

ONEIDA NATION PUBLIC MEETING NOTICE

Tentatively Scheduled for:

THURSDAY, SEPTEMBER 9, 2021*

Norbert Hill Center—Business Committee Conference Room
N7210 Seminary Road, Oneida, Wisconsin

Find Public Meeting Materials at

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

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LOC@oneidanation.org

Ask Questions here

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REPEAL OF THE LOCAL LAND USE REGULATION REIMBURSEMENT POLICY

The purpose of the Local Land Use Regulation Reimbursement Policy is to preserve and protect the inherent right of the Oneida Nation to create and enforce Tribal land use regulations on the Reservation by reimbursing Tribal members, non-members and businesses subject to Tribal land use regulations for fees and/or fines associated with compliance under written protest with local land use regulations. [6 O.C. 607.1-1, 607.1-2]

The Local Land Use Regulation Reimbursement Policy has been deemed no longer necessary. The repeal of the Local Land Use Regulation Reimbursement Policy is being sought as a result of the decision in *Oneida Nation v. Village of Hobart*, 968 F.3d 664 (7th Cir. 2020) which affirms the Nation's sovereignty and sets forth the precedence that local governments do not have the jurisdiction to apply their ordinances to the activities of the Nation on the Reservation due to the fact that the Reservation is Indian Country and not subject to local or state regulation.

For more information on the repeal of the Local Land Use Regulation Reimbursement Policy please review the public comment packet at [oneida-nsn.gov/government/register/public meetings](http://oneida-nsn.gov/government/register/public%20meetings).

PUBLIC COMMENT PERIOD CLOSSES THURSDAY, SEPTEMBER 16, 2021

*In accordance with Oneida Business Committee resolution BC-08-03-21-A, *Setting Public Gathering Guidelines during Public Health State of Emergency—COVID-19*, the public meeting will not be held if the infection rates within Brown or Outagamie Counties exceed "Low" as identified by the Wisconsin Department of Health Services. If a public meeting is not able to be held, the public comment period would still remain open and the Nation's COVID-19 Team's March 27, 2020, declaration titled "*Suspension of Public Meetings under the Legislative Procedures Act.*" shall take effect. This declaration provides that the Legislative Procedures Act's requirement to hold a public meeting during the public comment period is suspended due to the COVID-19 public health emergency. Although there will be no public meeting, the public comment period will still occur, and individuals can participate in the legislative process by submitting written comments, questions, or other input via e-mail to LOC@oneidanation.org.



REPEAL OF THE LOCAL LAND USE REGULATION REIMBURSEMENT POLICY LEGISLATIVE ANALYSIS

SECTION 1. EXECUTIVE SUMMARY

<i>Analysis by the Legislative Reference Office</i>	
Intent	Repeal the Local Land Use Regulation Reimbursement Policy.
Purpose	To preserve and protect the inherent right of the Oneida Nation to create and enforce Tribal land use regulations on the Reservation by reimbursing Tribal members, non-members and businesses subject to Tribal land use regulations for fees and/or fines associated with compliance under written protest with local land use regulations. [6 O.C. 607.1-1, 607.1-2].
Affected Entities	Tribal members or Tribal member owned businesses on the Reservation; non-members or non-Tribal member owned businesses who, in accordance with the laws of the Nation, lease, occupy or otherwise use the Nation’s fee lands or trust lands on the Reservation; All Tribal members, non-members, and businesses, whether Tribal member owned or non-Tribal member owned, who, in accordance with the laws of the Nation, lease, occupy or otherwise use the Nation’s trust land outside the boundaries of the Reservation; Environmental, Health, Safety, Land and Agriculture Division, Zoning Administration, Department of Public Works.
Public Meeting	A public meeting has not yet been held for this legislative matter.
Fiscal Impact	A fiscal impact statement has not yet been requested for this legislative matter.

SECTION 2. LEGISLATIVE DEVELOPMENT

- 1 **A. Background.** The Local Land Use Regulation Reimbursement Policy (“the Law”) was first adopted
2 by the Oneida Business Committee in 2009, for the purpose of preserving and protecting the inherent
3 right of the Oneida Nation to create and enforce Tribal land use regulations on the Reservation by
4 reimbursing Tribal members, non-members and businesses subject to Tribal land use regulations for
5 fees and/or fines associated with compliance under written protest with local land use regulations. [6
6 O.C. 607.1-1, 607.1-2].
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- 8 **B.** On June 4, 2021, the Oneida Law Office submitted a request for the Legislative Operating Committee
9 to consider the repeal of this Law. In a memorandum from the Oneida Law Office on June 4, 2021, the
10 following explanation was provided, “*The Nation has maintained jurisdiction over all lands owned by*
11 *the Nation and tribal members within the reservation boundaries, and over its own activities and the*
12 *activities of tribal members on the Reservation. In response to Hobart’s repeated assertions that it has*
13 *jurisdiction on all fee land on the Reservation, the Nation adopted the Local Land Use Regulation*
14 *Reimbursement Policy (LURRP). LURRP directed tribal members and nonmembers subject to tribal*
15 *regulation to obtain permits from a municipality under protest if the municipality asserts it has*
16 *jurisdiction. Obtaining permits under protest maintained project timelines and avoided undue*
17 *hardship, threatened legal enforcement and repetitive litigation. The Nation neither condoned the acts*
18 *of local governments asserting jurisdiction nor conceded that local governments possess jurisdiction.*

19 *Based on the Big Apple Fest decision that confirmed that municipalities have very limited jurisdiction*
20 *over the Nation and tribal members on the Reservation, the Oneida Law Office has advised that Tribal*
21 *business units can move forward with projects with tribal permits only. Due to the definitive ruling we*
22 *received in the Big Apple Fest case, the policy considerations supporting LURRP no longer exist, so it*
23 *should be repealed. Repealing LURRP will be consistent with the Oneida Law Office's advice that*
24 *Tribal business units can move forward with projects with tribal permits only. The Oneida Law Office*
25 *is requesting that the Legislative Operating Committee consider repealing LURRP.” The Legislative*
26 *Operating Committee added the Law to its Active Files List on July 7, 2021.*

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28 **SECTION 3. CONSULTATION AND OUTREACH**

29 A. Representatives from the following departments of the Nation participated in the repeal of this Law:

30 ▪ Oneida Law Office.

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

32 ▪ Non-Metallic Mine Reclamation Law.

33 ▪ Wood Cutting Ordinance.

34 ▪ Well Abandonment Law.

35 ▪ On-Site Waste Disposal Law.

36 ▪ Sanitation Ordinance.

37 ▪ Water Resources Law.

38 ▪ Building Code Law.

39 ▪ Zoning and Shoreland Protection Law.

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41 **SECTION 4. PROCESS**

42 A. The repeal of this Law has followed the process set forth in the Legislative Procedures Act.

43 ▪ On June 4, 2021, the Oneida Law Office submitted a request for the Legislative Operating
44 Committee to consider the repeal of this Law.

45 ▪ The LOC added the repeal of this Law to the Active Files List on July 7, 2021.

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47 **SECTION 5. REPEAL OF THE LEGISLATION**

48 A. *Contents of the Legislation.* The Law was created to reimburse Tribal members, non-members and
49 businesses subject to land use regulations of the Nation for fees and/or fines associated with compliance
50 under written protest with local land use regulations. [6 O.C. 607.1-2]. This Law was necessary because
51 certain local governments refused to recognize the preemption of state and local land use regulations
52 with respect to the activities of Tribal members and Tribal member-owned businesses on the
53 Reservation, and with respect to non-members and non-Tribal member owned businesses utilizing
54 Tribal land, and refused to recognize the authority of the Nation to regulate such activities. [6 O.C.
55 607.1-1]. This situation caused hardships for such Tribal members, non-members and businesses who
56 are inappropriately threatened with enforcement of local land use regulations. The purpose of this Law
57 was to alleviate such hardship. The Law neither condoned the acts of local governments nor conceded
58 that such local governments have jurisdiction to regulate the land use of Tribal members, non-members
59 and businesses otherwise subject to laws of the Nation. [6 O.C. 607.1-2].

60 ▪ *Eligibility for Reimbursement under the Law.*

61 ▪ The following were eligible to seek reimbursement under this Law:

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- All Tribal members or Tribal member owned businesses on the Reservation on land under the Tribal member's or Tribal member owned business's ownership or control;
 - All non-members or non-Tribal member owned businesses who, in accordance with the laws of the Nation, lease, occupy or otherwise use the Nation's fee lands or trust lands on the Reservation; and
 - All Tribal members, non-members, and businesses, whether Tribal member owned or non-Tribal member owned, who, in accordance with the laws of the Nation, lease, occupy or otherwise use the Nation's trust land outside the boundaries of the Reservation.
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- *Reimbursements under the Law.*
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- The Nation would reimburse an individual or business for fees and/or fines actually paid by the individual or business to the local government when the following conditions were met:
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- The individual or business first complies with all applicable Tribal land use regulations, including obtaining any required permits and/or inspections.
 - The individual or business receives written notification from a local government stating that the individual or business is in violation of local land use regulations, or the individual or business is otherwise threatened with enforcement of local land use regulations.
 - One of the following occurs:
 - i. The individual or business complies with the local land use regulation after October 28, 2009 under written protest; or
 - ii. The individual or business complied with the local land use regulation from January 1, 2009 through October 28, 2009 without protesting in writing.
 - The individual or business submits the following to the appropriate department of the Nation:
 - i. receipts for the local government's fines and/or fees for compliance with the local land use regulation; and
 - ii. verification that the individual or business complied with the local land use regulation under written protest, if required to comply under written protest.
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- The Nation would not bear any responsibility to an eligible individual or business for any the following:
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- Additional costs the individual or business incurs as a result of their compliance under written protest with the local land use regulations, including, but not limited to, construction costs or engineering costs.
 - Enforcement actions mandated by a local government, including, but not limited to, building razing.
 - Fines in excess of one thousand dollars (\$1,000).
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- *Denial of Reimbursement.*

104 ▪ If an individual or business was denied reimbursement, the Law required that the individual
105 or business be provided notice of the denial, and then the individual or business was
106 provided the opportunity to appeal the denial with the division director of the department
107 which denied the reimbursement, and subsequently the Judiciary.

108 **B. Reason for Repeal of Law.** The Oneida Law Office requested that the Legislative Operating
109 Committee consider the repeal of this Law based on the decision in *Oneida Nation v. Village of Hobart*,
110 968 F.3d 664 (7th Cir. 2020).

111 ▪ *Background.*

112 ▪ The Nation annually holds its Big Apple Fest to provide family fun on the Reservation
113 which includes activities such as pick your own apples, horse and wagon rides, variety of
114 foods to taste, live music, various demonstrations, caramel apple making, apple cider press,
115 pony rides, historic log home tours, time period clothing, old time games, Oneida Farmers
116 Market, and an apple pie contest. The Big Apple Fest event is held at the Oneida Apple
117 Orchard and Oneida Cultural Heritage, which are located on both trust land and land owned
118 by the Nation in fee simple status.

119 ▪ In 2016 the Village of Hobart, which lies entirely within the boundaries of the Oneida
120 Nation Reservation, adopted a special event’s permit ordinance that required the Nation to
121 obtain a permit for its festivals. The Nation rejected Hobart’s permitting process, and its
122 continued attempts to assert jurisdiction over Tribal lands and members. The Nation held
123 its Big Apple Fest, and as a result Hobart then issued the Nation a five-thousand dollar
124 (\$5,000) citation for violating its ordinance.

125 ▪ The Nation then filed an action in the U.S. District Court for the Eastern District of
126 Wisconsin for declaratory and injunctive relief that challenged Hobart’s legal authority to
127 enforce the ordinance. Hobart filed a counterclaim for declaratory relief. The Court later
128 dismissed this counterclaim, reasoning that the Nation would comply with the ordinance
129 following the ruling in the case. The Court then entered summary judgment for Hobart,
130 holding that the festival grounds owned by the Nation in fee simple were not sovereign
131 federal trust land and thus fell within Hobart’s jurisdiction. The Court inferred that
132 Congress’s intent to diminish the Reservation was manifest in the Dawes Act and
133 subsequent legislative acts, which divided the Reservation into individual allotments rather
134 than collectively held Tribal property, and thus the conveyance of Tribal members’ fee
135 simple lands to non-Tribal members following allotment paired with the fact that these
136 lands were not reobtained and placed into federal trust meant that the lands in question no
137 longer constituted the Reservation. Since the Big Apple Fest was on held on non-trust
138 property, the Court reasoned that the Nation was subject to Hobart’s ordinance.

139 ▪ The Nation appealed the decision of the U.S. District Court for the Eastern District of
140 Wisconsin to the U.S. Court of Appeals for the Seventh Circuit. The Seventh Circuit
141 reversed the lower court’s decision and confirmed that the Oneida Nation Reservation, as
142 defined in the 1838 Treaty, remained intact and was not diminished by Congress.
143 Therefore, the land falling within the Reservation’s boundaries was Indian country under
144 18 U.S.C. § 1151(a) and not subject to most state and local regulation, so Hobart lacked
145 jurisdiction to apply its ordinance to the Nation’s on-Reservation activities.

146 *[Harvard Law Review, Vol. 134, No. 4, Feb. 2021].*

147 ▪ *Effect.*

- 148 ▪ The decision in *Oneida Nation v. Village of Hobart*, 968 F.3d 664 (7th Cir. 2020) affirms
149 the Nation’s sovereignty and sets forth the precedence that local governments, such as
150 Hobart, do not have the jurisdiction to apply their ordinances to the activities of the Nation
151 on the Reservation due to the fact that the Reservation is Indian Country and not subject to
152 local or state regulation. Therefore, this Law is no longer necessary since the decision in
153 *Oneida Nation v. Village of Hobart* recognizes the authority of the Nation to regulate such
154 activities as well as the preemption of state and local regulations on the Nation.
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156 **SECTION 6. EXISTING LEGISLATION**

157 **A. *References to other Laws of the Nation.*** The Law requires that in order to be eligible for
158 reimbursement of fees and/or fines actually paid by the individual or business to the local government
159 the individual or business must first comply with all applicable Tribal land use regulations, including
160 obtaining any required permits and/or inspections. [6 O.C. 607.5-1(a)]. Under the Law “Tribal land use
161 regulations” is defined as the following regulations:

- 162 ▪ *Chapter 402, Non-Metallic Mine Reclamation Law.*
 - 163 ▪ The Non-Metallic Mine Reclamation law requires that every operator of a nonmetallic
164 mining site on the reservation who engages in or plans to engage in nonmetallic mining
165 shall obtain a reclamation permit issued under this section, except for nonmetallic
166 mining sites that are exempt from this law under section 402.5-2. [4 O.C. 402.7-1].
- 167 ▪ *Chapter 403, Wood Cutting Ordinance.*
 - 168 ▪ The Wood Cutting Ordinance requires that applicants who wish to cut wood on Tribal
169 lands apply for and be approved a woodcutting permit. [4 O.C. 403.5-3].
- 170 ▪ *Chapter 404, Well Abandonment Law.*
 - 171 ▪ The Well Abandonment law requires that a private well owner obtain a yearly well
172 operation permit from the Oneida Environmental Health and Safety Division in order
173 to operate a well. [4 O.C. 404.5-1].
- 174 ▪ *Chapter 407, On-Site Waste Disposal Law.*
 - 175 ▪ The On-Site Waste Disposal law requires sanitary permits for the installation of private
176 sewage systems be obtained from the Environmental Health and Safety Division. [4
177 O.C. 407.5-1].
- 178 ▪ *Chapter 408, Sanitation Ordinance.*
 - 179 ▪ The Sanitation Ordinance provides that it shall be unlawful for any person or entity to
180 make or cause to be made any connection to the public sewer without first receiving a
181 permit from or executing the standard participation contract provided by the Oneida
182 Utilities Department. [4 O.C. 408.6-7]. The Sanitation Ordinance also provides that
183 the owner of any structure which will discharge industrial or commercial waste to the
184 public sewer shall obtain from the manager a discharge permit prior to construction of
185 a new facility or connection of any existing facility to the public sewer. [4 O.C. 408.6-
186 12]. Additionally, this law provides that it shall be unlawful for any person other than
187 representatives of the Oneida Utilities Department to use, alter, or disturb any of the
188 public water or public sewer facilities of the Nation or appurtenances thereof, without
189 first obtaining a written permit from the Manager. [4 O.C. 408.9-1].
- 190 ▪ *Chapter 409, Water Resources Law.*

- 191 ▪ The Water Resources law requires that the Oneida Environmental Department shall be
192 responsible for the application, processing, and review of Tribal water quality
193 certifications required by Section 401 of the Federal Water Pollution Control Act, 33
194 USC 1341, and shall require that all persons discharging any substance to waters of the
195 Reservation requiring a permit under the Federal Water Pollution Control Act, 33
196 U.S.C. 1251, et seq., report the manner used, amount used and amount discharged to
197 the waters of the Reservation for each substance. [4 O.C. 409.4-3, 409.6-1].
- 198 ▪ *Chapter 603, Building Code Law.*
 - 199 ▪ The Building Code law provides that no person shall erect or construct any building or
200 structure, or shall add to, enlarge, move, improve, alter, convert, extend or demolish
201 any building or structure or cause the same to be done, or shall commence any work
202 covered by this Code on any structure without first obtaining a building permit therefor
203 from the Zoning Administrator; provided that, the Zoning Administrator may authorize
204 minor repairs not involving structural alterations without requiring a building permit
205 to be issued. [4 O.C. 603.6-1].
- 206 ▪ *Chapter 605, Zoning and Shoreland Protection Law.*
 - 207 ▪ The Zoning and Shoreland Protection law requires the use of land use permits,
208 conditional use permits, and regulation of signs permits. [4 O.C. 605.140-1, 605.10-2,
209 605.11-2].
- 210 ▪ And any Tribal law which is hereafter adopted and/or designated as a Tribal land use regulation.

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212 **SECTION 7. OTHER CONSIDERATIONS**

213 **A. Fiscal Impact.** Under the Legislative Procedures Act, a fiscal impact statement is required for all
214 legislation except emergency legislation. [1 O.C. 109.6-1]. Oneida Business Committee resolution BC-
215 10-28-20-A titled, “*Further Interpretation of ‘Fiscal Impact Statement’ in the Legislative Procedures*
216 *Act,*” provides further clarification on who the Legislative Operating Committee may direct complete
217 a fiscal impact statement at various stages of the legislative process, as well as timeframes for
218 completing the fiscal impact statement.

- 219 ▪ *Conclusion.* A fiscal impact statement has not yet been requested.

Title 6. Property and Land – Chapter 607
LOCAL LAND USE REGULATION REIMBURSEMENT POLICY

607.1.	Purpose and Policy	607.4.	Eligible Individuals and Businesses
607.2.	Adoption, Amendment, Conflicts	607.5.	Reimbursement and Denials
607.3.	Definitions	607.6.	Appeals

607.1. Purpose and Policy

6071-1. *Purpose.* It is the purpose of this policy to preserve and protect the inherent right of the Oneida Tribe of Indians of Wisconsin to create and enforce Tribal land use regulations on the Reservation. Certain local governments refuse to recognize the preemption of state and local land use regulations with respect to the activities of Tribal members and Tribal member-owned businesses on the Reservation, and with respect to non-members and non-Tribal member owned businesses utilizing Tribal land, and refuse to recognize the authority of the Tribe to regulate such activities. This situation causes hardships for such Tribal members, non-members and businesses who are inappropriately threatened with enforcement of local land use regulations. The purpose of this policy is to alleviate such hardship.

607.1-2. *Policy.* It is the policy of the Tribe to reimburse Tribal members, non-members and businesses subject to Tribal land use regulations for fees and/or fines associated with compliance under written protest with local land use regulations. This policy neither condones the acts of local governments nor concedes that such local governments have jurisdiction to regulate the land use of Tribal members, non-members and businesses otherwise subject to Tribal law.

607.2. Adoption, Amendment, Conflicts

607.2-1. This policy was adopted by the Oneida Business Committee by resolution BC-09-08-10-B and amended by resolution BC-02-25-15-C.

607.2-2. This policy may be amended pursuant to the procedures set out in the Oneida Administrative Procedures Act by the Oneida Business Committee or the Oneida General Tribal Council.

607.2-3. Should a provision of this policy or the application thereof to any person or circumstances be held as invalid, such invalidity shall not affect other provisions of this policy which are considered to have legal force without the invalid portions.

607.2-4. In the event of a conflict between a provision of this policy and a provision of another policy, the provisions of this policy shall control. Provided that, nothing in this policy is intended to repeal or modify any existing law, ordinance, policy, regulation, rule, resolution or motion.

607.2-5. This policy is adopted under authority of the Constitution of the Oneida Tribe of Indians of Wisconsin.

607.2-6. This policy shall not be construed to repeal, abrogate, annul or impair any intergovernmental agreements between the Tribe and local governments.

607.3. Definitions

607.3-1. This section shall govern the definitions of words and phrases used within this policy. All words not defined herein shall be used in their ordinary and everyday sense.

(a) “Appropriate Tribal department” means the Tribal department(s) that approved an individual’s or business’s use of the land in accordance with the applicable Tribal land use regulations.

(b) “Business” means a firm, association, organization, partnership, estate, trust, company, corporation or similar entity.

44 (c) “Judiciary” means the judicial system that was established by Oneida General Tribal
45 Council resolution GTC-01-07-13-B to administer the judicial authorities and
46 responsibilities of the Tribe.

47 (d) “Local government” includes, but is not limited to towns, villages, cities and counties
48 organized pursuant to the laws of the State of Wisconsin.

49 (e) “Local land use regulations” means local government’s ordinances containing
50 inspection and/or permit requirements which regulate private use of land.

51 (f) “Reservation” means all lands within the exterior boundaries of the Reservation of the
52 Oneida Tribe of Indians of Wisconsin, as created pursuant to the 1838 Treaty with the
53 Oneida, 7 Stat. 566, and any lands added thereto pursuant to federal law.

54 (g) “Tribal fee land” means land to which the Tribe holds title in fee simple on the
55 Reservation.

56 (h) “Tribal land” means Tribal trust land and Tribal fee land.

57 (i) “Tribal land use regulations” means the following regulations:

58 (1) Chapter 402, Non-Metallic Mine Reclamation

59 (2) Chapter 403, Wood Cutting Ordinance

60 (3) Chapter 404, Well Abandonment Law

61 (4) Chapter 407, On-Site Waste Disposal Ordinance

62 (5) Chapter 408, Sanitation Ordinance

63 (6) Chapter 409, Water Resources Ordinance

64 (7) Chapter 603, Building Code of the Oneida Reservation

65 (8) Chapter 605, Zoning and Shoreland Protection Law

66 (9) Any Tribal law which is hereafter adopted and/or designated as a Tribal land
67 use regulation.

68 (j) “Tribal member” means an enrolled member of the Oneida Tribe of Indians of
69 Wisconsin.

70 (k) “Tribal member owned business” means a business which is majority owned and
71 managed by one (1) or more enrolled members of the Tribe.

72 (l) “Tribal trust land” means land to which the United States holds title for the benefit of
73 the Tribe pursuant to federal law.

74 (m) “Tribe” means the Oneida Tribe of Indians of Wisconsin

75 (n) “Under written protest” means written documentation demonstrating that the
76 individual or business has protested the application of the local land use regulations to his
77 or her activities and conveyed such protest to the local government.

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79 **607.4. Eligible Individuals and Businesses**

80 607.4-1. This policy extends only to the following:

81 (a) All Tribal members or Tribal member owned businesses on the Reservation on land
82 under the Tribal member’s or Tribal member owned business’s ownership or control;

83 (b) All non-members or non-Tribal member owned businesses who, in accordance with
84 Tribal law, lease, occupy or otherwise use Tribal fee lands or trust lands on the
85 Reservation; and

86 (c) All Tribal members, non-members, and businesses, whether Tribal member owned or
87 non-Tribal member owned, who, in accordance with Tribal law, lease, occupy or otherwise
88 use Tribal trust land outside the boundaries of the Reservation.

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91 **607.5. Reimbursement and Denials**

92 607.5-1. Where the following conditions are met, the Tribe will reimburse the individuals or
93 businesses identified in Section 607.4-1:

94 (a) The individual or business first complies with all applicable Tribal land use
95 regulations, including obtaining any required permits and/or inspections.

96 (b) The individual or business receives written notification from a local government
97 stating that the individual or business is in violation of local land use regulations, or the
98 individual or business is otherwise threatened with enforcement of local land use
99 regulations.

100 (c) One of the following occurs:

101 (1) The individual or business complies with the local land use regulation after
102 October 28, 2009 under written protest; or

103 (2) The individual or business complied with the local land use regulation from
104 January 1, 2009 through October 28, 2009 without protesting in writing.

105 (d) The individual or business submits the following to the appropriate Tribal department:

106 (1) receipts for the local government's fines and/or fees for compliance with the
107 local land use regulation; and

108 (2) verification that the individual or business complied with the local land use
109 regulation under written protest, if required to comply under written protest.

110 607.5-2. When an individual or business identified in Section 4-1 satisfies the requirements set
111 forth in Section 607.5-1, the Tribe shall reimburse the individual or business for fees and/or fines
112 actually paid by the individual or business to the local government; however, in no event shall
113 the Tribe bear any responsibility for the following:

114 (a) Additional costs the individual or business incurs as a result of his or her compliance
115 under written protest with the local land use regulations, including, but not limited to,
116 construction costs or engineering costs.

117 (b) Enforcement actions mandated by a local government, including, but not limited to,
118 building razing.

119 (c) Fines in excess of \$1,000.

120 607.5-3. If an individual or business is denied reimbursement, the appropriate Tribal
121 department shall inform the individual or business of the denial in writing within ten (10)
122 business days after receiving the reimbursement request. The notice shall also inform the
123 individual or business he or she has ten (10) business days after receiving the denial to file an
124 appeal and where he or she can file an appeal.

125 607.5-4. In no case shall an individual or business purport to allow a local government to
126 rezone Tribal fee land or Tribal trust land.

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128 **607.6. Appeals**

129 607.6-1. Any individual or business denied reimbursement for fees and/or fines actually paid
130 by the individual or business may file an appeal with the division director of the department
131 which denied the reimbursement. The denial of reimbursement shall specify where the
132 individual or business may appeal the decision. The appeal shall be filed within ten (10)
133 business days after the individual or business is notified of the denial of reimbursement.

134 607.6-2. The division director, or a designee, shall determine whether the individual or
135 business is eligible for reimbursement within five (5) business days of receipt of the appeal. The
136 determination shall be sent by registered mail (return receipt requested) or delivered in person to
137 the individual or business.

138 607.6-3. If reimbursement is denied by the division director, or designee, the individual or
139 business may file an appeal of the decision with the Judiciary.

140

141 *End.*

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143 _____
Emergency Adoption – BC-10-28-09-C

144 Emergency Adoption (extension) –BC-04-28-10

145 Adopted – BC-09-08-10-B

146 Amended – BC-02-25-15-C