purposes of the rulemaking authority delegated under the Leasing law.

The Leasing law further provides that Land Management shall develop, and the Oneida Land Commission shall approve, the format and requirements set out in the lease document applications for different types of leases, as well as additional procedures and processes to be followed when offering and awarding lease documents. [6 O.C. 602.5-1(a)].

The purpose of the Leasing Law Rule No. 6 – Homeownership by Independent Purchase (HIP) Program ("the Rule") is to expand the services being offered by the Nation through the creation of

a program in which the prospective lessee buyer initiates a purchase where the buyer would purchase the improvements and the Nation, subject to available funding, would purchase the land pursuant to the process and eligibility requirements set forth in the Land Management's Land Acquisition for Residential Leasing Standard Operating Procedure. [Rule 1.1-1 and 1.6-1]. Under this Rule the buyer would then enter a HIP residential lease for the land through the Comprehensive Housing Division. [Rule 1.1-1].

Conclusion

This analysis did not include a review or analysis of the Land Management's Land Acquisition for Residential Leasing Standard Operating Procedure referenced within the Rule. Provided it does not conflict with the Nation's laws or the authority granted therein, there are no legal bars to adopting the Leasing Law Rule No. 6 – Homeownership by Independent Purchase (HIP) Program.

NOTICE OF
PUBLIC MEETING

TO BE HELD
January 9, 2020 at 9:00 A.M.
IN THE
OBC Conference Room
2nd Floor Norbert Hill Center

In accordance with the Administrative Rulemaking Law, the Oneida Comprehensive Housing Division (CHD), Land Management Area, and Oneida Land Commission are hosting this Public Meeting to gather feedback from the community regarding the following rules:

Real Property Rule No. 1 — Land Acquisition for Residential Leasing

This is a proposal to adopt a new rule which would:

- ♦ Identify requirements for eligible parcels of land for residential purchases on behalf of individual homeowners for programs including but not limited to HHP and THRP/THL and
- ♦ Set the acquisition process and any required approvals.

Leasing Rule No. 4 — Home Building Opportunities Residential Leasing (HBO)

This is a proposal to adopt a new rule (former SOP) which would:

- ♦ Modify the application/selection process for parties to apply for vacant lots for the purpose of home building, and
- ♦ Set timelines following selection to enter a residential lease and complete necessary loan, planning and construction phases.

Leasing Rule No. 5 — Tribal Housing Reacquisition of Individual Fee and Trust Title (THRP/THL)

This is a proposal to adopt a new rule which would:

- ♦ Set the process and requirements for the Nation to buy land from interested parties and enter a residential lease with the selling party for continued use of the homesite.

Leasing Rule No. 6 — Home Ownership by Independent Purchaser (HHP) Program

This is a proposal to amend a rule which would:

- ♦ Modify the existing HHP process based on the division of CHD and Land Management;
- ♦ Incorporate updated residential leasing rules allowing parties to have more than 1 lease at a time, and
- ♦ Open the process up to non-Tribal Members.

To obtain copies of the Public Meeting documents for this proposal, please visit www.oneida-hsn.gov/Register/PublicMeetings.

PUBLIC COMMENT PERIOD
OPEN UNTIL January 16, 2020

During the Public Comment Period, all interested persons may submit written comments and/or a transcript of any testimony/spoken comments made during the Public Meeting. These may be submitted to the Comprehensive Housing Division by U.S. mail, interoffice mail, e-mail or fax.

Oneida Comprehensive Housing Division
2913 Commissioner Street, Oneida, WI 54155
tthomas@oneidanation.org

Oneida Nation
Comprehensive Housing Division
Land Management
Land Commission
PO Box 365 • Oneida, WI 54155-0365



COMPREHENSIVE HOUSING DIVISION, LAND MANAGEMENT AND LAND COMMISSION

PUBLIC MEETING for

Real Property Rule #1: Land Acquisition for Residential Leasing

Leasing Rule #4: Home Building Opportunities (HBO)

Leasing Rule #5: Tribal Housing Reacquisition of Individual Fee and Trust Title (THRIFTT)

Leasing Rule #6: Home Ownership by Independent Purchase (HIP) Program

Business Committee Conference Room-2nd Floor Norbert Hill Center

January 9, 2020 9:00 a.m.

PUBLIC MEETING SIGN IN SHEET

	Name: (Print clearly)	Email Address / Phone #	Department/Roll #	Oral Testimony (Y) or (N)
1.	BART CORNELIUS	Chopper dude 662 yalw 920-246-8297	0756	N
2.	JASON AGUIRE	jason.aguire75@ 920-615-6466 smf	—	N
3.	PATRICK YOUNG	pyoung@WEN.PT.COM 920-676-3389	—	N
4.	JEFF YOUNG	jy2906@att.net 920-410-3128	6614	N
5.	JAMES PETITIC	920-8644574	9774	N
6.	AMY HACKER	W1357 Tall Feather	8104	N
7.	Trish King		QBC	N
8.	CHUCK McCARRELL	McCarrell 4860 @ B.M.C. 920 530 3693		
9.	Kim Nishimoto	920-562-0176	921	N
10.	Lana Laufner-Warren	920/676-6202	9834	
11.	Enio Stenen		4382	Y
12.				

Oneida Nation
 Comprehensive Housing Division
 Land Management
 Land Commission
 PO Box 365 • Oneida, WI 54155-0365



COMPREHENSIVE HOUSING DIVISION, LAND MANAGEMENT AND LAND COMMISSION

PUBLIC MEETING for

Real Property Rule #1: Land Acquisition for Residential Leasing

Leasing Rule #4: Home Building Opportunities (HBO)

Leasing Rule #5: Tribal Housing Reacquisition of Individual Fee and Trust Title (THRIFTT)

Leasing Rule #6: Home Ownership by Independent Purchase (HIP) Program

Business Committee Conference Room-2nd Floor Norbert Hill Center

January 9, 2020 9:00 a.m.

PUBLIC MEETING SIGN IN SHEET

	Name: (Print clearly)	Email Address / Phone #	Department/Roll #	Oral Testimony (Y) or (N)
1.				
2.				
3.				
4.				
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11.				
12.				

Comprehensive Housing Division



PUBLIC MEETING COMMENT RESPONSE MEMO ISSUED BY THE ONEIDA LAND COMMISSION, COMPREHENSIVE HOUSING DIVISION and LAND MANAGEMENT on FEBRUARY 10, 2020

Real Property Rule #1 – Land Acquisition for Residential Leasing
Leasing Rule #4 – Home Building Opportunities (HBO) Residential Leasing
Leasing Rule #5 – Tribal Housing Reacquisition of Individual Fee and Trust Title (THRIFTT)
Leasing Rule #6 – Homeownership by Independent Purchase (HIP) Program

This public meeting was held at the Business Committee Conference Room-2nd Floor Norbert Hill Center, on January 9, 2020 at 9:00 a.m. Following the meeting, public comment was held open until January 16, 2020 for written comments. Both verbal and written comments were received. Present at the meeting on behalf of the hosting parties was: Dana McLester, Comprehensive Housing Division; Kelly McAndrews, Attorney, Lisa Rauschenbach, Residential and Finance Area Manager, Jenny Garcia, Residential Leasing Specialist.

REAL PROPERTY RULE NO. 1 – LAND ACQUISITION FOR RESIDENTIAL LEASING

Question: Amy Hacker: I was just wondering if there is like a list of land or where they can like find out where they can get the land to do for the HIP or the THRIFTT to try to build or? So it's just looking for a like where to find a list of land to be able to lease or build on.

Response: There is no list for land not owned by Nation. The HIP and THRIFTT programs are created to acquire land not owned by the Nation within the boundaries and meets the requirements of the program for properties that already have a home on it. As far as building, we do not have a program where the Nation buys vacant land for the purpose of building. We do have a separate program, Home Building Opportunities that allows Tribal members to lease land already owned by the Nation for the purpose of building. When those lots are available, the HBO properties list will be maintained on the CHD website and includes advertising.

Question: Bart Cornelius: My question is, I already own a house and it's not on tribal land but it's in the reservation boundaries. I know we were trying to make a plan before when I was on the Board for Oneida that the something about buying the house and the land and then leasing it back. Does this fall into this category? That's.

Response: Yes, as long as the property meets the requirements of this rule, we would be authorized to purchase the land. The applicant will also have to meet the requirements of the Tribal Housing Reacquisition of Individual Fee and Trust Title (THRIFTT) Rule under the Leasing Law. Through this program, you sell the land and maintain ownership of the improvements and enter into a residential lease with the Nation to lease the land back.

Question: Fred Muscavitch (Written Comment): The back-up document says that the time expected to go through the process is 0. I would like to see a realistic timeline.

Response: That is a realistic timeline for the acquisition rule. Land Management is already performing this function, the only real change is removal of approvals from Land Commission.

Question: Fred Muscavitch: One issue which stands out for me is the suggestion that the Land Commission is slow-acting and will relinquish its ability to review individual applications by allowing these new rules to act as LC approval. Is there a belief that these rules will open the floodgates and have 10-20-30 applications a month? I do not agree with articles 1.5. b that relinquishes LC approval for each applicant. This is repeated in Title 6 Rule 5 1. 7-3 and 1. 7-6.

Response: The Oneida Land Commission has set their requirements for leases through the Leasing law which is HEARTH and rules so that there is no need to approve on a case by case basis (except that non-Tribal member leases require individual approval). The leasing law and rules include approval of financing. Based on the changes that were amended previously through leasing, the only thing Land Commission was still approving related to HIP was the acquisition of the land itself. The acquisition rule removes that approval, again because substantial requirements are included in the rule for land eligibility in relation to cost, location and potential title defects and encroachments.

LEASING RULE NO. 4 – HOME BUILDING OPPORTUNITIES

Question: Jason Aguirre (Written Comment) For the Home Builder Opportunity the major hurdle is little to no land available to members currently. Is there land currently available?

Response: There are not any lots currently available as CHD wanted to solidify the process before reoffering lots. We anticipate offering 36 HBO lots in September 2020 in Bread Creek Village (Overland and Florist) with another 36 anticipated to become available at a date to be determined in 2020 in Cattail Marsh (West of Chief Hill Drive). Will this program extend to non-tribal members? **No**

Question: Jason Aguirre (Written Comment) Can tribal members work with non Bay Bank lenders for these programs? Particularly the section 184 program there are other eligible lenders that can lend here in WI.

Response: We are not aware of any other lenders that offer the 184 program that are willing to use the Residential Lease as collateral. The rule limits available lenders to Bay Bank and CHD.

Question: Jason Aguirre (Written Comment) Is there an annual budget for CHD financed properties? Is this made public?

Response: There is a budget for CHD approved by GTC. There is not an annual budget for CHD's loan program, it is a revolving program funded by loan payments from existing loans. Currently, CHD does not have loans generally available except for Veterans. Aside from the Veteran loans, the only loans currently available are for residential sales offered by CHD.

Question: Jason Aguirre (Written Comment) Are CHD residential sales going to be open to non-tribal members?

Response: No.

Question: Jason Aguirre (Written Comment) Regarding the down payment loan through the CHD for use in coordination with the section 184 loan program:

Response: When CHD is offering loans, there is a down payment loan available, see the Mortgage and Foreclosure law and corresponding rule. At present, aside from the Veteran loans, the only loans currently available are for residential sales offered by CHD.

Question: Jason Aguirre (Written Comment) What are the qualifications?

Response: The eligibility requirements can be found in the Mortgage and Foreclosure law and corresponding rule.

Question: Jason Aguirre (Written Comment) What is the maximum loan amount?

Response: Pursuant to the Mortgage and Foreclosure rule, section 1.10-2. Down Payments, "Tribal members applying for a TLC loan for the purpose of securing a down payment may receive a maximum loan amount of the 2.25% of the total purchase price, as required by HUD's section 184 loan program."

Question: Jason Aguirre (Written Comment) Are these loans directly through CHD or is this a loan through Bay Bank?

Response: If the loan is offered pursuant to the Mortgage and Foreclosure law and corresponding rule it is solely a CHD loan.

Question: Jason Aguirre (Written Comment) Is there a Register of Deeds department within the Oneida organization?

Response: Yes, the Oneida Nation Register of Deeds.

Question: Jason Aguirre (Written Comment) If so where is it located?

Response: The Oneida Nation Register of Deeds is managed by Land Management.

Question: Jason Aguirre (Written Comment) Who are the contacts?

Response: Land Management is the contact.

Question: Jason Aguirre (Written Comment) Is there a list of tribally owned properties that will be available to build on in the future?

Response: Once the proposed HBO rules are adopted, any vacant residential lots that become available specific to building a home will be advertised and the proposed HBO process will be followed. The HBO rules do not allow Tribal members to select *any* vacant lot owned by the Nation within the boundaries, they must be designated and prepared for HBO.

Question: Jason Aguirre (Written Comment) For the HBO program can the Tribal member use any builder they want?

Response: The HBO program requires check ins for the lessees to ensure the construction process is moving along, but does not restrict which builders maybe used.

LEASING RULE NO. 5 – TRIBAL REACQUISITION OF INDIVIDUAL FEE AND TRUST TITLE (THRIFTT)

Question: Chuck McCarol: A I I just have a question. A because I just got this packet in the mail yesterday and I haven't really gone through any of this but, ah, the question is if I were to locate a parcel of land within the tribal a boundaries, ah it's already owned by the tribe, would that property be available for me to lease so that I could in turn build a home?

Response: The program you are talking about is Home Building Opportunity Program (HBO). Once the proposed HBO rules are adopted, any vacant residential lots that become available specific to building a home will be advertised and the proposed HBO process will be followed. The HBO rules do not allow Tribal members to select *any* vacant lot owned by the Nation within the boundaries, they must be designated and prepared for HBO.

Question: Justine Hill (Written Comment) Has the Nation considered all the impacts of opening land leases to non-tribal member in the THRIFTT Rule?

Response: The rule has followed the administrative rulemaking process for more information regarding policy considerations please see the Oneida Land Commission's policy statement regarding opening the HIP and THRIFTT programs to non-Tribal members.

Question: Fred Muscavitch (Written Comment): Clause 1.5 talks about liens on properties and tries to negate the liens with a few "unless"es. We should require that all liens be paid off (except the refinance). No liens.

Response: The intent was to allow only liens from lenders willing to provide a partial satisfaction (i.e. Bay Bank). We will provide a revision that clarifies that one of the following must be true to be eligible:

- A. There are no existing liens;
- B. The purchase of the land will satisfy any existing liens;
- C. There is an existing lien with either Bay Bank or CHD with adequate equity in the improvements to cover the value of the mortgaged improvements after a partial satisfaction of mortgage is provided for the land value; or
- D. The applicant is able to secure refinancing through Bay Bank or CHD.

Question: Jason Aguirre (Written Comment) Regarding the THRIFTT program and being open to non-tribal members: Will non tribal people be eligible for current homes owned by tribal members both on trust and non-trust properties?

Response: CHD has requested that for the time being Land Commission only approve residential leases to non-tribal members where the purchase of the improvements would also expand the Nation's land base.

Question: Jason Aguirre (Written Comment) Will the lease with non-tribal members be different than the lease currently being used for tribal members?

Response: The only difference in lease terms will be the lease fee. When the land is in fee status, both Tribal members and non-Tribal members alike will be responsible to pay the improvement taxes with the lease fee for non-Tribal members set at the amount of the Nation's land tax responsibility. When the land goes into trust, the non-Tribal members' annual lease fee will lock into the amount of the Nation's land tax responsibility for the last taxed year and the requirement to pay improvement taxes will drop off. Regardless of fee or trust status, the lease fee for Tribal members is \$150 with a \$25 processing fee for the entire duration of the lease. This will be clarified further in the general section of the general section of both the HIP and THRIFT rules.

Question: Jason Aguirre (Written Comment) Will the public have access to these documents?

Response: It is unclear what documents are being references. All rules are posted on the Oneida Register located at: <https://oneida-nsn.gov/government/register/laws/#TITLE-6-PROPERTY-LAND>. Requests for any other related documents should be forward to Land Management for acquisitions and CHD for any other part of the process.

Question: Jason Aguirre (Written Comment) In THRIFT transactions:

Why limit to appraised value or assessed value? Why not use one or the other depending on what is in the Tribe's best interest for each situation? For example if the market value is higher than the assessed value the Tribe could offer to pay assessed value. If the market value is lower than assessed value (this does happen) then the Tribe could offer to pay market value.

Response: All THRIFT transactions will use the appraised value and all HIP transactions will use the tax assessed value – see Acquisition for Residential Leasing 1.4-1. The consideration is the same within the programs for all participants for seller fairness and equity. We would ideally like to use appraised value for all programs which follows the market more closely, but the tax assessed value is required for HIP in order to maintain the loan approval timelines.

Question: Jason Aguirre (Written Comment) For the THRIFT program is the application and checklist available for public view?

Response: Yes, once the program is operating all required documents will be available on CHD's website.

Question: Jason Aguirre (Written Comment) Is the list of appraisal companies approved by the Oneida Nation available for public view?

Response: Based on consideration of this question, we will be revising the requirement in THRIFT to require use of the Nation's appraiser (the Nation will order the appraisal) with costs paid up front from the seller and reimbursed to seller through closing. If the seller walks away, the Nation will not reimburse the seller for the appraisal.

Question: Jason Aguirre (Written Comment) I noticed a possible discrepancy in Title 6. Chapter 602 Leasing Rule #5 1.4-4 General

"If the homeowner is not a Tribal member, upon signing the lease, they will be responsible for all taxes assessed against the property and the improvements." This seems to contradict the Oneida Land Commission Statement of Policy January 2020 under Other Policy Considerations. At least how I interpret that. #7 "opening residential leasing to non-Oneidas would give them a reason to support the Nation's fee to trust process since they would directly benefit through lower lease / tax payments." So would they be required to pay all taxes? Or only taxes on improvements until the land would be placed in trust? Additionally my industry opinion is that it may be difficult to get a non-tribal member to agree to sell their land to the Tribe yet still pay taxes on that land. Thank you for your time.

Response: When the land is in fee status, both Tribal members and non-Tribal members alike will be responsible to pay the improvement taxes with the lease fee for non-Tribal members set at the amount of the Nation's land tax responsibility. When the land goes into trust, the non-Tribal members' annual lease fee will lock into the amount of the Nation's land tax responsibility for the last taxed year and the requirement to pay improvement taxes will drop off.

Question: Fred Muscavitch (Written Comment) In Title 6 Rule 5 1.4-5 there is a word missing.

Response: Thank you – it will be corrected.

Question: Jason Aguirre (Written Comment): For the HIP/THRIFT programs are 1-4 unit properties eligible?

Response: Single family dwellings only.

Question: Jason Aguirre (Written Comment): I believe at least allowing 2 unit duplexes to be part of this program will allow even more tribal members to realize home ownership especially during this very low inventory real estate market.

Response: We do not currently have any processes that would allow for purchase of a duplex or a multi-family unit through the Nation's homeownership programs.

LEASING RULE NO 6 – HOMEOWNERSHIP BY INDEPENDENT PURCHASE (HIP) PROGRAM

Question: Patrick Young: Good Morning. For the record my name is Patrick Young. My wife is a tribal member, we own a tribal home. Ah, as it stands now with the HIP Process, if we want to use the HIP Process, we have to sell our home, move into an apartment or a duplex, and then use the HIP process to purchase a new home. Um, I'm also a Licensed Real Estate Broker. So I deal with this, and I've deal with the HIP Program a several times and this process and there's always an objection that comes up when the tribal member says okay right now I'm doing this well with my life. If I want to buy a bigger home or purchase a different home what is the process? Well that process is, you have to sell this home, move into a duplex or an apartment and then use the HIP Process to come back in or buy a tribal home to come back in. So allowing tribal members to have more than one lease would be advantageous to them because they could negotiate on selling their home and buying a new home and moving the transaction

along like a regular real estate a process. Um, so I think they should consider doing that because it's an objection that we encounter on a regular basis when we're selling a tribal homes and and and HIP homes. And we have also been involved in the first member to member a sale of of of a home. And that's another, that's the same question that comes up. If I want a bigger home or I want to move myself up to a a nicer home in the future what's the process? Again that object objection continues to come up. So I think that this by implementing this would be advantageous to the tribal member. Thank you.

Response: Yes, allowing for more than one residential lease at a time is advantageous to the tribal member – it was already included in the Residential Leasing rule, and now with these amendments will be included in the HIP Process as well. The proposed amendments update the residential leasing portion of the HIP rule to allow parties to have more than one lease at a time.

Question: Patricia King: Morning. Trish King, Um I just have a comment on the educational information and training in regards to um Land Management and working with others involved in the parties. As far as the operations go that that's um very good and I appreciate the effort to try and do that to educate realtors and the bank and Land Management and the operations in how they work together a to accomplish this goal. Um, within this Rule, the only question I have is has there been any kind of public meetings in regards to how all of these Rules work together um, for the public for for rather than public hearing where we can only give comment? Um, so a two way communication to the member would be helpful and how these work and what the actual impact is. And I understand there's a deadline date of um January 16 to um make written comments. So I haven't had a chance either to go thoroughly through all of these documents. But I would like to understand what the impact is. Um, it's confusing cause the LOC um Statement of Effect refers to Rule No. 1 and I'm thinking that the amendment in Rule No. 1 is changed to allow these other laws go together. But it's confusing because it says there are legal bars that doesn't allow for um rulemaking. So, I need clarification on that and I would um a definitely like to see a a community event that helps people understand what the benefits are with these rules, and how they can apply and how it could affect them. Um, also I don't know if any of the rules just generally talk about single units verses a individual buying a multifamily complex and using the HIP Program. Is that allowable? A because then they would be allowed to sublease I understand. So if that's available um that might also help some of our tribal members to get housing that's more affordable um that fall between the cracks of Housing and HUD and um the General Assistance Programs that we have. So there're there're people out there that just miss that some some reason so um if people can help them get housing in that manner then I think a using our own members to do that as well as non-members to help us do that would be beneficial. Thank you.

Response: I am understanding you to be asking the following questions:

Question: Patricia King: Will there be a community meeting explaining how these rules work together and what the benefit to each rule is?

Response: In following the administrative rulemaking law we provided notice in the Kaliwisaks, in addition to the requirements we mailed a notice to all Tribal Members to solicit more feedback from

community members. Once the rules have been adopted the Comprehensive Housing Division and Land Management will hold informational/open house meetings with the community to explain the inner workings of the programs.

Question: Patricia King: Can you explain the LOC's statement of effect referencing legal bars to adoption and rulemaking authority?

Response: When the rules went to public meeting the position of the LOC was that the Real Property law did not delegate rulemaking authority to Land Management to implement the Real Property Rule #1 – Land Acquisition for Residential Leasing. That rule is the part of the HIP and THRIFTT programs that actually allows for the acquisition of land and the remainder of the rules pertain to leasing and other programs requirements. Since then, the Legislative Operating Committee considered a request for emergency amendments to the Real Property Law on January 15th, 2020 to add in a delegation of rulemaking authority to the Oneida Land Commission and Land Management as it relates to the approval and denial, and processing of land acquisitions. Those emergency amendments were approved by the Oneida Business Committee on January 22, 2020 – there are no present bars to adopting these rules.

Question: Patricia King: Do any of the rules allow Tribal members to purchase a multi-family complex and lease the land from the tribe and then sublease the units out to help provide additional housing within the community?

Response: We do not currently have any processes that would allow for purchase of a duplex or a multi-family unit through the Nation's homeownership programs.

Question: Ernie Stevens III: Morning, Ernie Stevens III. Um I have a couple ge, a few a general comments a I think they pertain I believe they pertain to a Rule No. 1, 5, and 6. Um, so one of them is, a in the law it states contingent I don't know the exact verbiage I forgot I'm sorry. It states um, I'll just, of course now I'm not going to find it. This regards um the the funding available funding. Um, just a recommendation to to kind of have that part figured out. The last time that was discussed there's no plan of what that looks like from Bay Bank to Land Management, um Housing and the options for financing and funding available for THRIFTT and HIP and and as if these are implemented, what fiscal impact this has is to have a better understanding of that and a communicate that thoroughly um cause that's that's the part that to me is very unclear and concerns me as I support these. Um, but from a fiscal standpoint not just the financing for membership to a to receive for housing a potential homeownership. But um, the impacts of tax um liability. So if this a THRIFTT for example is successful for membership and non-membership in acquiring properties in Hobart for example, tax bases, I will use the word, ridiculous, and and so we are going to take that on so if that's successful and suddenly we have a line of people um res assuming the funding is even there and whatever that level of funding is available if it's all utilized by membership and non-membership, what's that tax liability going to be. Um, so that's one concern that I think needs to be thoroughly figured out and communicated to the membership and and potential clients or customers I should say. Um, the other one is a, give me a sec here, I apologize. I think it also pertains to all three of them. Um, it was okay taxes I covered that one,

um, I'm sorry I'm just blanking here. Oh, so um, I think this is also pertains to a list of a I guess that Bay Bank, Housing, Land Management, possibly other areas, could possible have and again as if and and when THRIFTT and HIP and these new rules are successful in there implementation, um, it would be helpful as as far as the a um restrictive covenant, having and understanding and list, map, a plat map or whatever that is, um for all entities to have, somewhere where they know exactly where to find it, so when membership, or a member comes in, and they want to find a home and they have a specific budget, specific location needs, specific tax payment abilities, all those factors, um, having an understanding of what homes have and don't have restrictive covenants I think it's going to be crucial timing. Because as we know we are competing with other people for these homes. We're going to lose that, um, a a if if we don't have that process laid out in front of us as a a we a try to find a membership, I'm sorry, find homes. And then also um I think lastly, kinda going off of what Trish said, is the communication. Ah when we hold public meetings if we know the answer we just provide it. A I think the gentleman, Patrick, I believe, um, made the statement, but if he would've had asked, you know, does this fix that problem, it does. A but I think a he was aware of that. So I think things like that, but I think if it's a simple yes, a just let them know to ease their anxiety there at least because a I think that's the big one for me is, does it fix that problem? As a current homeowner who has been wanting to um, get a new home, but it's it's the competitiveness nature of it, I can't get a home because of that process. I know that it fixes that so those those kinds of things I think to what Trish was saying is a better way to communicate that. Um, this process happened pretty quickly. A gentleman back here um also mentioned that he just got this yesterday, so um, to be able to comment to to garner those com those those answers, needs to be improved. Um but in the mean time if we are able to provide that answer here in these meetings, then please do so. A thank you.

Response: My understanding is that the following questions are being asked:

Question: Ernie Stevens III: Is there financial planning for available funding for these programs?

Response: There is no acquisition budget for HIP and THRIFTT programs specifically. Available funding is based on the acquisition budget. To date, the Nation has never run out of available acquisition funding for HIP purchases.

Question: Ernie Stevens III: Is there a plan for covering tax liability for the newly acquired parcels?

Response: Currently tax liability for land is covered by the Oneida Business Committee. There is question right now about changing that and possibly shifting that responsibility back to Land Management. The residential leases to non-tribal members do include increased fees to the Comprehensive Housing Division that could potentially be allocated to payment of taxes while awaiting completion of the fee to trust process. The tax liability for the Nation would remain the same for Tribal Members as the Nations pays for the taxes on the land until the land goes into trust with the Tribal member paying taxes for the improvements.

Question: Ernie Stevens III: Will there be a listing of all available homes for purchase within the reservation boundaries that includes searchable metrics like restrictive covenants, tax costs, purchase price and location?

Response: There is no list for land not owned by Nation. The HIP and THRIFT programs are created to acquire land not owned by the Nation within the boundaries and meets the requirements of the program. To create a searchable list would require the Nation to have access to all residential listings, which is not the case. For help navigating this information, use of a realtor would be beneficial.

Question: Ernie Stevens III: The informational mailout was just received by someone in the room yesterday – that process needs to be improved upon.

Response: The mailout you are referencing having just been received was something that CHD, Land Management and the Land Commission did in excess of the requirements of the Administrative Rulemaking law to solicit more feedback from community members. It was sent out as soon as possible once the hearing date was determined and printing could accommodate – as a reminder there is a 10 day written comment period following the in-person public meeting. In following the Administrative Rulemaking law we provided notice in the Kaliwisaks as required.

Question: Ernie Stevens III: It is frustrating that answers are not provided where they could be immediately. There should be more information provided to the community.

Response: Once the rules have been adopted the Comprehensive Housing Division and Land Management will hold informational/open house meetings. For consistency purposes, we use these public meetings only to solicit feedback but we do respond through written memorandum, which is shared with all commenters.

Question: Patricia King: Again, Trish King again. Um, I just want to make one a positive comment because I think this is a a the four law or a rules a allow for um, some flexibility in the programming and it it allows us to get to our goals of providing homes for the membership. And so I think you know I want I support the all of them and the concept of what's trying to be accomplished. Um, but I really wanna just talk about the communication because that's, that's where we need most of the support. Um and this will be new Rules I am understanding, so ah then in a year from now we will be assessing how well they are working and we can consider the amendments, any amendments at that time. So I just want to offer um some support to continue with the effort and keep working with Housing and the banks and um, I know it's just Bay Bank, so that that causes some um back log possibly. Um but the initiative overall is is beneficial for the people. So I think that is what what I want to make um clear. Thank you.

Response: There is no question included. Comprehensive Housing Division, Land Management and Land Commission appreciate the words of support and encouragement from Treasurer King.

Question: Jason Aguirre (Written Comment) The most recent HIP program information I had it shows that the land value cannot exceed \$75,000 to be eligible. In the land commission statement of policy that number was at \$100,000. Is \$100,000 a new maximum?

Response: Yes, \$100,000 is the new maximum stated in the Land Acquisition for Residential Leasing.

Question: Jason Aguirre (Written Comment). When are the HIP amendments expected to go into effect?

Response: The earliest date the rules could be adopted by the Oneida Business Committee is February 26, 2020 and there is no anticipated waiting period for HIP to become effective.

GENERAL WRITTEN COMMENTS

Question: Justine Hill: I'm not quite understanding the term, non-tribal. Does that mean non-Oneida or does that include other tribes?

Response: The term non-tribal is not defined, but Tribal member is defined in the Residential Leasing Rule as "an individual who is an enrolled member of the [Oneida] Nation." The Residential Leasing rule is incorporated into each of the programs so a non-Tribal member is anyone who is not enrolled Oneida.

Question: Justine Hill: Maybe we can just start out with buying other Tribe's members' land in the area, just to test the waters.

Response: There is no way to measure if this route would achieve the Land Commission's stated policy goal of increased tribal land base, jurisdiction and sovereignty.

Question: Justine Hill: How does this [opening HIP and THRIFTT to non-tribal members] affect foreclosures?

Response: There is no impact on foreclosures. Comprehensive Housing Division has a memorandum of understanding with Bay Bank regarding foreclosures on leases premises which gives the Nation the right of first refusal.

Question: Justine Hill: Who holds their [non-tribal member's] mortgage?

Response: Bay Bank would hold the non-tribal mortgages because our Mortgage and Foreclosure law requires the applicant to be a Tribal member in order to be eligible.

Question: Justine Hill: Will they [non-tribal members] have to go through Bay Bank as well?

Response: Yes, HIP and THRIFTT rules both identify the Nation's CHD and Bay Bank as the only available lenders, so based on the response above, the non-Tribals would have to go through Bay Bank.

Question: Justine Hill: Are the tribal courts notified of the changes?

Response: The public notice goes to everyone so through the public notice process they will have been notified. They have also been informally noticed in a meeting with CHD.

Question: Justine Hill: We will have more vacant units that sit if no one wants to buy a house without the land or if nobody can afford the mortgage. Since they will be under our laws and rules, if they get in trouble with the law, do they lose their lease (home) too like Oneida members do?

Response: It is unclear what is being reference or implied in the first sentence. As far as the second sentence/question, anyone using the HIP/THRIFTT programs would be required to have a lease with the Nation that would make the Nation's rules and laws apply to the non-Tribal lessees. Non-tribal lessees would be subject to the same lease enforcement as non-tribal members, meaning the lessee could lose their home if they violate their residential lease.

Question: Justine Hill: What are some of the other hidden costs to these changes? And I don't just mean financial costs. My largest concern is the treatment of tribal members/children when the word gets out. Why not just seek vacant land/homes?

Response: Not sure of what hidden costs are being referred to. Without specific examples, the best response we are able to provide is that all residential leases will be subject to the same lease terms and enforcement. We currently purchase homes and vacant land through strategic land acquisition purchases however that does not achieve the social and political goals discussed in the Oneida Land Commission's policy statement. Those goals include giving non-Tribal members a vested interest in our fee-to-trust process, tribal government and the relationships between our government and surrounding municipalities.

Question: Justine Hill: These changes could have an impact on the relationships we have with other municipalities. I know that the Nation pays in lieu of taxes, but with the Nation seeking negotiations with Green Bay on a Service Agreement, will this hinder those efforts?

Response: The Intergovernmental Affairs Area, the Law Office and the Business Committee are all aware of these pending changes and there is no current concern related to any potential negotiations with the City of Green Bay. In addition, the Nation is moving away from making payments in lieu of taxes and towards cooperative governance agreements where we co-fund mutually beneficial projects and initiatives.

Question: Justine Hill: Some Oneida community members have expressed they don't like the idea of non-natives being able to move into their neighborhood. Are you looking at the big picture or just your efforts to obtain land?

Response: The acquisition component is without a doubt a big part of expanding these programs. It is important for us to remember that we retain ownership of our land when entering a lease with a non-Tribal member and are able to contractually extend our laws and rules to those properties where we otherwise would not have jurisdiction. As much as it is about increased land ownership and jurisdiction, it is also about relationship building with our surrounding communities. In addition, there is nothing in place currently that would prevent a non-tribal member with fee land from selling to another non-Tribal within the boundaries. If anything non-Tribal members living within our boundaries following our laws/rules is better for Tribal members than non-Tribal members living within our boundaries following only the local municipalities laws/rules.

Question: Justine Hill: How many leases can someone hold? Is there a limit?

Response: Two leases can be held and that is the limit.

Question: Justine Hill: I haven't received any kind of notice in the mail for these rule changes via USPS to date. And I agree that community meetings should be held to better understand these changes and to contribute to the thought process and the outcomes of these changes prior to making these decisions. At least give the membership more advance notice of changes when a Public Meeting is scheduled with a copy of the new rule(s).

Response: The mailout you are referencing was something that CHD, Land Management and the Land Commission did in excess of the requirements of the Administrative Rulemaking law to solicit more feedback from community members. It was sent out as soon as possible once the hearing date was determined and printing could accommodate – as a reminder there is a 10 day written comment period following the in-person public meeting. In following the Administrative Rulemaking law we provided notice in the Kaliwisaks as required. Once the rules have been adopted, the Comprehensive Housing Division and Land Management will hold informational/open house meetings to explain one on one the changes that have been made.

Question: Fred Muscavitch: Are we using non-Tribal to mean anyone who is not an enrolled member of the Oneida Nation? Perhaps it should be non-Nation member.

Response: The term non-tribal is not defined, but Tribal member is defined in the Residential Leasing Rule as “an individual who is an enrolled member of the [Oneida] Nation.” The Residential Leasing rule is incorporated into each of the programs so a non-Tribal member is anyone who is not enrolled Oneida.

Question: Fred Muscavitch: The rule change allows non-Tribals to get a mortgage from the CHO (Comprehensive Housing Div). I strongly oppose this. The Acquisition funds could be deeply affected by this. In my opinion and in various GTC and BC documents, the key purpose of the Land Commission is to reacquire the land as quickly as possible. Buying residential lots is very costly and ill-advised.

Response: That is not accurate. These rules indicate that Bay Bank and CHD are able to be potential lenders, but the Mortgage and Foreclosure law has not been amended so CHD would continue to require applicants be Tribal members in order to receive financing from CHD.

Question: Fred Muscavitch: I oppose the change to allow more than one lease to a person. This change is open to great abuse.

Response: That change has already occurred through the Residential Leasing rules, which are not the subject of this public meeting. These rules merely extend that allowance to participants in the HIP program.

Question: Fred Muscavitch: In summary, I'd like to say that the Land Commission's role is basically to reacquire the land as best it can and to serve our nation's people. The new rules spell out ways to slow acquisition at a higher cost, it opens avenues to assist non-Tribal people to use resources established for Tribal members, and it takes decision making out of the hands of the Land Commission. I am available to discuss my concerns.

Response: Land Management, CHD and the Oneida Land Commission thank you for your feedback.

Statement: Jason Aguirre: Hello, Thanks to all that work to put these programs together. As a real estate agent it is very encouraging to see these programs work as designed and help Oneida families to live the dream of home ownership. Recently I have been working with numerous Tribal families to utilize these programs and the following are a number of questions/ concerns that have come up during these conversations.

Question: Jason Aguirre (Written Comment): Is there any specific department or individual/s who understand the full scope of real estate services offered through the Tribe?

Response: CHD is the central point of contact for consumers for all of these programs.

Question: Jason Aguirre (Written Comment) I see an amendment allowing more than 1 lease to be held by a tribal member is being proposed. I think this is a great addition and allows for more flexibility to those individuals affected. Is there a maximum number of leases? If the goal of the Tribe is to acquire land and an individual Tribal member is able to acquire say 3 or more properties through this program I feel it is a win win situation. The Tribal member can work to build wealth (own and operate rental homes) and the Tribe continues to acquire land.

Response: The maximum is set by the Residential Lease rule and is two (2).

September 2021

September 2021

Su	Mo	Tu	We	Th	Fr	Sa
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October 2021

Su	Mo	Tu	We	Th	Fr	Sa
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31						

SUNDAY	MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SATURDAY
Aug 29	30	31	Sep 1 8:30am LOC Prep (BC_Conf_Room) - Clorissa 9:00am LOC Meeting (BC_Conf_Room) 1:30pm Oneida Personnel	2	3	4
5	6	7	8	9:00am LOC Work Session (Microsoft Teams) 12:00pm TENTATIVE PUBLIC MEETING:	10	11
12	13	14	8:30am LOC Prep (BC_Conf_Room) - Clorissa N. Santiago 9:00am LOC Meeting (BC_Conf_Room) - Clorissa	16	17	18
19	20	21	22	9:00am LOC Work Session (Microsoft Teams Meeting) - Clorissa N. Santiago	24	25
26	27	28	9:30am LOC Work Session (Microsoft Teams Meeting) - Clorissa N. Santiago	30	Oct 1	2