



LEGISLATIVE OPERATING COMMITTEE MEETING AGENDA

Business Committee Conference Room - 2nd Floor Norbert Hill Center

March 16, 2022

9:00 a.m.

This Legislative Operating Committee meeting will be closed to the public in accordance with Oneida Business Committee resolution BC-12-08-21-B, *Updating 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. March 2, 2022 LOC Meeting Minutes (pg. 2)

III. Current Business

1. Budget Management and Control Law Amendments (pg. 3)
2. Wellness Court Law (pg. 106)
3. Elder Assistance Program Law (pg. 120)
4. Oneida Nation Gaming Ordinance Amendments (pg. 130)

IV. New Submissions

1. Oneida Nation Emergency Planning Committee Bylaws Amendments (pg. 196)

V. Additions

VI. Administrative Updates

VII. Executive Session

VIII. Recess/Adjourn



LEGISLATIVE OPERATING COMMITTEE MEETING MINUTES
Oneida Business Committee Conference Room-2nd Floor Norbert Hill Center
March 2, 2022
9:00 a.m.

Present: Kirby Metoxen, Daniel Guzman King, Jennifer Webster, Marie Summers

Excused: David P. Jordan

Others Present: Clorissa N. Santiago, Carmen Vanlanen, Brooke Doxtator, Lawrence Barton, Justin Nishimoto (Microsoft Teams), Eric Boulanger (Microsoft Teams), Rae Skenandore (Microsoft Teams), Keith Doxtator (Microsoft Teams), Mark Powless (Microsoft Teams), Michelle Myers (Microsoft Teams), Amy Spears (Microsoft Teams)

I. Call to Order and Approval of the Agenda

Kirby Metoxen called the March 2, 2022, Legislative Operating Committee meeting to order at 9:00 a.m.

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

II. Minutes to be Approved

1. February 16, 2022 LOC Meeting Minutes

Motion by Marie Summers to approve the February 16, 2022, LOC meeting minutes and forward to the Oneida Business Committee; seconded by Jennifer Webster. Motion carried unanimously.

III. Current Business

1. Elder Assistance Program Law

Motion by Marie Summers to accept the draft of the Oneida Elder Assistance Program law and defer to a work meeting for further discussion; seconded by Jennifer Webster. Motion carried unanimously.

IV. New Submissions

V. Additions

VI. Administrative Items

VII. Executive Session

VIII. Adjourn

Motion by Marie Summers to adjourn at 9:09 a.m.; seconded by Jennifer Webster. Motion carried unanimously.





Legislative Operating Committee
March 16, 2022

Budget Management and Control Law Amendments

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|--------------------------------------|--|
| Submission Date: 10/7/20 | 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 2/2/22. |
| LOC Sponsor: Jennifer Webster | Emergency Enacted: 11/24/20, 5/12/21, 11/10/21 |

Summary: *On August 12, 2020, during an executive session discussion on the supervision of the Chief Financial Officer, the Oneida Business Committee adopted a motion to send the entire subject of supervision of the Chief Financial Officer to the LOC for further analysis to create permanent amendments in the Budget Management and Control law for Tiers III, IV, and V for future events. The Legislative Operating Committee added the Budget Management and Control law amendments to its Active Files List on October 7, 2020. On November 24, 2020, the Oneida Business Committee adopted emergency amendments to the Budget Management and Control law through resolution BC-11-24-20-E to address how the Nation would adopt the budget during the COVID-19 pandemic. The emergency amendments to the Law are set to expire on May 24, 2021. On May 12, 2021, the Oneida Business Committee adopted emergency amendments to the Budget Management and Control law through resolution BC-05-12-21-C to address the Nation's non-compliance with the budget development process and timelines. The emergency amendments to the Law were then extended by the Oneida Business Committee on November 10, 2021, through the adoption of resolution BC-11-10-21-B. The emergency amendments to the Law will now expire on May 12, 2022.*

10/7/20 LOC: Motion by Jennifer Webster to add the Budget Management and Control Law Amendments to the Active Files List with Jennifer Webster as the sponsor; seconded by Daniel Guzman King. Motion carried unanimously.

10/21/20: *Work Meeting.* Present: David P. Jordan, Kirby Metoxen, Jennifer Webster, Daniel Guzman King, Marie Summers, Cristina Danforth, Lawrence Barton, Ralinda Ninham-Lamberies, Clorissa N. Santiago, Kristen Hooker, Rae Skenandore, James Petitjean, Rhiannon Metoxen, Kristal Hill. This was a work meeting held through Microsoft Teams. The purpose of this work session was to review the Budget Management and Control law line by line and begin discussing potential amendments. Attorney will update the draft based on suggestions during this work meeting, and will note all parking lot issues, and will schedule another work meeting with this team.

11/24/20: *E-Poll Conducted.* This e-poll was titled, "Approval of the Budget Management and Control Law Emergency Amendments Adoption Packet." The requested action of this e-poll was to approve the Budget Management and Control law emergency amendments adoption packet and forward to the Oneida Business Committee. This e-poll was approved by Jennifer

Webster, David P. Jordan, Marie Summers, and Kirby Metoxen. Daniel Guzman King did not provide a response during the e-poll time frame.

11/24/20 OBC: Motion by Lisa Liggins to amend the agenda to add two (2) items [1) item V.D. Adopt resolution entitled Emergency Amendments to the Budget Management and Control Law; and 2) item V.E. Adopt resolution entitled Approval of Final Draft Fiscal Year 2021 Budget and Budget Directives], seconded by Marie Summers. Motion carried.

Motion by Lisa Liggins to adopt resolution 11-24-20-E Emergency Amendments to the Budget Management and Control Law, seconded by David P. Jordan. Motion carried.

12/2/20 LOC: Motion by Kirby Metoxen to enter into the record the results of the November 24, 2020, e-poll titled, "Approval of the Budget Management and Control Law Emergency Amendments Adoption Packet"; seconded by Jennifer Webster. Motion carried unanimously.

12/2/20: *Work Meeting.* Present: David P. Jordan, Kirby Metoxen, Daniel Guzman King, Marie Summers, Clorissa N. Santiago, Kristen Hooker, Rhiannon Metoxen, Kristal Hill. This was a work meeting held through Microsoft Teams. The purpose of this work meeting was to provide a brief update to the LOC on the status of holding a work meeting with the Treasurer, Budget Analyst, and Strategic Planner to collect information on how to efficiently and effectively incorporate community input into the budget process.

1/22/21: *Work Meeting.* Present: Clorissa N. Santiago, Lawrence Barton, Ralinda Ninham-Lamberies, Rae Skenandore, James Petitjean. This was a work meeting held through Microsoft Teams. The purpose of this work meeting was to discuss with Finance potential issues that need to be addressed in the proposed amendments to this law.

1/28/21: *Work Meeting.* Present: David P. Jordan, Jennifer Webster, Marie Summers, Daniel Guzman King, Clorissa N. Santiago, Kristal Hill, Rhiannon Metoxen. This was a work meeting held through Microsoft Teams. The purpose of this work meeting was to provide the LOC an update on the January 22 work meeting with Finance, and discuss a plan for moving this item forward.

2/9/21: *Work Meeting.* Present: Clorissa N. Santiago, Cristina Danforth, Lawrence Barton, Ralinda Ninham-Lamberies, Rae Skenandore, James Petitjean. This was a work meeting held through Microsoft Teams. The purpose of this work meeting was to discuss potential amendments to the Budget Management and Control law and discuss a plan for moving this legislative item forward.

2/25/21: *Work Meeting.* Present: Clorissa N. Santiago, Cristina Danforth, Lawrence Barton, Ralinda Ninham-Lamberies, Rae Skenandore, James Petitjean. This was a work meeting held through Microsoft Teams. The purpose of this work meeting was to discuss a potential outline for a law that would include not only information on the budget, but broader financial policies of the Nation.

4/28/21 OBC: [*Considerations regarding the Budget Management and Control Law*] Motion by Kirby Metoxen to acknowledge we are out of compliance and going forward we get into compliance. Motion failed due to lack of support.

Motion by David P. Jordan to direct the LOC [Legislative Operating Committee] to have emergency amendments to the Budget Management and Control law to remove much of the budget process/deadlines and leave it simply at a budget should be adopted by September 30, 2021 and direct the LOC to continue working with Finance to get the Budget Management and Control law amended, seconded by Jennifer Webster. Motion carried.

- 4/29/21:** *Work Meeting.* Present: David P. Jordan, Kirby Metoxen, Jennifer Webster, Marie Summers, Daniel Guzman King, Clorissa N. Santiago, Kristal Hill, Rhiannon Metoxen. This was a work meeting held through Microsoft Teams. The purpose of this work meeting was to discuss how to address the 4/28 directive from the Oneida Business Committee to bring forward emergency amendments to the law.
- 5/5/21 LOC:** Motion by Jennifer Webster to approve the Budget Management and Control law emergency adoption packet and forward to the Oneida Business Committee for consideration; seconded by Daniel Guzman King. Marie Summers abstained. Motion carried.
- 5/12/21 OBC:** Motion by Lisa Liggins to adopt resolution 05-12-21-C Emergency Amendments to the Budget Management and Control Law, with two (2) changes [1) at line 73, insert "BE IT FURTHER RESOLVED, the deadlines provided in the Fiscal Year 2022 Budget Calendar, which is published on the Oneida Portal and was shared at the April 6, 2021, Budget Kick-off meeting, are suspended until further notice."; and 2) change last resolve to "BE IT FINALLY RESOLVED, the Treasurer shall present a resolution to a special Business Committee work session, scheduled no later than June 11, 2021, which provides the general framework for the Fiscal Year 2022 budget development process, which shall include, but is not limited to, information such as the budget calendar, opportunities for community input and discussion, line item guidance, and new position definition, guidance, and review process."], seconded by Jennifer Webster. Motion carried.
- 5/25/21:** *Work Meeting.* Present: Clorissa N. Santiago, Lawrence Barton, Ralinda Ninham-Lamberies, Rae Skenandore. This was a work meeting held through Microsoft Teams. The purpose of this work meeting was to go through the draft and begin flushing out potential policies and topics to be included in the law.
- 6/16/21:** *Work Meeting.* Present: Clorissa N. Santiago, Cristina Danforth, Lawrence Barton, Ralinda Ninham-Lamberies, Rae Skenandore. This was a work meeting held through Microsoft Teams. The purpose of this work meeting was to continue going through the draft and begin flushing out potential policies and topics to be included in the law.
- 7/7/21:** *Work Meeting.* Present: Clorissa N. Santiago, Cristina Danforth, Lawrence Barton, Ralinda Ninham-Lamberies, Rae Skenandore. This was a work meeting held through Microsoft Teams. The purpose of this work meeting was to continue going through the draft and begin flushing out potential policies and topics to be included in the law.
- 10/12/21:** *Work Meeting.* Present: Clorissa N. Santiago, Cristina Danforth, Lawrence Barton, Ralinda Ninham-Lamberies, Rae Skenandore. This was a work meeting held through Microsoft Teams. The purpose of this work meeting was to review and discuss the updated proposed draft one final time before it is presented to the Legislative Operating Committee for their consideration.
- 10/14/21:** *Work Meeting.* Present: David P. Jordan, Kirby Metoxen, Jennifer Webster, Daniel Guzman King, Marie Summers, Clorissa N. Santiago, Carmen Vanlanen, Kristal Hill. This was a work meeting held through Microsoft Teams. The purpose of this work meeting was to review and discuss the proposed draft of amendments to the Law developed by the Treasurer and Finance.
- 10/15/21:** *Work Meeting.* Present: David P. Jordan, Kirby Metoxen, Jennifer Webster, Daniel Guzman King, Marie Summers, Clorissa N. Santiago, Carmen Vanlanen, Kristal Hill. This was a work meeting held through Microsoft Teams. The purpose of this work meeting was to continue reviewing and discussing the proposed draft of amendments to the Law developed by the Treasurer and Finance.

10/20/21: *Work Meeting.* Present: David P. Jordan, Kirby Metoxen, Jennifer Webster, Daniel Guzman King, Marie Summers, 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 updated draft and redline of the proposed amendments to the Law to prepare the draft to be formally approved on the next LOC meeting agenda.

11/3/21 LOC: Motion by Jennifer Webster to approve the Budget Management and Control law emergency amendments extensions packet and forward to the Oneida Business Committee for consideration; seconded by Daniel Guzman King. Motion carried unanimously.

Motion by Kirby Metoxen to approve the draft of proposed amendments to the Budget Management and Control law and direct that a legislative analysis be developed; seconded by Jennifer Webster. Motion carried unanimously.

11/3/21: *Work Meeting.* Present: David P. Jordan, Kirby Metoxen, Jennifer Webster, Daniel Guzman King, Marie Summers, Clorissa N. Santiago, Kristen Hooker, Carmen Vanlanen, Rhiannon Metoxen. This was a work meeting held through Microsoft Teams. The purpose of this work meeting was to discuss section 121.6-4 of the Law in relation to resolution BC-10-08-08-A and determine next steps for moving forward.

11/4/21: *Work Meeting.* Present: Clorissa N. Santiago, Lawrence Barton, Ralinda Ninham-Lamberies, Rae Skenandore. This was a work meeting held through Microsoft Teams. The purpose of this work meeting was to review and discuss with Finance the changes the LOC made to the proposed draft after it was submitted to them, and collect input from Finance.

11/9/21: *Work Meeting.* Present: David P. Jordan, Kirby Metoxen, Jennifer Webster, Daniel Guzman King, Marie Summers, Clorissa N. Santiago, Kristen Hooker, Carmen Vanlanen, Kristal Hill. This was a work meeting held through Microsoft Teams. The purpose of this work meeting was to review the input on the proposed draft that was collected from the Finance Department.

11/10/21 OBC: Motion by David P. Jordan to adopt resolution 11-10-21-B Extension of the Emergency Amendments to the Budget Management and Control Law, seconded by Kirby Metoxen. Motion carried.

12/9/21: *Work Meeting.* Present: David P. Jordan, Jennifer Webster, Clorissa N. Santiago, Kristen Hooker, Carmen Vanlanen, Kristal Hill, Rhiannon Metoxen. This was a work meeting held through Microsoft Teams. The purpose of this work meeting was to briefly review the legislative analysis and the public comment period notice.

12/15/21 LOC: Motion by Jennifer Webster to approve the updated draft, legislative analysis, and public comment period notice, and forward the Budget Management and Control law amendments to a public comment period to be held open until February 2, 2022; seconded by Marie Summers. Motion carried unanimously.

2/2/22: *Public Comment Period Closed.* One (1) submission of written comments was received during the public comment period.

2/16/22 LOC: Motion by Marie Summers to accept the public comments and the public comment review memorandum and defer to a work meeting for further consideration; seconded by Jennifer Webster. Motion carried unanimously.

2/16/22: *Work Meeting.* Present: David P. Jordan, Jennifer Webster, Kirby Metoxen, Daniel Guzman King, Marie Summers, Clorissa N. Santiago, Lisa Liggins. This was a work meeting held

through Microsoft Teams. The purpose of this work meeting was to review and consider the public comments that were received.

2/24/22: *Work Meeting.* Present: David P. Jordan, Kirby Metoxen, Daniel Guzman King, Marie Summers, Clorissa N. Santiago, Carmen Vanlanen. This was a work meeting held through Microsoft Teams. The purpose of this work meeting was to review and consider the late submission of public comments that were received.

2/24/22: *Work Meeting.* Present: Clorissa N. Santiago, Ralinda Ninham-Lamberies, Rae Skenandore. This was a work meeting held through Microsoft Teams. The purpose of this work meeting was to discuss how to clarify section 121.6-5 of the Law regarding obligated future expenditures.

3/2/22: *Work Meeting.* Present: Kirby Metoxen, Daniel Guzman King, Marie Summers, Jennifer Webster, Clorissa N. Santiago, Carmen Vanlanen. This was a work meeting held through Microsoft Teams. The purpose of this work meeting was for the LOC to review all the revisions that were made to the Law after the public comment period and determine if any other revisions were needed.

3/10/22: *Work Meeting.* Present: David P. Jordan, Kirby Metoxen, Daniel Guzman King, Marie Summers, Jennifer Webster, 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 for the LOC to review and consider the input received from Finance and the Oneida Law Office on the final draft of proposed amendments to the Budget Management and Control law.

Next Steps:

- Accept the updated public comment review memorandum.
- Approve the updated draft and legislative analysis.
- Approve 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 March 31, 2022.



TO: Legislative Operating Committee (LOC)
FROM: Clorissa N. Santiago, Legislative Reference Office, Senior Staff Attorney *CNS*
DATE: March 16, 2022
RE: Budget Management and Control Law Amendments: Public Comment Review
with Legislative Operating Committee Consideration

On December 15, 2021, the Legislative Operating Committee approved a public comment period for the proposed amendments to the Budget Management and Control law (“the Law”) to be held open until February 2, 2022. A public meeting for the repeal of the Law was not held due to the COVID-19 pandemic.

On March 12, 2020, Chairman Tehassi Hill signed a “*Declaration of Public Health State of Emergency*” regarding COVID-19 which declared a Public Health State of Emergency for the Nation until April 12, 2020, and set into place the necessary authority for action to be taken and allowed the Nation to seek reimbursement of emergency management actions that may result in unexpected expenses. The Public Health State of Emergency has since been extended until March 24, 2022, 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, BC-07-28-21-N, BC-09-22-21-A, BC-11-24-21-F, and BC-01-12-22-B.

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

On August 3, 2021, the Oneida Business Committee adopted resolution BC-12-08-21-B, *Updating Public Gathering Guidelines during Public Health State of Emergency—COVID-19*, which prohibits indoor public gatherings when the following conditions cannot be met:

- When COVID-19 Case Activity rates are at or below low in Brown and Outagamie Counties, or the county in which the activity is being held, as identified on the Wisconsin Department of Health Services website for the most recent period.
- When COVID-19 Percent Positive rates are at or below low in Brown and Outagamie Counties, or the county in which the activity is being held, as identified on the Wisconsin Department of Health Services website for the most recent period.
- When COVID-19 Community Transmission Rates by ZIP Code Tabulation Area are at or below low in ZIP Codes 54155, 54301, 54302 and 54303, or the ZIP Code in which the activity is being held, as identified on the Wisconsin Department of Health Services website for the most recent period.

Due to the fact that the conditions for holding an indoor public meeting have not been met in the Nation, in accordance with resolution BC-12-08-21-B, a public meeting for the proposed amendments to the Law was not held, but a public comment period was still held open. Members of the community were provided an opportunity to provide written submissions of comments or questions to the Legislative Operating Committee through e-mail until February 2, 2022.

The Legislative Operating Committee reviewed and considered the public comments received on February 16, 2022. This memorandum is submitted as a review of the written comments received within the public comment period.

Comment 1 – Definition of Executive Manager:

121.3. Definitions

121.3-1. This section shall govern the definitions of words and phrases used within this law. All words not defined herein shall be used in their ordinary and everyday sense.

(h) “Executive Manager” means a position of employment within the Nation that is the highest level in the chain of command under the Oneida Business Committee who is responsible for a department or division of the Nation, which includes, but is not limited to, the following positions within the Nation: General Manager, Gaming General Manager, Retail General Manager, Chief Legal Counsel, and Chief Financial Officer.

Lisa Liggins (written): Line 74 – the list of BC Direct Reports/Executive Managers has changed many times in the past seven (7) years. Understanding that its definition states “including, but not limited to”, I suggest, instead, the law should require a resolution to define this group of positions. This would provide greater flexibility and clarity.

Response

The commenter suggests that in an effort to provide greater flexibility and clarity, that reference to a resolution of the Nation be included in the definition for executive manager which would define this group of positions.

Currently, resolution BC-09-23-20-A, *Setting Supervision and Management of Direct Reports to the Oneida Business Committee*, defines direct reports as the following positions: Chief Counsel, General Manager, Gaming General Manager, Retail General Manager, Business Compliance Analyst, Intergovernmental Affairs and Communications Director, Emergency Management Director, Human Resources Department Area Manager, Strategic Planner, Project Manager, Project Coordinator, Budget Analyst, Executive Assistant, and Employee Relations.

In an effort to provide better clarity as to the interpretation of this Law, the following revision is recommended:

121.3. Definitions

121.3-1. This section shall govern the definitions of words and phrases used within this law. All words not defined herein shall be used in their ordinary and everyday sense.

(h) “Executive Manager” means a position of employment within the Nation that is the highest level in the chain of command under the Oneida Business Committee who is responsible for a department or division of the Nation, as identified by the Oneida Business Committee through the adoption of a resolution~~which includes, but is not limited to, the following positions within the Nation: General Manager, Gaming General Manager, Retail General Manager, Chief Legal Counsel, and Chief Financial Officer.~~

Additionally, the Legislative Operating Committee may want to consider whether the term “executive manager” should be revised to the term “direct report” to be consistent with terminology used throughout the Nation in other capacities.

LOC Consideration

The Legislative Operating Committee determined that clarification on the interpretation of the term Executive Manager could be improved through the following revision to the Law:

121.3. Definitions

121.3-1. This section shall govern the definitions of words and phrases used within this law. All words not defined herein shall be used in their ordinary and everyday sense.

(h) “Executive Manager” means a position of employment within the Nation that is the highest level in the chain of command under the Oneida Business Committee who is responsible for a department or division of the Nation, as identified by the Oneida Business Committee through the adoption of a resolution.~~which includes, but is not limited to, the following positions within the Nation: General Manager, Gaming General Manager, Retail General Manager, Chief Legal Counsel, and Chief Financial Officer.~~

The Legislative Operating Committee also determined that a request should be made to the Oneida Business Committee to consider amending resolution BC-09-23-20-A, *Setting Supervision and Management of Direct Reports to the Oneida Business Committee*, to clarify which direct report positions are executive managers (Chief Counsel, General Manager, Gaming General Manager, Retail General Manager, Intergovernmental Affairs and Communications Director, Emergency Management Director, Human Resources Department Area Manager) and which direct report positions are professional support staff (Business Compliance Analyst, Strategic Planner, Project Manager, Project Coordinator, Budget Analyst, Executive Assistant, and Employee Relations).

Comment 2 – Definition of Finance Administration:

121.3. Definitions

121.3-1. This section shall govern the definitions of words and phrases used within this law. All words not defined herein shall be used in their ordinary and everyday sense.

(j) “Finance Administration” means the department of the Nation which consists of the Chief Financial Officer, Assistant Chief Financial Officer, the executive assistant to the Chief Financial Officer, and any other designated employee.

Lisa Liggins (written): Line 82 – we know from experience, especially over the last two years, that including specific positions in laws can be a hinderance when there are changes (layoffs,

budget cuts, reorganization, etc). I suggest making a more general statement about the department and its function. Or remove it entirely if my suggestion in line 189 is considered.

Response

The commenter suggests revising the definition for “Finance Administration” so that it more generally describes the function of the department instead of just the positions, since we know that positions may change, or remove the use of the term entirely.

The Finance Administration is currently defined in the proposed amendments to the Law as the department of the Nation which consists of the Chief Financial Officer (CFO), Assistant Chief Financial Officer, the executive assistant to the Chief Financial Officer, and any other designated employee. [1 O.C. 121.3-1(j)]. The Assistant Chief Financial Officer and the executive assistance to the Chief Financial Officer are both positions that are under the purview and supervision of the Chief Financial Officer. The term “CFO” is defined in the Law as the Nation’s Chief Financial Officer, or their designee at their discretion. [1 O.C. 121.3-1(e)]. Due to the fact that the term CFO already encompasses the use of a designee at the CFO’s discretion, it is recommended that the following revisions to the Law be made in order to simplify the terminology used throughout the Law:

121.3. Definitions

121.3-1. This section shall govern the definitions of words and phrases used within this law. All words not defined herein shall be used in their ordinary and everyday sense.

~~(j) “Finance Administration” means the department of the Nation which consists of the Chief Financial Officer, Assistant Chief Financial Officer, the executive assistant to the Chief Financial Officer, and any other designated employee.~~

121.5. Budget

121.5-4. *Budget Adoption Procedure.* The Nation shall develop and adopt its budget according to the following procedures:

- (a)(2) Each fund unit shall be responsible for complying with the budget schedule and guidelines to submit a proposed budget to the Treasurer. The ~~CFO Finance Administration~~ shall not submit any budget on behalf of a fund unit unless granted express permission from the Oneida Business Committee.

LOC Consideration

The Legislative Operating Committee determined that no revision to the Law is necessary based on this comment. The Legislative Operating Committee discussed and determined that the definition for Finance Administration is clear as to the key positions in that area, but also allows for flexibility by including “any other designated employee.”

Comment 3 – Definition for Fixed Charge Coverage Ratio:

121.3. Definitions

121.3-1. This section shall govern the definitions of words and phrases used within this law. All words not defined herein shall be used in their ordinary and everyday sense.

(l) “Fixed Charge Coverage Ratio” means a measurement of a creditors capacity of earnings level or ability to cover its fixed charges such as debt payments, interest expenses, and leases expenses. Financial institutions will evaluate this ratio for purposes of credit risk. The Fixed Charge Coverage Ratio is calculated by adding the earnings before interest and taxes (EBIT) to the interest expense, lease expense and other fixed charges, and then dividing that adjusted EBIT by the amount of fixed charges plus interest.

Lisa Liggins (written): Line 87 – In researching this term, there are a few variations of how this can be calculated. This appears to be a policy decision wrapped in the law. With a change in leadership or management, there could be a different approach. I suggest either a footnote or some other documentation as to how/why this particular version is being used. Or that it be removed from the law and defined by resolution so that it could be changed as needed.

Response

The commenter highlights potential issues that may arise with including the calculation for fixed charge coverage ratio in the definition for this term provided in the Law. In an effort to ensure that the Law remains flexible enough to adjust to changes in how different ratios are calculated, or changes in what is considered acceptable ranges for such ratios as determined by the Generally Accepted Accounting Principles, the following revisions to the Law are recommended:

121.3. Definitions

121.3-1. This section shall govern the definitions of words and phrases used within this law. All words not defined herein shall be used in their ordinary and everyday sense.

(g) “Debt Service Coverage Ratio” means a measurement of creditors available cash flow to pay debt obligations. This ratio evaluates if an entity has income capacity to service debts. ~~The Debt Service Coverage Ratio is calculated by dividing the net operating income by the total debt service costs.~~

~~(1) Net operating income is the income or cash flows that are left over after all of the operating expenses have been paid.~~

(l) “Fixed Charge Coverage Ratio” means a measurement of a creditors capacity of earnings level or ability to cover its fixed charges such as debt payments, interest expenses, and leases expenses. Financial institutions will evaluate this ratio for purposes of credit risk. ~~The Fixed Charge Coverage Ratio is calculated by adding the earnings before interest and taxes (EBIT) to the interest expense, lease expense and other fixed charges, and then dividing that adjusted EBIT by the amount of fixed charges plus interest.~~

121.8. Debts

121.8-4. *Credit Ratios.* Maintaining fiscally responsible prudent credit ratios is consistent with effective budget management and financial control.

(a) *Debt Service Coverage Ratio.* The Debt Service Coverage Ratio shall not exceed the acceptable range ~~of zero (0) to two (2)~~ as defined by Generally Accepted Accounting Principles.

(b) *Fixed Charge Coverage Ratio.* The Fixed Charge Coverage Ratio shall be maintained at a the acceptable range ~~of one and twenty five hundredths (1.25) or higher~~ as defined by Generally Accepted Accounting Principles.

(c) *Calculation of Ratios and Ranges.* The Treasurer, in consultation with the CFO, shall provide, and the Oneida Business Committee shall approve through the adoption of a resolution, the calculations for determining the debt service coverage ratio and the fixed charge coverage ratio for the Nation. This resolution shall also include the current acceptable range for both the debt service coverage ratio and the fixed charge coverage ratio as defined by the Generally Accepted Accounting Principles.

LOC Consideration

In an effort to ensure that the Law remains flexible enough to adjust to changes in how different ratios are calculated, or changes in what is considered acceptable ranges for such ratios as determined by the Generally Accepted Accounting Principles, the Legislative Operating Committee determined the following revisions to the Law should be made:

121.3. Definitions

121.3-1. This section shall govern the definitions of words and phrases used within this law. All words not defined herein shall be used in their ordinary and everyday sense.

(g) “Debt Service Coverage Ratio” means a measurement of creditors available cash flow to pay debt obligations. This ratio evaluates if an entity has income capacity to service debts. ~~The Debt Service Coverage Ratio is calculated by dividing the net operating income by the total debt service costs.~~

~~(1) Net operating income is the income or cash flows that are left over after all of the operating expenses have been paid.~~

(l) “Fixed Charge Coverage Ratio” means a measurement of a creditors capacity of earnings level or ability to cover its fixed charges such as debt payments, interest expenses, and leases expenses. Financial institutions will evaluate this ratio for purposes of credit risk. ~~The Fixed Charge Coverage Ratio is calculated by adding the earnings before interest and taxes (EBIT) to the interest expense, lease expense and other fixed charges, and then dividing that adjusted EBIT by the amount of fixed charges plus interest.~~

121.8. Debts

121.8-4. *Credit Ratios.* Maintaining fiscally responsible prudent credit ratios is consistent with effective budget management and financial control.

(a) *Debt Service Coverage Ratio.* The Debt Service Coverage Ratio shall not exceed the acceptable range ~~of zero (0) to two (2)~~ as defined by Generally Accepted Accounting Principles.

(b) *Fixed Charge Coverage Ratio.* The Fixed Charge Coverage Ratio shall be maintained at a the acceptable range ~~of one and twenty five hundredths (1.25) or higher~~ as defined by Generally Accepted Accounting Principles.

(c) Calculation of Ratios and Ranges. The Treasurer, in consultation with the CFO, shall provide, and the Oneida Business Committee shall approve through the adoption of a resolution, the calculations for determining the debt service coverage ratio and the fixed charge coverage ratio for the Nation. This resolution shall also include the current acceptable range for both the debt service coverage ratio and the fixed charge coverage ratio as defined by the Generally Accepted Accounting Principles.

Comment 4 – Deletion of Deadline from Budget Schedule and Guidelines Requirement:

121.5. Budget

121.5-4. Budget Adoption Procedure. The Nation shall develop and adopt its budget according to the following procedures:

(a) **Budget Schedule and Guidelines.** The Treasurer shall develop the necessary guidelines, including specific timelines and deadlines, to be followed by the managers that have budget responsibility in preparing and submitting proposed budgets. The Treasurer shall submit the guidelines to the Oneida Business Committee for review and approval through the adoption of a resolution.

(3) The Oneida Business Committee shall set a deadline through the adoption of a resolution for when the Treasurer shall submit their budget guidelines to the Oneida Business Committee for review and approval.

Lisa Liggins (written): Line 184 – I’m glad to see the deadline removed from this section; it was in draft 1 from October 2021. Thank you.

Response

The commenter expresses support for removing the deadline for when the Treasurer shall develop the necessary budget schedule and guidelines that was included in a prior draft of the proposed amendments to the Law. Instead, the Law now allows for more flexibility by providing that the Oneida Business Committee shall set a deadline through the adoption of a resolution for when the Treasurer shall submit their budget guidelines to the Oneida Business Committee for review and approval. [1 O.C. 121.5-4(a)(3)].

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

LOC Consideration

The Legislative Operating Committee appreciates the show of support for the decision to allow for more flexibility by providing that the Oneida Business Committee shall set a deadline through the adoption of a resolution for when the Treasurer shall submit their budget guidelines to the Oneida Business Committee for review and approval. [1 O.C. 121.5-4(a)(3)].

Comment 5 – Submission of Budgets by the Finance Administration:

121.5. Budget

121.5-4. (a)(2) Each fund unit shall be responsible for complying with the budget schedule and guidelines to submit a proposed budget to the Treasurer. The Finance Administration shall not submit any budget on behalf of a fund unit unless granted express permission from the Oneida Business Committee.

Lisa Liggins (written): Line 189-190 – “The Finance Administration shall not submit any budget on behalf of a fund unit unless granted express permission from the Oneida Business Committee.” I don’t believe that Finance should be submit any budgets on behalf of any fund unit, regardless of express permission from the OBC. My understanding from the budget meetings I’ve attended over the past 7 years, is that Finance is available to assist anyone that has questions, that there are resources available to the fund units. Still, Finance continues to have to enter budgets. I understand this would be a change. I suggest this line be deleted in its entirety and that there be a provision in the adopting resolution that requires notice to those areas that haven’t been submitting on their own budgets and that appropriate training be offered by Finance.

Response

The commenter provides that the Law should not allow the Finance Administration to submit a budget on behalf of a fund unit if granted express permission from the Oneida Business Committee, and instead the adopting resolution should require the Finance Administration to provide appropriate training to any fund unit that has had the Finance Administration enter their budget in the past, so that the fund unit can move forward without having to rely on the Finance Administration to enter their budget in the future.

It is the responsibility of each fund unit to comply with the budget schedule and guidelines to submit a proposed budget to the Treasurer. [1 O.C. 121.5-4(a)(2)]. Although it is not the responsibility of the Finance Administration to submit a budget on behalf of a fund unit, this is a task that the Finance Administration regularly is required to undertake to ensure the budget moves forward in accordance with the schedule and guidelines. In an effort to curb a fund unit’s use of the Finance Administration to submit a budget on their behalf, the Law was revised to prohibit the Finance Administration from submitting any budget on behalf of a fund unit unless granted express permission from the Oneida Business Committee. [1 O.C. 121.5-4(a)(2)]. The Legislative Operating Committee made the determination to allow the Oneida Business Committee to grant permission to the Finance Administration to submit a budget on behalf of a fund unit in recognition that extenuating circumstances may arise where this is necessary.

Whether to prohibit the Finance Administration from submitting any budget on behalf of a fund unit unless granted express permission from the Oneida Business Committee is a policy decision for the Legislative Operating Committee to make. The Legislative Operating Committee may make one of the following determinations:

1. The Law should remain as currently drafted, so that the Finance Administration is prohibited from submitting any budget on behalf of a fund unit unless granted express permission from the Oneida Business Committee.
2. The Law should be revised so that there is no exception to the prohibition of the Finance Administration from submitting a budget on behalf of a fund unit. If the Legislative

Operating Committee makes this determination, then the following revision to the Law is recommended:

121.5. Budget

121.5-4. (a)(2) Each fund unit shall be responsible for complying with the budget schedule and guidelines to submit a proposed budget to the Treasurer. The Finance Administration shall not submit any budget on behalf of a fund unit ~~unless granted express permission from the Oneida Business Committee.~~

LOC Consideration

The Legislative Operating Committee determined that the Law should remain as currently drafted, so that the Finance Administration is prohibited from submitting any budget on behalf of a fund unit unless granted express permission from the Oneida Business Committee. Although the Legislative Operating Committee understands the comment's statement that allowing permission to be granted by the Oneida Business Committee should be eliminated from the Law to truly address the problem and ensure that fund units seek out the necessary training and knowledge to submit budgets on their own, the Legislative Operating Committee discussed that there are always extenuating circumstances – such as death, illness, or other emergency situation – that may arise and require the assistance by the Finance Administration in submitting a budget on behalf of a fund unit. The Legislative Operating Committee discussed that especially during the time of the COVID-19 pandemic, we have to recognize the reality of extenuating circumstances occurring and ensure that our laws are prepared to allow for flexibility. The Legislative Operating Committee also discussed that requiring that the Oneida Business Committee grants the permission for the Finance Administration to submit a budget on behalf of a fund unit will ensure that the Finance Administration is only used to submit budgets when extenuating circumstances actually exist, and that is not just a situation where a fund unit lacks knowledge or understanding on how to submit a budget.

Comment 6 – Notification of Budget Decrease:

121.5. Budget

121.5-4. (b)(1) *Notification of Budget Increases.* The Treasurer shall identify in the budget guidelines a percentage of an increase in a fund unit's budget from the prior year budget that is required to be noticed to the Oneida Business Committee. The Treasurer shall notify the Oneida Business Committee of any fund units whose proposed budget increased by this percentage.

Lisa Liggins (written): Line 200 – Should there be a notice of decrease (i.e. program ended)?

Response

The commenter questions whether the Law should require notice to the Oneida Business Committee of a decrease in a fund unit's budget from the prior year budget of a certain percentage, since the proposed amendments to the Law will require than an increase of an identified percentage be noticed to the Oneida Business Committee.

The requirement of notification to the Oneida Business Committee of any fund units whose proposed budget increased by an identified percentage was included in the Law to ensure that the Oneida Business Committee is aware of and monitoring any fund unit's budget which increased beyond what the Treasurer had deemed a normal percentage increase for that year, which could have potential negative impacts on producing a balanced budget. This notification increases transparency between the fund units, and also provides an increase in accountability by the fund units, since they would know their increase in budget will be notified to the Oneida Business Committee.

Whether to also include the requirement that a decrease in a fund unit's budget of a specified percentage be required to be notified to the Oneida Business Committee is a policy decision for the Legislative Operating Committee to make. The Legislative Operating Committee may make one of the following determinations:

1. The Law should remain as currently drafted, and it is not necessary that decrease in a fund unit's budget of a specified percentage be required to be notified to the Oneida Business Committee.
2. The Law should be revised so that decrease in a fund unit's budget of a specified percentage be required to be notified to the Oneida Business Committee. If the Legislative Operating Committee makes this determination, then the following revision to the Law is recommended:

121.5-4. (b)(1) *Notification of Budget Increases ~~or Decrease~~*. The Treasurer shall identify in the budget guidelines a percentage of an increase ~~or decrease~~ in a fund unit's budget from the prior year budget that is required to be noticed to the Oneida Business Committee. The Treasurer shall notify the Oneida Business Committee of any fund units whose proposed budget increased ~~or decreased~~ by this percentage.

LOC Consideration

The Legislative Operating Committee determined that the Law should be revised so that decrease in a fund unit's budget of a specified percentage be required to be notified to the Oneida Business Committee, and that the following revision to the Law should be made:

121.5-4. (b)(1) *Notification of Budget Increases ~~or Decrease~~*. The Treasurer shall identify in the budget guidelines a percentage of an increase ~~or decrease~~ in a fund unit's budget from the prior year budget that is required to be noticed to the Oneida Business Committee. The Treasurer shall notify the Oneida Business Committee of any fund units whose proposed budget increased ~~or decreased~~ by this percentage.

Comment 7 – Adoption of Budget when Lacking Quorum of General Tribal Council:

121.5. Budget

121.5-4. (e) *Budget Adoption*. The Oneida Business Committee shall present the budget to the General Tribal Council with a request for adoption by resolution no later than September 30th of each year. The General Tribal Council shall be responsible for adopting the Nation's budget.

(1) Continuing Budget Resolution. In the event that the General Tribal Council does not adopt a budget by September 30th, the Oneida Business Committee may adopt a continuing budget resolution(s) until such time as a budget is adopted by the General Tribal Council.

Lisa Liggins (written): Line 213 – There was a time, not to long ago, when we couldn’t get quorum for GTC meetings. I don’t see a provision for what happens if that occurs.

Response

The commenter questions what would happen if the General Tribal Council was unable to get a quorum for a meeting to adopt the Nation’s budget. The General Tribal Council is responsible for adopting the Nation’s budget by September 30th of each year. [1 O.C. 121.5-4(e)]. If the General Tribal Council is unable to adopt the Nation’s budget by September 30th of each year - whether that is due to a lack of quorum of members of the General Tribal Council, inclement weather that results in the cancelation of a General Tribal Council meeting, lack of available meeting space, or failure by the General Tribal Council to take action on the budget during a meeting – then the Law allows the Oneida Business Committee to adopt a continuing budget resolution until such time as a budget is adopted by the General Tribal Council. [1 O.C. 121.5-4(e)(1)]. Therefore, if a lack of quorum prevents the General Tribal Council from adopting a budget by September 30th of each year, then the Oneida Business Committee may adopt a continuing budget resolution until the General Tribal Council can secure a quorum to adopt the budget.

Section 121.5-4(e)(1) of the Law adequately addresses a situation where a lack of quorum of the General Tribal Council prevents the budget from being adopted by September 30th of each year. Whether it is necessary for this Law to address the potential for a lack of quorum to disrupt the ability of the General Tribal Council to hold meetings on a long-term basis, or how long a continuing budget resolution should remain in effect is up to the discretion of the Legislative Operating Committee.

LOC Consideration

The Legislative Operating Committee determined that the Law should provide greater clarification on the use of continuing budget resolutions. The Legislative Operating Committee greatly discussed that allowing the Nation to operate under a continuing budget resolution with no restrictions on how long that continuing budget resolution can remain in effect before the budget is actually adopted is a potential audit issue that needs to be addressed. The Legislative Operating Committee determined that a continuing budget resolution should only be allowed to remain in effect for a three (3) month period, and if the General Tribal Council is unable to adopt the budget by the end of the first quarter - whether that is due to a lack of quorum of members of the General Tribal Council, inclement weather that results in the cancelation of a General Tribal Council meeting, lack of available meeting space, or failure by the General Tribal Council to take action on the budget during a meeting – then, the Oneida Business Committee should be granted the authority to adopt the Nation’s budget. The Legislative Operating Committee directed that the following revision to the Law be made:

121.5. Budget

121.5-4. (e) *Budget Adoption*. The Oneida Business Committee shall present the budget to the General Tribal Council with a request for adoption by resolution no later than September 30th of each year. The General Tribal Council shall be responsible for adopting the Nation's budget.

(1) *Continuing Budget Resolution*. In the event that the General Tribal Council does not adopt a budget by September 30th, the Oneida Business Committee may adopt a continuing budget resolution **for a period of time not to exceed three (3) months,**~~(s)~~ until such time as a budget is adopted by the General Tribal Council. If the General Tribal Council does not adopt a budget within three (3) months of the adoption of the continuing budget resolution, then the Oneida Business Committee shall adopt the Nation's budget.

Comment 8 – Procurement Manual:

121.6. Expenditures and Assets

121.6-1. *Authority to Expend Funds*. The Oneida Business Committee shall have the authority to expend appropriated funds in accordance with the Nation's adopted budget pursuant to the Procurement Manual developed by the Purchasing Department. The authority to expend funds is then necessarily delegated to other managers, including Executive Managers of the Nation who manage budgets pursuant to their job descriptions based on the Procurement Manual.

121.6-2. *Procurement Manual*. The Purchasing Department shall develop a Procurement Manual which provides the sign-off process and authorities required to expend funds on behalf of the Nation. The Procurement Manual, and any amendments thereto, shall be approved by the Oneida Business Committee through adoption of a resolution.

Lisa Liggins (written): Line 235-243 – Per the Administrative Rulemaking law, a Rule is defined as “a set of requirements enacted by an authorized agency in order to implement, interpret and/or enforce a law of the Nation...” Based on how the Procurement Manual is used now and how it's being referenced here, it is still a rule and should be treated as a such. Section 106.1-2. Of the Administrative Rulemaking law states “It is the policy of the Nation to ensure there is an efficient, effective and democratic process for enacting and revising administrative rules, and that authorized agencies act in a responsible and consistent manner when enacting and revising administrative rules.” Removing the rulemaking process, limits transparency, I wholly disagree with the change and believe this change is contrary to BC Resolution # 09-25-19-D Guidance to Implement Good Governance Principles for Conducting Public Affairs and Managing Public Resources.

Response

The commenter disagrees with the Legislative Operating Committee's decision to remove the requirement that the Purchasing Department development Procurement Manual rules in accordance with the Administrative Rulemaking law, and instead allow the Procurement Manual to be developed by the Purchasing Department and approved by the Oneida Business Committee through the adoption of a resolution.

The Budget Management and Control law was originally adopted by the Oneida Business Committee on February 8, 2017, through the adoption of resolution BC-02-08-17-C. Resolution BC-02-08-17-C also contained the directive that any rules required to be developed pursuant to the Budget Management and Control Law shall be in effect no later than October 1, 2017 – when the Budget Management and Control law was set to become effective. The Law adopted in 2017 contained two (2) delegations of rulemaking authority:

- The Community Development Planning Committee and the Development Division were delegated joint rulemaking authority to develop capital improvement rules [BC-02-08-17-C – 121.6-2]; and
- The Purchasing Department was delegated rulemaking authority to develop procurement manual rules [BC-02-08-17-C – 121.8-1].

Although it has been more than five (5) years since the Law was adopted, resolution BC-02-08-17-C’s directive that any administrative rules required by the Law be in effect no later than October 1, 2017, was never complied with. To this date, the Purchasing Department has never brought forward the Procurement Manual as rules to be adopted by the Oneida Business Committee, and the Community Development Planning Committee and the Development Division have never developed capital improvement rules to be adopted by the Oneida Business Committee.

During the development of these proposed amendments to the Law, the Legislative Operating Committee had great discussion on the use of administrative rules for the Procurement Manual, and the issue of non-compliance in regard to the development of those administrative rules up to this point in time. The Legislative Operating Committee agrees that there is great value in the administrative rulemaking process. The process contained within the Administrative Rulemaking law is very similar to the legislative process contained in the Legislative Procedures Act the Legislative Operating Committee uses to develop new laws and amendments to the laws. The Administrative Rulemaking law provides an efficient, effective, and democratic process for enacting and revising administrative rules which ensures that the authorized agencies act in a responsible and consistent manner when developing those rules. [1 O.C. 106.1-2]. The process under the Administrative Rulemaking law not only requires that the authorized agency holds a public meeting and holds open a public comment period to collect input on proposed rules, but also requires that the authorized agency fully consider all comments received during the public comment period and during any public meeting held, and then draft a memorandum containing all public comments received and the authorized agency’s response to each comment. [1 O.C. 106.6]. The administrative rulemaking process also requires that the authorized agency provide a financial analysis of the proposed rules. Although there are many benefits to the administrative rulemaking process, there are also some drawbacks. Compliance with developing rules in accordance with the Administrative Rulemaking law has been an ongoing issue. The process and requirements contained in the Administrative Rulemaking law can be cumbersome and difficult to understand for departments. Many departments also struggle with the actual drafting of their administrative rules – although they are the subject matter experts, it proves difficult for departments to transfer their knowledge and policies onto paper. Much like the legislative process, the administrative rulemaking process is rigid and time consuming, and does not allow much flexibility in changing policies efficiently absent the existence of emergency conditions.

The Legislative Operating Committee weighed the pros and cons of utilizing the administrative rulemaking process - a consistent system that ensures a greater opportunity for community input, with the necessity of allowing for policies to be flexible and change moving forward in a more efficient manner. The Legislative Operating Committee also discussed this issue with the Finance Administration during work meetings on the development of the amendments to this Law. The Finance Administration shared that currently the Procurement Manual more closely resembles a collection of standard operating procedures and contains references to outside sources such as requirements of federal law and standards from the Generally Accepted Accounting Principles (GAAP) established by the Financial Accounting Standards Board, and the Governmental Accounting Standards Board (GASB). The Finance Administration provided that due to the fact that the Procurement Manual is more technical and relies on standards and requirements from outside sources, a great period for public comment may not be an effective utilization of time or resources. The Finance Administration recommended that the Procurement Manual remain as it has been treated historically and not be required to be developed as a rule under the Administrative Rulemaking law. The Legislative Operating Committee, still wanting some opportunity for public review and discussion, as well as oversight, determined that the Procurement Manual should be a manual that is approved by the Oneida Business Committee through adoption of a resolution.

The commenter expresses concern that decision to remove the requirement that the Purchasing Department development Procurement Manual rules in accordance with the Administrative Rulemaking law may be contrary to Oneida Business Committee resolution BC-09-25-19-D, *Guidance to Implement Good Governance Principles for Conducting Public Affairs and Managing Public Resources*. Through resolution BC-09-25-19-D the Oneida Business Committee adopts the following Good Governance principles and definitions:

- **Rule of Law:** Ensuring the rules are known and applied equally to all with clear appeal (if needed) and are enforced by an impartial regulatory body, for the full protection of Oneida Nation stakeholders.
- **Transparency:** Open communication about actions taken and decisions made ensuring access to information is clear.
- **Responsiveness:** Availability to the public and timeous reaction to the needs and opinions of the public.
- **Consensus Oriented:** Consultation is required to understand diverse interests (Membership, Employee, Community) in order to reach a broad consensus of what is in the best interest of the Nation and how this can be achieved in a sustainable and prudent manner.
- **Equity and Inclusiveness:** Providing the opportunity for the Nation's stakeholders to maintain, enhance, or generally improve their well-being which provides the most compelling message regarding its reason for existence and value to the Nation.
- **Effectiveness and Efficiency:** Processes implemented by the Nation producing favorable results which meets the needs of Membership, Employees, Community, while making the best use of resources – human, technological, financial, natural and environmental.
- **Accountability:** The acknowledgement and assumption of responsibility for decisions and actions as well as the applicable rules of law.
- **Participation:** Fostering a system in which the public feels that they are part of decision-making processes, including freedom of expression and assiduous concern for the best interests of the Tribe and community in general.

The approval of the Procurement Manual through the adoption of a resolution by the Oneida Business Committee still encompasses many of the Good Governance principles. The Oneida Business Committee agenda and meeting materials are typically made available on the Nation's website for review at least three (3) business days prior to the Oneida Business Committee meeting. This provides notice that the topic will be discussed at the Oneida Business Committee meeting, and also supports transparency since there is open communication regarding the requested action to be taken and the materials to be considered. Participation by other employees or members of the community at Oneida Business Committee meetings is allowed. Members of the community may ask questions, provide input, or request considerations be made on a particular agenda topic. Responsiveness is also maintained, as departments have the opportunity to consider the input or questions that are received during the Oneida Business Committee meeting and provide responses directly back during the meeting. That being said, arguably, the process contained within the Administrative Rulemaking law does provide greater transparency, participation, and responsiveness due to the public meeting and public comment review memorandum requirement. Therefore, it may not be accurate to say the approval of the Procurement Manual through the adoption of a resolution *violates* the Good Governance principles provided in resolution BC-09-25-19-D, but instead, it may be more accurate to say the approval of the Procurement Manual through the adoption of a resolution may not be as effective at promoting the Good Governance principles provided in resolution BC-09-25-19-D as adoption of the Procurement Manual as a rule under the Administrative Rulemaking law. But again, the effectiveness of promoting the Good Governance principles of transparency, participation, and responsiveness, needs to be weighed against the necessity of promoting the Good Governance principle of effectiveness and efficiency- which may be better supported by the adoption of the Procurement Manual through a resolution.

Ultimately, whether to require the Procurement Manual to be adopted as a rule developed in accordance with the Administrative Rulemaking law, or as a manual that is approved through the adoption of a resolution is a policy decision for the Legislative Operating Committee to make. The Legislative Operating Committee may make one of the following determinations:

1. The Law should remain as currently drafted, so that the Purchasing Department develops a Procurement Manual which provides the sign-off process and authorities required to expend funds on behalf of the Nation, that is approved by the Oneida Business Committee through adoption of a resolution.
2. The Law should be revised so that the Purchasing Department develops a Procurement Manual which provides the sign-off process and authorities required to expend funds on behalf of the Nation, that is developed as a rule in accordance with the Administrative Rulemaking law. If the Legislative Operating Committee makes this determination, then the following revision to the Law is recommended:

121.6. Expenditures and Assets

121.6-1. *Authority to Expend Funds.* The Oneida Business Committee shall have the authority to expend appropriated funds in accordance with the Nation's adopted budget pursuant to the Procurement [Manual Rule Handbook](#) developed by the Purchasing Department. The authority to expend funds is then necessarily delegated to other managers, including Executive Managers of the Nation who manage budgets pursuant to their job descriptions based on the Procurement [Manual Rule Handbook](#) .

121.6-2. *Procurement ~~Manual~~ Rule Handbook*. The Purchasing Department ~~shall~~ is delegated rulemaking authority to in accordance with the Administrative Rulemaking law to develop a Procurement ~~Manual~~ Rule Handbook which provides the sign-off process and authorities required to expend funds on behalf of the Nation. ~~The Procurement, and any amendments thereto, shall be approved by the Oneida Business Committee through adoption of a resolution.~~

LOC Consideration

The Legislative Operating Committee once again held great discussion on whether to require the Procurement Manual to be adopted as a rule developed in accordance with the Administrative Rulemaking law, or as a manual that is approved through the adoption of a resolution. The effectiveness of promoting the Good Governance principles of transparency, participation, and responsiveness, was weighed against the necessity of promoting the Good Governance principle of effectiveness and efficiency. Ultimately, the Legislative Operating Committee determined that the proposed amendments to the Law should be revised – so that remains as currently effective and once again requires that the Purchasing Department develops a Procurement Manual which provides the sign-off process and authorities required to expend funds on behalf of the Nation, that is developed as a rule in accordance with the Administrative Rulemaking law. The Legislative Operating Committee directed that the following revision to the Law be made:

121.6. Expenditures and Assets

121.6-1. *Authority to Expend Funds*. The Oneida Business Committee shall have the authority to expend appropriated funds in accordance with the Nation's adopted budget pursuant to the Procurement ~~Manual~~ Rule Handbook developed by the Purchasing Department. The authority to expend funds is then necessarily delegated to other managers, including Executive Managers of the Nation who manage budgets pursuant to their job descriptions based on the Procurement ~~Manual~~ Rule Handbook.

121.6-2. *Procurement ~~Manual~~ Rule Handbook*. The Purchasing Department ~~shall~~ is delegated rulemaking authority in accordance with the Administrative Rulemaking law to develop a Procurement ~~Manual~~ Rule Handbook which provides the sign-off process and authorities required to expend funds on behalf of the Nation. ~~The Procurement, and any amendments thereto, shall be approved by the Oneida Business Committee through adoption of a resolution.~~

Comment 9 – Fees and Charges:

121.6. Expenditures and Assets

121.6-3. *Fees and Charges*. A program or service of the Nation funded through Tribal contribution may charge fees for their services to cover operational costs.

- (a) Before charging fees for services, a program or service shall first determine the full cost of providing the program or service. The full cost of providing a program or service includes all costs including operation costs, overhead such as direct and indirect costs, and depreciation.
- (b) Fees and charges may cover the full cost of service or goods whenever such fee or charge would not present an undue financial burden to the recipient.

(c) Programs and services charging fees may offer fee waivers, provided that the program or service has developed a standard operating procedure which outlines fee waiver eligibility and requirements.

Lisa Liggins (written): Line 244 – This section could be interpreted that it’s an “all or nothing” approach to fees and charges. Either charge the “full cost” as defined in the is section, or offer fee waivers – no middle ground.

Response

The commenter provides that the way the section on fees and charges is drafted could lead to the interpretation that a program or service is only allowed to charge either the full cost of providing the service or program, or no cost by providing fee waivers.

To eliminate any potential confusion in the interpretation of this section of the Law the following revision is recommended:

121.6. Expenditures and Assets

121.6-3. *Fees and Charges.* A program or service of the Nation funded through Tribal contribution may charge fees for their services to cover operational costs.

(a) Before charging fees for services, a program or service shall first determine the full cost of providing the program or service. The full cost of providing a program or service includes all costs including operation costs, overhead such as direct and indirect costs, and depreciation.

(b) Fees and charges may be issued to cover up to the full cost of service or goods whenever such fee or charge would not present an undue financial burden to the recipient.

(c) Programs and services charging fees may offer fee waivers, provided that the program or service has developed a standard operating procedure which outlines fee waiver eligibility and requirements.

LOC Consideration

The Legislative Operating Committee disagreed that this section of the Law needed clarification and determined that no revision to the Law is necessary based on this comment.

Comment 10 – Obligated Future Expenditures:

121.6. Expenditures and Assets

121.6-5. Obligated Future Expenditures. No fund unit shall obligate the Nation to make any future expenditures beyond the current budget year unless the fund unit identifies, and the Oneida Business Committee approves through the adoption of a resolution, the source and extent of any future funds that are recommended to be held in reserve to meet that future obligation.

Lisa Liggins (written): Line 267 – As written, it appears that an entity, such as the DTS, can’t enter into a long-term contract for technical support because they would be obligating future

expenditures. I don't think this is the intent, but if so, who will be responsible to keep track and list all those contracts in the resolution? I assume this isn't the intent and suggest it be clarified.

Response

The commenter questions the clarity of the intent of section 121.6-5 of the Law regarding obligated future expenditures. This provision of the Law provides that no fund unit shall obligate the Nation to make any future expenditures beyond the current budget year unless the fund unit identifies, and the Oneida Business Committee approves through the adoption of a resolution, the source and extent of any future funds that are recommended to be held in reserve to meet that future obligation. [1 O.C. 121.6-5].

When developing this provision of the Law, the Legislative Operating Committee collaborated with the Finance Administration and focused much of its discussion on large obligated future expenditures such as multi-year land acquisitions. The intent of this provision of the Law could be clarified. It is recommended that the Legislative Operating Committee work with the Finance Administration to clarify this provision of the Law so that its intent and applicability will be clear to the reader.

LOC Consideration

The Legislative Operating Committee agreed that this provision of the Law needed needs clarification, and directed the drafting attorney to meet with the Finance Administration to address this issue.

Comment 11 – Definition for Government Services and Enterprises:

121.6. Expenditures and Assets

121.6-9. Capital Improvements.

(a) ***Capital Improvement Plan for Government Services.*** The Oneida Business Committee shall develop, and the General Tribal Council shall approve, a capital improvement plan for government services.

(b) ***Capital Improvement Plan for Enterprises.*** Capital improvement plans for enterprises may be brought forward as needed, provided that the Oneida Business Committee shall approve all capital improvement plans for enterprises.

Lisa Liggins (written): Line 288 and 297 – “government services” and “enterprises” should be defined.

Response

The commenter requests that a definition for both “government services” and “enterprises” be included in the Law.

It is recommended that the Law be revised to include the following definitions:

121.3. Definitions

121.3-1. This section shall govern the definitions of words and phrases used within this law. All words not defined herein shall be used in their ordinary and everyday sense.

(h) “Enterprise” means any area or activity of the Nation that is engaged in for the business of profit.

(o) “Government service” means any area or activity of the Nation that is not expected to create revenue for the Nation and not expected to make a profit at any time.

LOC Consideration

The Legislative Operating Committee determined that in an effort to provide greater clarification the Law should be revised to include the following definitions:

121.3. Definitions

121.3-1. This section shall govern the definitions of words and phrases used within this law. All words not defined herein shall be used in their ordinary and everyday sense.

(h) “Enterprise” means any area or activity of the Nation that is engaged in for the business of profit.

(o) “Government service” means any area or activity of the Nation that is not expected to create revenue for the Nation and not expected to make a profit at any time.

Comment 12 – Unbudgeted Positions:

121.9. Employment and Labor Allocations

121.9-3. *Unbudgeted Positions.* Any position which has not been specifically budgeted for and included in the labor allocation list shall be prohibited. Budgeted labor dollars and approved positions shall not be transferrable in any form.

(a) *Exception.* The Oneida Business Committee may authorize an unbudgeted position for a fund unit.

Lisa Liggins (written): Line 390 – not clear if a new fully grant funded position would be allowable. It should be?

Response

The commenter questions whether the prohibition of unbudgeted positions that have not been provided for in the labor allocations list provided for in section 121.9-3 of the Law applies to fully grant funded positions, and states that it should not apply to fully grant funded positions.

As written, any position, including a fully grant funded position, which has not been specifically budgeted for and included in the Nation’s labor allocation list shall be prohibited. [1 O.C. 121.9-3]. The Law does provide an exception to this prohibition. The Law allows the Oneida Business Committee to authorize an unbudgeted position which has not been identified in the Nation’s labor allocation list for a fund unit. Therefore, a fund unit may seek authorization from the Oneida Business Committee for an unbudgeted fully granted funded position.

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

LOC Consideration

The Legislative Operating Committee agrees that the Law would allow the Oneida Business Committee to authorize an unbudgeted position which has not been identified in the Nation's labor allocation list for a fund unit, so a fund unit may seek authorization from the Oneida Business Committee for an unbudgeted fully granted funded position. Therefore, no revision to the Law is necessary based on this comment.

Comment 13 – Notification of Law of Compliance to the General Tribal Council:

121.12. Enforcement

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

(a) The Executive Managers shall notify the Oneida Business Committee of any fund unit which does not comply with the budget schedule or guidelines. A list of all fund units which did not comply with the budget schedule or guidelines shall be included in the annual report to the General Tribal Council.

Lisa Liggins (written): Line 468 – reporting this list doesn't have anything to do with enforcement and it should be deleted. This should be a personnel issue for the Executive Managers to handle. If the concern is that someone dropped the ball and a service wasn't included that should have been, then reporting the offender to GTC doesn't correct the situation. Another action may be needed here to get to the correction desired.

Response

The commenter requests that the provision requiring the executive managers to notify the Oneida Business Committee of any fund unit which does not comply with the budget schedule or guidelines, so that a list of those fund units can be included in the annual report to the General Tribal Council be removed from the Law as this does not enhance enforcement of the Law and should be a personnel issue handled by the executive managers.

The Legislative Operating Committee included the provision which requires the executive managers to notify the Oneida Business Committee of any fund unit which does not comply with the budget schedule or guidelines so that a list of those fund units can be included in the annual report to the General Tribal Council in an effort to increase accountability – not only accountability for compliance by the fund units, but also accountability by the executive managers to ensure they are properly enforcing the Law.

Whether to also include the requirement that the executive managers to notify the Oneida Business Committee of any fund unit which does not comply with the budget schedule or guidelines so that a list of those fund units can be included in the annual report to the General Tribal Council is a policy decision for the Legislative Operating Committee to make. The Legislative Operating Committee may make one of the following determinations:

1. The Law should remain as currently drafted, and it be required that the executive managers notify the Oneida Business Committee of any fund unit which does not comply with the budget schedule or guidelines so that a list of those fund units can be included in the annual report to the General Tribal Council
2. The Law should be revised so that the provision requiring the executive managers to notify the Oneida Business Committee of any fund unit which does not comply with the budget schedule or guidelines so that a list of those fund units can be included in the annual report to the General Tribal Council is removed from the Law. If the Legislative Operating Committee makes this determination, then the following revision to the Law is recommended:

121.12. Enforcement

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

- (a) The Executive Managers shall notify the Oneida Business Committee of any fund unit which does not comply with the budget schedule or guidelines. ~~A list of all fund units which did not comply with the budget schedule or guidelines shall be included in the annual report to the General Tribal Council.~~

LOC Consideration

The Legislative Operating Committee determined that greater clarification needed to be added to the compliance and enforcement section of the Law. The Legislative Operating Committee determined that the provision which requires the executive managers to notify the Oneida Business Committee of any fund unit which does not comply with the budget schedule or guidelines should remain in the Law, but that it needs to be clarified that only a list of those fund units of an elected entity should be included in the annual report to the General Tribal Council. The Legislative Operating Committee determined that only a list of non-compliant fund units of elected entities needs to be shared with the General Tribal Council because ultimately it is the General Tribal Council that elects those entities.

121.12. Enforcement

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

- (a) The Executive Managers shall notify the Oneida Business Committee of any fund unit which does not comply with the budget schedule or guidelines. A list of ~~all~~ any fund units of an elected entity which did not comply with the budget schedule or guidelines shall be included in the annual report to the General Tribal Council.

Title 1. Government and Finances – Chapter 121

Twahwistatye'nítha?

We have a certain amount of money

BUDGET AND FINANCES

121.1. Purpose and Policy
121.2. Adoption, Amendment, Repeal
121.3. Definitions
121.4. Authority and Responsibilities
121.5. Budget
121.6. Expenditures and Assets

121.7. Grants
121.8. Debts
121.9. Employment and Labor Allocations
121.10. Budget Contingency Planning
121.11. Reporting
121.12. Enforcement

121.1. Purpose and Policy

121.1-1. *Purpose.* The purpose of this law is to set forth the requirements to be followed by the Oneida Business Committee and the Oneida fund units when preparing the budget to be presented to the General Tribal Council for approval, and to establish financial policies and procedures for the Nation which:

- (a) institutionalize best practices in financial management to guide decision makers in making informed decisions regarding the provision of services, implementation of business plans for enterprises, investments, and capital assets;
- (b) provide a long term financial prospective and strategic intent, linking budget allocations to organizational goals, as well as providing fiscal controls and accountability for results and outcomes;
- (c) identify and communicate to the membership of the Nation spending decisions for the government function, grant obligations, enterprises, membership mandates, capital expenditures, technology projects, and capital improvement projects;
- (d) establish a framework for effective financial risk management; and
- (e) encourage participation by the Nation's membership.

121.1-2. *Policy.* It is the policy of the Nation to rely on balanced-based budgeting strategies, identifying proper authorities and ensuring compliance and enforcement. The Nation shall use Generally Accepted Accounting Principles (GAAP), established by the Financial Accounting Standards Board, and the Governmental Accounting Standards Board (GASB) in accounting and reporting for the financial activities of the various entities of the Nation, unless they conflict with applicable legal requirements.

121.2. Adoption, Amendment, Repeal

121.2-1. This law was adopted by the Oneida Business Committee by resolution BC-02-08-17-C, and amended by resolution BC-__-__-__.

121.2-2. 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.

121.2-3. Should a provision of this law or the application thereof to any person or circumstances be held as invalid, such invalidity shall not affect other provisions of this law which are considered to have legal force without the invalid portions.

121.2-4. In the event of a conflict between a provision of this law and a provision of another law, the provisions of this law shall control. Provided that, nothing in this law amends or repeals the

requirements of resolution BC-10-08-08-A, *Adopting Expenditure Authorization and Reporting Requirements*.

121.2-5. This law is adopted under authority of the Constitution of the Oneida Nation.

121.3. Definitions

121.3-1. This section shall govern the definitions of words and phrases used within this law. All words not defined herein shall be used in their ordinary and everyday sense.

(a) “Balanced budget” means that the cost of current expenses and service provisions is equal to the forecasted current revenue sources.

(b) “Capital contribution” means an act of giving money or assets to a company or organization.

(c) “Capital expenditure” means any non-recurring and non-physical improvement as follows:

(1) Any item with a cost of five thousand dollars (\$5,000) or more and a useful life of one (1) year or more; or

(2) Items purchased together where none of the items individually costs more than two thousand dollars (\$2,000), but the total purchase price for all of the items is ten thousand dollars (\$10,000) or more.

(d) “Capital improvement” means a non-recurring expenditure for physical improvements, including costs for:

(1) acquisition of existing buildings, land, or interests in land;

(A) Acquisition of existing buildings and land completed by the Oneida Land Commission are not included in this definition.

(2) construction of new buildings or other structures, including additions and major alterations;

(3) acquisition of fixed equipment;

(4) landscaping;

(5) physical infrastructure; and

(6) similar expenditures with a cost of five thousand dollars (\$5,000.00) or more and a useful life of one (1) year or more.

(e) “CFO” means the Nation’s Chief Financial Officer, or their designee at their discretion.

(f) “Debt” means the secured or unsecured obligations owed by the Nation.

(g) “Debt Service Coverage Ratio” means a measurement of creditors available cash flow to pay debt obligations. This ratio evaluates if an entity has income capacity to service debts. The Debt Service Coverage Ratio is calculated by dividing the net operating income by the total debt service costs.

(1) Net operating income is the income or cash flows that are left over after all of the operating expenses have been paid.

(h) “Executive Manager” means a position of employment within the Nation that is the highest level in the chain of command under the Oneida Business Committee who is responsible for a department or division of the Nation, which includes, but is not limited to, the following positions within the Nation: General Manager, Gaming General Manager, Retail General Manager, Chief Legal Counsel, and Chief Financial Officer.

(i) “Expenditure report” means a financial report which includes, but is not limited to, a statement of cash flows, revenues, costs and expenses, assets, liabilities, and a statement of

financial position.

(j) “Finance Administration” means the department of the Nation which consists of the Chief Financial Officer, Assistant Chief Financial Officer, the executive assistant to the Chief Financial Officer, and any other designated employee.

(k) “Fiscal year” means the one (1) year period each year from October 1st to September 30th.

(l) “Fixed Charge Coverage Ratio” means a measurement of a creditors capacity of earnings level or ability to cover its fixed charges such as debt payments, interest expenses, and leases expenses. Financial institutions will evaluate this ratio for purposes of credit risk. The Fixed Charge Coverage Ratio is calculated by adding the earnings before interest and taxes (EBIT) to the interest expense, lease expense and other fixed charges, and then dividing that adjusted EBIT by the amount of fixed charges plus interest.

(m) “Fund unit” means any board, committee, commission, service, program, enterprise, department, office, or any other division or non-division of the Nation which receives an appropriation approved by the Nation.

(n) “Line item” means the specific account within a fund unit’s budget or category that expenditures are charged to.

(o) “Manager” means the person in charge of directing, controlling, and administering the activities of a fund unit.

(p) “Nation” means the Oneida Nation.

(q) “Secretary” means the Oneida Nation Secretary.

(r) “Treasurer” means the Oneida Nation Treasurer, or their designee at their discretion.

121.4. Authority and Responsibilities

121.4-1. *Oneida Business Committee.* The Oneida Business Committee shall:

- (a) oversee the development of the Nation’s budget;
- (b) oversee the implementation of the Nation’s budget;
- (c) develop priorities, a strategic plan, or broad goals to assist in guiding the budget; and
- (d) exercise the authority provided in Article IV, Section 1, of the Constitution and Bylaws of the Oneida Nation, as delegated to the Oneida Business Committee by the General Tribal Council.

121.4-2. *Treasurer.* In accordance with the Constitution and Bylaws of the Oneida Nation, the Nation’s Treasurer shall:

- (a) accept, receive, receipt for, preserve and safeguard all funds in the custody of the Nation, whether they be funds of the Nation or special funds for which the Nation is acting as trustee or custodian;
- (b) deposit all funds in such depository as the Nation shall direct and shall make and preserve a faithful record of such funds;
- (c) submit expenditure reports and other financial reports as deemed necessary by the Oneida Business Committee or the General Tribal Council at:
 - (1) the annual General Tribal Council meeting;
 - (2) the semi-annual General Tribal Council meeting; and
 - (3) other such times as may be directed by the Oneida Business Committee or the General Tribal Council; and

(d) present the proposed draft budget to the General Tribal Council at the annual budget meeting.

121.4-3. *Chief Financial Officer.* The CFO shall:

(a) ensure the Nation's budget is properly implemented;
(b) provide managers with monthly revenue and expense reports;
(c) assist with the submission and presentation of the Treasurer's report to the Oneida Business Committee, which shall specifically include any monthly variances that are either:

(1) a difference of three percent (3%) or more from the adopted annual budget; or

(2) fifty thousand dollars (\$50,000) or more in total;

(d) provide the Oneida Business Committee with information and reports as requested;

(e) present the Treasurer's report and hold financial condition meetings with the Nation's management on a minimum of a quarterly basis; and

(f) inform the appropriate Executive Manager of any fund unit which does not follow the budget development process guidelines or deadlines as set forth by the Treasurer.

121.4-4. *Managers.* Managers shall:

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

(b) report to the CFO and their relevant Executive Manager explanations and corrective actions for any monthly variance that is either:

(1) a difference of three percent (3%) or more from the adopted annual budget; or

(2) fifty thousand dollars (\$50,000) or more in total;

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

(d) submit a budget for their fund unit in accordance with the budget schedule and guidelines as adopted by the Oneida Business Committee.

121.5. Budget

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

(a) The Nation's budget shall be a balanced budget and not propose to spend more funds than are reasonably expected to become available to the Nation during that fiscal year.

(1) Underwriting debt resources or the utilization of existing debt instruments shall be expressly prohibited from use to balance the Nation's annual budget.

(b) The budget shall align with any strategic plan, broad goals, or priorities developed and adopted by the Oneida Business Committee on behalf of the Nation.

(c) The Nation's corporate entities shall not be included in the Nation's budget.

121.5-2. *Content of the Budget.* The Nation's budget shall include the following information:

(a) Estimated revenues to be received from all sources;

(b) The individual budgets of each fund unit;

(c) A description of each line item within each fund unit's budget;

(d) The estimated expenditures by each fund unit; and

(e) Summary of employment position counts including prior year, current year, and budgeted year.

121.5-3. *Fund Categories*. The Nation's budget shall include, but not be limited to, the following categories of fund accounts:

(a) *General Fund*. The General Fund account is the Nation's main operating fund which is used to account for all financial resources not accounted for in other funds.

(b) *Permanent Executive Contingency Fund*. The Permanent Executive Contingency Fund account is used by the Nation to prevent default on debt and to sustain operations during times of extreme financial distress.

(c) *Grant Reserve Fund*. The Grant Reserve Fund account is used by the Nation to pre-fund the expenditures of grants upon receipt.

121.5-4. *Budget Adoption Procedure*. The Nation shall develop and adopt its budget according to the following procedures:

(a) *Budget Schedule and Guidelines*. The Treasurer shall develop the necessary guidelines, including specific timelines and deadlines, to be followed by the managers that have budget responsibility in preparing and submitting proposed budgets. The Treasurer shall submit the guidelines to the Oneida Business Committee for review and approval through the adoption of a resolution.

(1) The budget schedule and guidelines shall include at least one (1) opportunity for community input from the Nation's membership on what should be included in the upcoming fiscal year budget.

(2) Each fund unit shall be responsible for complying with the budget schedule and guidelines to submit a proposed budget to the Treasurer. The Finance Administration shall not submit any budget on behalf of a fund unit unless granted express permission from the Oneida Business Committee.

(3) The Oneida Business Committee shall set a deadline through the adoption of a resolution for when the Treasurer shall submit their budget guidelines to the Oneida Business Committee for review and approval.

(b) *Annual Proposed Budgets*. The Treasurer shall receive, review, and compile the proposed budgets from all the fund units into the Nation's draft budget. The Treasurer shall present the Nation's draft budget to the Oneida Business Committee for review each year to ensure that it is consistent with the Nation's strategic plan, broad goals, and budget strategy.

(1) *Notification of Budget Increases*. The Treasurer shall identify in the budget guidelines a percentage of an increase in a fund unit's budget from the prior year budget that is required to be noticed to the Oneida Business Committee. The Treasurer shall notify the Oneida Business Committee of any fund units whose proposed budget increased by this percentage.

(c) *Final Draft Budget*. The Oneida Business Committee shall work with the Treasurer, CFO, and managers to compile a final draft budget to be presented to the General Tribal Council. The Oneida Business Committee shall approve, by resolution, the final draft budget to be presented to the General Tribal Council.

(d) *Community Meetings*. Once the Oneida Business Committee has approved the final draft budget, the Treasurer shall hold, at a minimum, two (2) community informational meetings to present the contents of the final draft budget that will be presented to the General Tribal Council.

(e) *Budget Adoption.* The Oneida Business Committee shall present the budget to the General Tribal Council with a request for adoption by resolution no later than September 30th of each year. The General Tribal Council shall be responsible for adopting the Nation's budget.

(1) *Continuing Budget Resolution.* In the event that the General Tribal Council does not adopt a budget by September 30th, the Oneida Business Committee may adopt a continuing budget resolution(s) until such time as a budget is adopted by the General Tribal Council.

(2) *Emergency Budget Adoption.* In the event that the Nation proclaims an emergency, in accordance with the Emergency Management law, that stays in effect for at least one (1) month and prevents the presentation to and adoption of the budget by the General Tribal Council, the Oneida Business Committee shall adopt the Nation's budget.

121.5-5. *Amendments to the Nation's Budget.* After the budget is adopted, amendments of the budget shall not be permitted unless it is necessary to avoid a budget deficit. The Treasurer and CFO shall identify when forecasted revenue and forecasted expenses are impacted in a manner which creates a deficit for the current fiscal year. The Oneida Business Committee shall be responsible for adopting an amendment to the budget through resolution of the Nation. The Oneida Business Committee shall present notification of the budget amendment at the next available General Tribal Council meeting.

121.6. Expenditures and Assets

121.6-1. *Authority to Expend Funds.* The Oneida Business Committee shall have the authority to expend appropriated funds in accordance with the Nation's adopted budget pursuant to the Procurement Manual developed by the Purchasing Department. The authority to expend funds is then necessarily delegated to other managers, including Executive Managers of the Nation who manage budgets pursuant to their job descriptions based on the Procurement Manual.

121.6-2. *Procurement Manual.* The Purchasing Department shall develop a Procurement Manual which provides the sign-off process and authorities required to expend funds on behalf of the Nation. The Procurement Manual, and any amendments thereto, shall be approved by the Oneida Business Committee through adoption of a resolution.

121.6-3. *Fees and Charges.* A program or service of the Nation funded through Tribal contribution may charge fees for their services to cover operational costs.

(a) Before charging fees for services, a program or service shall first determine the full cost of providing the program or service. The full cost of providing a program or service includes all costs including operation costs, overhead such as direct and indirect costs, and depreciation.

(b) Fees and charges may cover the full cost of service or goods whenever such fee or charge would not present an undue financial burden to the recipient.

(c) Programs and services charging fees may offer fee waivers, provided that the program or service has developed a standard operating procedure which outlines fee waiver eligibility and requirements.

121.6-4. *Unbudgeted Expenditures.*

(a) *Approval of Unbudgeted Expenditures.* The Oneida Business Committee shall approve any unbudgeted expenditure prior to the expenditure being made by a fund unit.

(b) *Notification of Unbudgeted Expenditures.* The Oneida Business Committee shall set through resolution a threshold amount for unbudgeted expenditures that require notification by the Oneida Business Committee to the General Tribal Council at the next available General Tribal Council meeting.

(c) *Unbudgeted Supplemental Funding.* In the event that the Nation receives any supplemental or emergency funding of two hundred and fifty thousand dollars (\$250,000) or more, the Oneida Business Committee shall develop and adopt, through resolution, a spending plan to guide expenditures of the supplemental funding in accordance with any provided guidance for the supplemental funding and audit compliance.

121.6-5. *Obligated Future Expenditures.* No fund unit shall obligate the Nation to make any future expenditures beyond the current budget year unless the fund unit identifies, and the Oneida Business Committee approves through the adoption of a resolution, the source and extent of any future funds that are recommended to be held in reserve to meet that future obligation.

121.6-6. *Unexpended Funds.*

(a) *Unexpended Capital Improvement Funds.* Unexpended capital improvement funds shall carry over to the next fiscal year's budget, provided that such funds are required to remain appropriated for the same purpose as originally budgeted until the project is complete. Once a capital improvement project is complete, any remaining unexpended funds shall be returned to the General Fund.

(b) *Unexpended Capital Expenditure Funds.* The Treasurer shall ensure that all unexpended capital expenditure funds are reallocated to the fiscal year budget two (2) years out from the fiscal year in which the funds were unexpended. Such unexpended funds shall be returned to the General Fund.

121.6-7. *Capital Contributions.* Any capital contributions made by the Nation shall be identified in the annual budget.

(a) Any reassignment of a loan provided by the Nation into a capital contribution shall be noticed to the General Tribal Council.

121.6-8. Assets of the Nation shall not be divested, or borrowed against, to balance the annual budget.

121.6-9. *Capital Improvements.*

(a) *Capital Improvement Plan for Government Services.* The Oneida Business Committee shall develop, and the General Tribal Council shall approve, a capital improvement plan for government services.

(1) The capital improvement plan for government services shall cover a period of five (5) to ten (10) years and shall include any risks and liabilities.

(2) The capital improvement plan for government services shall be reassessed once every five (5) years. The Oneida Business Committee shall provide a status report and recommendation for any improvements that have not been completed or that have been modified at the time of the reassessment.

(b) *Capital Improvement Plan for Enterprises.* Capital improvement plans for enterprises may be brought forward as needed, provided that the Oneida Business Committee shall approve all capital improvement plans for enterprises.

(c) *Capital Improvement Plan Implementation.* Capital improvement plans for government services and enterprises shall be implemented, contingent on available funding capacity.

121.7. Grants

121.7-1. *Expending Grant Funds.* Grant funds shall be expended according to any non-negotiable grant requirements and guidelines of the granting agency.

(a) Grant funds may be utilized for, but not limited to, the following:

(1) purchases;

(2) travel;

(3) training;

(4) hiring grant required positions;

(5) incentives and retention efforts; and

(6) any other requirements attached to the funds as a condition of the Nation's acceptance of the grant funds.

(b) Grant funds may be utilized for an expenditure even when other policies of the Nation do not allow for Tribal contribution to make that same expenditure, if only grant funds are utilized for the expenditure and all requirements or obligations of the grant are met. Provided that, grant funds may be subject to the requirements of the budget contingency plan and any cost containment initiatives adopted by the Oneida Business Committee.

121.7-2. *Exhaustion of Non-Tribal Funds.* When grant funds provide for forward funding as applicable to a function for which the Nation's funds have also been appropriated, those grant funds shall be used before appropriating the Nation's funds unless the Nation's funds are needed to make up an otherwise shortfall in the overall fund unit budget or there is a restriction on the grant funds that provide otherwise.

121.7-3. *Grant Reporting.* At the time of submission of proposed annual budgets, any fund unit which receives grant funding shall submit a status report of the grant funding received to the Oneida Business Committee. The status report shall include, but not be limited to:

(a) information on the progress of the utilization of the grant funds;

(b) the number of employees the grant funding supports fully or partially; and

(c) compliance with obligations of the grant funding.

121.7-4. *Grant Reserve Fund Account.* The Oneida Business Committee shall maintain a Grant Reserve Fund account within the ownership investment report to be used to pre-fund the expenditures of grants upon receipt. The Grant Reserve Fund account shall be an obligated fund, that is fully funded with separately identified cash resources.

(a) The Treasurer, in consultation with the CFO, shall establish, and the Oneida Business Committee shall approve, the level of funds required in the Grant Reserve Fund account relative to the scale of grant dollars we receive on an annual basis.

(b) The Treasurer shall set aside funds within the budget in the Grant Reserve Fund account until the established level has been achieved.

121.7-5. *Grant Funded Positions.* If the grant funding for a fully grant funded position is eliminated, then the position shall be eliminated until such a time that a new position can be included and approved in the Nation's annual budget and labor allocations.

121.8. Debts

121.8-1. *General.* The acquisition of debt by the Nation shall be processed in accordance with sound fiscal diligence. The Nation shall comply with all relevant federal and state banking laws, rules, and policies applicable to the credit agreement.

(a) Any debt instrument utilized by the Nation shall not exceed the life of what is being encumbered.

121.8-2. *Notice of the Acquisition of Debt.* Any debt underwritten by the Nation for one million dollars (\$1,000,000) or more shall be noticed to the General Tribal Council at the next available meeting after the execution of the credit agreement encumbering all pledges of repayment.

121.8-3. *Use of Debt.* Credit proceeds may be utilized for project capital, general use, financing of equity, and all unspecified uses. Compliance with debt covenants is required to avoid credit default.

121.8-4. *Credit Ratios.* Maintaining fiscally responsible prudent credit ratios is consistent with effective budget management and financial control.

(a) *Debt Service Coverage Ratio.* The Debt Service Coverage Ratio shall not exceed a range of zero (0) to two (2) as defined by Generally Accepted Accounting Principles.

(b) *Fixed Charge Coverage Ratio.* The Fixed Charge Coverage Ratio shall be maintained at a range of one and twenty-five hundredths (1.25) or higher as defined by Generally Accepted Accounting Principles.

121.8-5. *Corporate Debt.* The Nation shall not be obligated to any debt obligations of its corporate entities.

121.9. Employment and Labor Allocations

121.9-1. *Employment Cap.* The Treasurer and CFO shall identify a maximum number of full-time equivalent (FTE) employees to be employed by the Nation. The Oneida Business Committee shall have the authority to approve this employment cap, and any amendments thereto, through the adoption of a resolution. The employment cap shall be reviewed annually by the Oneida Business Committee.

(a) Employment positions that are fully funded through grants shall not be included in the employment cap.

(b) The Nation shall not exceed the number of FTE employees identified in the employment cap.

121.9-2. *Labor Allocations List.* The Treasurer, CFO, Executive Managers, and the Executive Human Resources Director shall utilize the Nation's employment cap to develop a labor allocations list. The labor allocations list shall identify the number of FTE employees each employment area of the Nation is allocated. The Oneida Business Committee shall have the authority to adopt the labor allocation list, and any amendments thereto, through the adoption of a resolution. The Oneida Business Committee shall review the labor allocations list on an annual basis.

(a) The total number of FTE employees identified in the labor allocations list shall not exceed the Nation's employment cap.

(b) The Treasurer, CFO, Executive Managers, and Executive Human Resources Director shall develop a standard operating procedure which identifies a process for the consideration of requests to revise the labor allocations list. The Oneida Business Committee shall approve this standard operating procedure, and any amendments thereto, through the adoption of a resolution.

121.9-3. *Unbudgeted Positions.* Any position which has not been specifically budgeted for and included in the labor allocation list shall be prohibited. Budgeted labor dollars and approved positions shall not be transferrable in any form.

(a) *Exception.* The Oneida Business Committee may authorize an unbudgeted position for a fund unit.

121.10. Budget Contingency Planning

121.10-1. *Budget Contingency Plan.* The Oneida Business Committee shall work with the CFO, Executive Managers, and managers to create a budget contingency plan which provides a strategy for the Nation to respond to extreme financial distress that could negatively impact the Nation.

(a) Extreme financial distress includes, but is not limited to:

- (1) natural or human-made disasters;
- (2) United States Government shutdown;
- (3) emergency proclamations; and
- (4) economic downturns.

(b) The Oneida Business Committee shall approve the budget contingency plan, and any amendments thereto, through the adoption of a resolution.

121.10-2. *Cost Saving Tools.* As part of the budget contingency plan, the Oneida Business Committee may require the use of cost saving tools, provided that the use of such complies with all laws of the Nation. Cost saving tools may include, but are not limited to, the use of the following:

- (a) stabilization funds;
- (b) reductions of expenditures;
- (c) furloughs; and
- (d) layoffs.

121.10-3. When the Oneida Business Committee determines that the Nation is under extreme financial distress, the Oneida Business Committee shall be responsible for implementing the budget contingency plan.

121.10-4. *Permanent Executive Contingency Fund Account.* The Oneida Business Committee shall maintain a Permanent Executive Contingency Fund account within the ownership investment report to be used to prevent default on debt and to sustain operations during times of extreme financial distress. The Permanent Executive Contingency Fund account shall be a restricted fund.

(a) The Permanent Executive Contingency Fund account shall consist of a minimum reserve of one (1) year of operating expenses to ensure continuity of business for the Nation.

(b) The Treasurer, in consultation with the CFO, shall establish, and the Oneida Business Committee shall approve through the adoption of a resolution, the percentage of the annual budget that shall be set aside in the Permanent Executive Contingency Fund account until the established level has been achieved.

(c) Funds in the Permanent Executive Contingency Fund account may only be used when the Oneida Business Committee has determined that the Nation is under extreme financial distress for the following purposes and only to the extent that alternative funding sources are unavailable:

- (1) payments to notes payable to debt service, both principal and interest, and applicable service fees;
- (2) employee payroll, including all applicable taxes;
- (3) payments to vendors for gaming and retail;
- (4) payments to vendors for governmental operations;

- (5) payments to any other debt; and
(6) to sustain any of the Nation's other operations during implementation of the budget contingency plan.

121.11. Reporting

121.11-1. *Monthly Reporting.* The Treasurer shall provide monthly reports and quarterly operational reports from direct reports to the Oneida Business Committee in accordance with the Secretary's Oneida Business Committee packet schedule for the Oneida Business Committee meeting held for the acceptance of such reports.

(a) The Treasurer's monthly reports shall include revenue and expense summaries.

121.11-2. *Annual and Semi-Annual Reporting to the General Tribal Council.* The Treasurer shall report on all receipts and expenditures and the amount and nature of all funds in their possession and custody, at the annual and semi-annual General Tribal Council meetings, and at such other times as requested by the General Tribal Council or the Oneida Business Committee.

(a) The Treasurer reports shall include an independently audited annual financial statement that provides the status or conclusion of all the receipts and debts in possession of the Treasurer including, but not limited to, all corporations owned in full or in part by the Nation.

121.11-3. *Audits.* The Internal Audit Department, annually, shall conduct independent comprehensive performance audits, in accordance with the Nation's Audit law, the Financial Accounting Standards Board (FASB) and the Governmental Accounting Standards Board (GASB), of randomly selected fund units or of fund units deemed necessary by the Oneida Business Committee or Internal Audit Department. Each fund unit shall offer its complete cooperation to the Internal Audit Department. The Oneida Business Committee may, as it deems necessary, contract with an independent audit firm to conduct such audits.

121.12. Enforcement

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

(a) The Executive Managers shall notify the Oneida Business Committee of any fund unit which does not comply with the budget schedule or guidelines. A list of all fund units which did not comply with the budget schedule or guidelines shall be included in the annual report to the General Tribal Council.

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

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

End.

Adopted – BC-02-08-17-C

Emergency Amended – BC-11-24-20-E

Emergency Amended – BC-05-12-21-C

Emergency Extension – BC-11-10-21-B

Amended – BC-__-__-__-__



MEMORANDUM

TO: Legislative Operating Committee

FROM: Jo Anne House, Chief Counsel

DATE: February 16, 2022

Digitally signed by Jo Anne House

Date: 2022.02.16 14:55:13
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SUBJECT: Public Meeting Comments – Budget and Finances, Chapter 121

The Public Meeting period for the Budget and Finances law, Chapter 121, closed on February 2, 2022. I am requesting consideration of this is late submission for public comments. All references are to the clean copy, Draft #2, 2021 12 01.

121.5-5, lines 226 through 232.

Budget amendments under the current law section 121.8-3(a) require “input from the CFO[.]” The Oneida Business Committee implemented this by requiring written, sometimes verbal, communication from the Chief Financial Officer regarding the impact of a budget amendment. In addition, the motion approving the budget amendment identified the determination was based on the Chief Financial Officer’s recommendation. This added a fiscal review/impact for consideration by the Oneida Business Committee prior to acting. I would suggest retaining this in the proposed amendments.

121.6-4, Lines 255 through 257.

It is not clear how a budget amendment and an unbudgeted expenditure differ; both end up modifying the budget. I would also recommend including that a Chief Financial Officer recommendation be included in this section to allow for more informed decision making by the Oneida Business Committee.

121.6-5, lines 267 through 270.

This will have an impact on multi-year contracts (excluding employment contracts) and grants as not all contracts over multiple years or grants are approved by resolution of the Oneida Business Committee. Although most have an available funding limitation or early termination clause. I am not certain if a report can be run that identifies the number of existing multi-year contracts in place. We have attempted to run this type of report in our TimeMatters database, but we do not currently maintain that information. If this amendment is included, there should be recognition of existing multi-year contracts and grants, and we will need to make modifications to our tracking database. I would also suggest a review of the Purchasing Policies and Procedures to incorporate this new restriction. Finally, there may be a need to review the grant application/approval process.

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121.7-5, lines 340 through 342.

The current policy of the Oneida Nation is prohibitory regarding the transition of a grant funded position into a tribal contribution funded position. Does this section change that current policy?

121.8-2, lines 350 through 353.

It is not clear if this notice occurs before or after approval to acquire debt by the General Tribal Council. It is my understanding that the current policy is to require approval by the General Tribal Council prior to acquiring debt.

121.9-3, lines 390 through 394.

Would this be like budget amendments and budget modifications? I would recommend that all three require resolutions for consistency. This would enable an individual to look in one area, resolutions lists, to locate any potential budget modifications, amendments, or approval of unfunded positions.

Thank you for consideration of these late public comments.

Title 1. Government and Finances – Chapter 121

Twahwistatye'nítha?

We have a certain amount of money

BUDGET AND FINANCES

121.1. Purpose and Policy
121.2. Adoption, Amendment, Repeal
121.3. Definitions
121.4. Authority and Responsibilities
121.5. Budget
121.6. Expenditures and Assets

121.7. Grants
121.8. Debts
121.9. Employment and Labor Allocations
121.10. Budget Contingency Planning
121.11. Reporting
121.12. Enforcement

121.1. Purpose and Policy

121.1-1. *Purpose.* The purpose of this law is to set forth the requirements to be followed by the Oneida Business Committee and the Oneida fund units when preparing the budget to be presented to the General Tribal Council for approval, and to establish financial policies and procedures for the Nation which:

- (a) institutionalize best practices in financial management to guide decision makers in making informed decisions regarding the provision of services, implementation of business plans for enterprises, investments, and capital assets;
- (b) provide a long term financial prospective and strategic intent, linking budget allocations to organizational goals, as well as providing fiscal controls and accountability for results and outcomes;
- (c) identify and communicate to the membership of the Nation spending decisions for the government function, grant obligations, enterprises, membership mandates, capital expenditures, technology projects, and capital improvement projects;
- (d) establish a framework for effective financial risk management; and
- (e) encourage participation by the Nation's membership.

121.1-2. *Policy.* It is the policy of the Nation to rely on balanced-based budgeting strategies, identifying proper authorities and ensuring compliance and enforcement. The Nation shall use Generally Accepted Accounting Principles (GAAP), established by the Financial Accounting Standards Board, and the Governmental Accounting Standards Board (GASB) in accounting and reporting for the financial activities of the various entities of the Nation, unless they conflict with applicable legal requirements.

121.2. Adoption, Amendment, Repeal

121.2-1. This law was adopted by the Oneida Business Committee by resolution BC-02-08-17-C, and amended by resolution BC-__-__-__.

121.2-2. 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.

121.2-3. Should a provision of this law or the application thereof to any person or circumstances be held as invalid, such invalidity shall not affect other provisions of this law which are considered to have legal force without the invalid portions.

121.2-4. In the event of a conflict between a provision of this law and a provision of another law, the provisions of this law shall control. Provided that, nothing in this law amends or repeals the

requirements of resolution BC-10-08-08-A, *Adopting Expenditure Authorization and Reporting Requirements*.

121.2-5. This law is adopted under authority of the Constitution of the Oneida Nation.

121.3. Definitions

121.3-1. This section shall govern the definitions of words and phrases used within this law. All words not defined herein shall be used in their ordinary and everyday sense.

(a) “Balanced budget” means that the cost of current expenses and service provisions is equal to the forecasted current revenue sources.

(b) “Capital contribution” means an act of giving money or assets to a company or organization.

(c) “Capital expenditure” means any non-recurring and non-physical improvement as follows:

(1) Any item with a cost of five thousand dollars (\$5,000) or more and a useful life of one (1) year or more; or

(2) Items purchased together where none of the items individually costs more than two thousand dollars (\$2,000), but the total purchase price for all of the items is ten thousand dollars (\$10,000) or more.

(d) “Capital improvement” means a non-recurring expenditure for physical improvements, including costs for:

(1) acquisition of existing buildings, land, or interests in land;

(A) Acquisition of existing buildings and land completed by the Oneida Land Commission are not included in this definition.

(2) construction of new buildings or other structures, including additions and major alterations;

(3) acquisition of fixed equipment;

(4) landscaping;

(5) physical infrastructure; and

(6) similar expenditures with a cost of five thousand dollars (\$5,000.00) or more and a useful life of one (1) year or more.

(e) “CFO” means the Nation’s Chief Financial Officer, or their designee at their discretion.

(f) “Debt” means the secured or unsecured obligations owed by the Nation.

(g) “Debt Service Coverage Ratio” means a measurement of creditors available cash flow to pay debt obligations. This ratio evaluates if an entity has income capacity to service debts. ~~The Debt Service Coverage Ratio is calculated by dividing the net operating income by the total debt service costs.~~

~~(1) Net operating income is the income or cash flows that are left over after all of the operating expenses have been paid.~~

~~(h)~~ (h) “Enterprise” means any area or activity of the Nation that is engaged in for the business of profit.

(i) “Executive Manager” means a position of employment within the Nation that is the highest level in the chain of command under the Oneida Business Committee who is responsible for a department or division of the Nation, which includes, but is not limited to, the following positions within the Nation: General Manager, Gaming General Manager, Retail General Manager, Chief Legal Counsel, and Chief Financial Officer as identified by

the Oneida Business Committee through the adoption of a resolution.

(i) “Expenditure report” means a financial report which includes, but is not limited to, a statement of cash flows, revenues, costs and expenses, assets, liabilities, and a statement of financial position.

(j) “Finance Administration” means the department of the Nation which consists of the Chief Financial Officer, Assistant Chief Financial Officer, the executive assistant to the Chief Financial Officer, and any other designated employee.

(k) “Fiscal year” means the one (1) year period each year from October 1st to September 30th.

(l) “Fixed Charge Coverage Ratio” means a measurement of a creditors capacity of earnings level or ability to cover its fixed charges such as debt payments, interest expenses, and leases expenses. Financial institutions will evaluate this ratio for purposes of credit risk. ~~The Fixed Charge Coverage Ratio is calculated by adding the earnings before interest and taxes (EBIT) to the interest expense, lease expense and other fixed charges, and then dividing that adjusted EBIT by the amount of fixed charges plus interest.~~

(m) “Fund unit” means any board, committee, commission, service, program, enterprise, department, office, or any other division or non-division of the Nation which receives an appropriation approved by the Nation.

(n) “Government service” means any area or activity of the Nation that is not expected to create revenue for the Nation and not expected to make a profit at any time.

(p) “Line item” means the specific account within a fund unit’s budget or category that expenditures are charged to.

(q) “Manager” means the person in charge of directing, controlling, and administering the activities of a fund unit.

(r) “Nation” means the Oneida Nation.

(s) “Secretary” means the Oneida Nation Secretary, or their designee at their discretion.

(t) “Treasurer” means the Oneida Nation Treasurer, or their designee at their discretion.

121.4. Authority and Responsibilities

121.4-1. *Oneida Business Committee.* The Oneida Business Committee shall:

- (a) oversee the development of the Nation’s budget;
- (b) oversee the implementation of the Nation’s budget;
- (c) develop priorities, a strategic plan, or broad goals to assist in guiding the budget; and
- (d) exercise the authority provided in Article IV, Section 1, of the Constitution and Bylaws of the Oneida Nation, as delegated to the Oneida Business Committee by the General Tribal Council.

121.4-2. *Treasurer.* In accordance with the Constitution and Bylaws of the Oneida Nation, the Nation’s Treasurer shall:

- (a) accept, receive, receipt for, preserve and safeguard all funds in the custody of the Nation, whether they be funds of the Nation or special funds for which the Nation is acting as trustee or custodian;
- (b) deposit all funds in such depository as the Nation shall direct and shall make and preserve a faithful record of such funds;
- (c) submit expenditure reports and other financial reports as deemed necessary by the Oneida Business Committee or the General Tribal Council at:

- (1) the annual General Tribal Council meeting;
- (2) the semi-annual General Tribal Council meeting; and
- (3) other such times as may be directed by the Oneida Business Committee or the General Tribal Council; and
- (d) present the proposed draft budget to the General Tribal Council at the annual budget meeting.

121.4-3. *Chief Financial Officer.* The CFO shall:

- (a) ensure the Nation's budget is properly implemented;
- (b) provide managers with monthly revenue and expense reports;
- (c) assist with the submission and presentation of the Treasurer's report to the Oneida Business Committee, which shall specifically include any monthly variances that are either:
 - (1) a difference of three percent (3%) or more from the adopted annual budget; or
 - (2) fifty thousand dollars (\$50,000) or more in total;
- (d) provide the Oneida Business Committee with information and reports as requested;
- (e) present the Treasurer's report and hold financial condition meetings with the Nation's management on a minimum of a quarterly basis; and
- (f) inform the appropriate Executive Manager of any fund unit which does not follow the budget development process guidelines or deadlines as set forth by the Treasurer.

121.4-4. *Managers.* Managers shall:

- (a) ensure that their business units operate, on a day-to-day basis, in compliance with the budget adopted pursuant to this law;
- (b) report to the CFO and their relevant Executive Manager explanations and corrective actions for any monthly variance that is either:
 - (1) a difference of three percent (3%) or more from the adopted annual budget; or
 - (2) fifty thousand dollars (\$50,000) or more in total;
- (c) submit budget review reports to the CFO on a reasonable and timely basis not to exceed thirty (30) calendar days from the end of the month; and
- (d) submit a budget for their fund unit in accordance with the budget schedule and guidelines as adopted by the Oneida Business Committee.

121.5. Budget

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

- (a) The Nation's budget shall be a balanced budget and not propose to spend more funds than are reasonably expected to become available to the Nation during that fiscal year.
 - (1) Underwriting debt resources or the utilization of existing debt instruments shall be expressly prohibited from use to balance the Nation's annual budget.
- (b) The budget shall align with any strategic plan, broad goals, or priorities developed and adopted by the Oneida Business Committee on behalf of the Nation.
- (c) The Nation's corporate entities shall not be included in the Nation's budget.

121.5-2. *Content of the Budget.* The Nation's budget shall include the following information:

- (a) Estimated revenues to be received from all sources;
- (b) The individual budgets of each fund unit;
- (c) A description of each line item within each fund unit's budget;

- (d) The estimated expenditures by each fund unit; and
- (e) Summary of employment position counts including prior year, current year, and budgeted year.
- 121.5-3. *Fund Categories*. The Nation's budget shall include, but not be limited to, the following categories of fund accounts:
- (a) *General Fund*. The General Fund account is the Nation's main operating fund which is used to account for all financial resources not accounted for in other funds.
- (b) *Permanent Executive Contingency Fund*. The Permanent Executive Contingency Fund account is used by the Nation to prevent default on debt and to sustain operations during times of extreme financial distress.
- (c) *Grant Reserve Fund*. The Grant Reserve Fund account is used by the Nation to pre-fund the expenditures of grants upon receipt.
- 121.5-4. *Budget Adoption Procedure*. The Nation shall develop and adopt its budget according to the following procedures:
- (a) *Budget Schedule and Guidelines*. The Treasurer shall develop the necessary guidelines, including specific timelines and deadlines, to be followed by the managers that have budget responsibility in preparing and submitting proposed budgets. The Treasurer shall submit the guidelines to the Oneida Business Committee for review and approval through the adoption of a resolution.
- (1) The budget schedule and guidelines shall include at least one (1) opportunity for community input from the Nation's membership on what should be included in the upcoming fiscal year budget.
- (2) Each fund unit shall be responsible for complying with the budget schedule and guidelines to submit a proposed budget to the Treasurer. The Finance Administration shall not submit any budget on behalf of a fund unit unless granted express permission from the Oneida Business Committee.
- (3) The Oneida Business Committee shall set a deadline through the adoption of a resolution for when the Treasurer shall submit their budget guidelines to the Oneida Business Committee for review and approval.
- (b) *Annual Proposed Budgets*. The Treasurer shall receive, review, and compile the proposed budgets from all the fund units into the Nation's draft budget. The Treasurer shall present the Nation's draft budget to the Oneida Business Committee for review each year to ensure that it is consistent with the Nation's strategic plan, broad goals, and budget strategy.
- (1) *Notification of Budget ~~Increases~~ Increase or Decrease*. The Treasurer shall identify in the budget guidelines a percentage of an increase or decrease in a fund unit's budget from the prior year budget that is required to be noticed to the Oneida Business Committee. The Treasurer shall notify the Oneida Business Committee of any fund units whose proposed budget increased or decreased by this percentage.
- (c) *Final Draft Budget*. The Oneida Business Committee shall work with the Treasurer, CFO, and managers to compile a final draft budget to be presented to the General Tribal Council. The Oneida Business Committee shall approve, by resolution, the final draft budget to be presented to the General Tribal Council.
- (d) *Community Meetings*. Once the Oneida Business Committee has approved the final draft budget, the Treasurer shall hold, at a minimum, two (2) community informational

meetings to present the contents of the final draft budget that will be presented to the General Tribal Council.

(e) *Budget Adoption.* The Oneida Business Committee shall present the budget to the General Tribal Council with a request for adoption by resolution no later than September 30th of each year. The General Tribal Council shall be responsible for adopting the Nation's budget.

(1) *Continuing Budget Resolution.* In the event that the General Tribal Council does not adopt a budget by September 30th, the Oneida Business Committee may adopt a continuing budget resolution (s) for a period of time not to exceed three (3) months, until such time as a budget is adopted by the General Tribal Council. If the General Tribal Council does not adopt a budget within three (3) months of the adoption of the continuing budget resolution, then the Oneida Business Committee shall adopt the Nation's budget.

(2) *Emergency Budget Adoption.* In the event that the Nation proclaims an emergency, in accordance with the Emergency Management law, that stays in effect for at least one (1) month and prevents the presentation to and adoption of the budget by the General Tribal Council, the Oneida Business Committee shall adopt the Nation's budget.

121.5-5. *Amendments to the Nation's Budget.* After the budget is adopted, amendments of the budget shall not be permitted unless it is necessary to avoid a budget deficit. The Treasurer and CFO shall identify when forecasted revenue and forecasted expenses are impacted in a manner which creates a deficit for the current fiscal year. The CFO shall provide the Oneida Business Committee a written fiscal analysis and any input on the potential budget amendment. The Oneida Business Committee shall be responsible for adopting an amendment to the budget through resolution of the Nation. The Oneida Business Committee shall present notification of the budget amendment at the next available General Tribal Council meeting.

121.6. Expenditures and Assets

121.6-1. *Authority to Expend Funds.* The Oneida Business Committee shall have the authority to expend appropriated funds in accordance with the Nation's adopted budget pursuant to the Procurement ~~Manual~~Rule Handbook developed by the Purchasing Department. The authority to expend funds is then necessarily delegated to other managers, including Executive Managers of the Nation who manage budgets pursuant to their job descriptions based on the Procurement ~~Manual~~Rule Handbook.

121.6-2. *Procurement ~~Manual~~Rule Handbook.* The Purchasing Department ~~shall~~is delegated rulemaking authority in accordance with the Administrative Rulemaking law to develop a Procurement ~~Manual~~Rule Handbook which provides the sign-off process and authorities required to expend funds on behalf of the Nation. ~~The Procurement Manual, and any amendments thereto, shall be approved by the Oneida Business Committee through adoption of a resolution.~~

121.6-3. *Fees and Charges.* A program or service of the Nation funded through Tribal contribution may charge fees for their services to cover operational costs.

(a) Before charging fees for services, a program or service shall first determine the full cost of providing the program or service. The full cost of providing a program or service includes all costs including operation costs, overhead such as direct and indirect costs, and depreciation.

(b) Fees and charges may cover the full cost of service or goods whenever such fee or charge would not present an undue financial burden to the recipient.

(c) Programs and services charging fees may offer fee waivers, provided that the program or service has developed a standard operating procedure which outlines fee waiver eligibility and requirements.

121.6-4. *Unbudgeted Expenditures.*

(a) *Approval of Unbudgeted Expenditures.* A fund unit shall not make an unbudgeted expenditure unless approval is granted by the Oneida Business Committee. The CFO shall provide the Oneida Business Committee a written fiscal analysis and any input on the potential unbudgeted expenditure. The Oneida Business Committee shall approve any unbudgeted expenditure through the adoption of a resolution prior to the expenditure being made by a fund unit.

(b) *Notification of Unbudgeted Expenditures.* The Oneida Business Committee shall set through resolution a threshold amount for unbudgeted expenditures that require notification by the Oneida Business Committee to the General Tribal Council at the next available General Tribal Council meeting.

(c) *Unbudgeted Supplemental Funding.* In the event that the Nation receives any supplemental or emergency funding of two hundred and fifty thousand dollars (\$250,000) or more, the Oneida Business Committee shall develop and adopt, through resolution, a spending plan to guide expenditures of the supplemental funding in accordance with any provided guidance for the supplemental funding and audit compliance.

121.6-5. *Obligated Future Expenditures.* ~~No~~Notwithstanding an approved multi-year contract, ~~no~~ fund unit shall obligate the Nation to make any future expenditures beyond the current budget year unless the fund unit identifies, and the Oneida Business Committee approves through the adoption of a resolution, the source and extent of any future funds that are recommended to be held in reserve to meet that future obligation.

121.6-6. *Unexpended Funds.*

(a) *Unexpended Capital Improvement Funds.* Unexpended capital improvement funds shall carry over to the next fiscal year's budget, provided that such funds are required to remain appropriated for the same purpose as originally budgeted until the project is complete. Once a capital improvement project is complete, any remaining unexpended funds shall be returned to the General Fund.

(b) *Unexpended Capital Expenditure Funds.* The Treasurer shall ensure that all unexpended capital expenditure funds are reallocated to the fiscal year budget two (2) years out from the fiscal year in which the funds were unexpended. Such unexpended funds shall be returned to the General Fund.

121.6-7. *Capital Contributions.* Any capital contributions made by the Nation shall be identified in the annual budget.

(a) Any reassignment of a loan provided by the Nation into a capital contribution shall be noticed to the General Tribal Council.

121.6-8. Assets of the Nation shall not be divested, or borrowed against, to balance the annual budget.

121.6-9. *Capital Improvements.*

(a) *Capital Improvement Plan for Government Services.* The Oneida Business Committee shall develop, and the General Tribal Council shall approve, a capital improvement plan for government services.

(1) The capital improvement plan for government services shall cover a period of five (5) to ten (10) years and shall include any risks and liabilities.

(2) The capital improvement plan for government services shall be reassessed once every five (5) years. The Oneida Business Committee shall provide a status report and recommendation for any improvements that have not been completed or that have been modified at the time of the reassessment.

(b) *Capital Improvement Plan for Enterprises.* Capital improvement plans for enterprises may be brought forward as needed, provided that the Oneida Business Committee shall approve all capital improvement plans for enterprises.

(c) *Capital Improvement Plan Implementation.* Capital improvement plans for government services and enterprises shall be implemented, contingent on available funding capacity.

121.7. Grants

121.7-1. *Expending Grant Funds.* Grant funds shall be expended according to any non-negotiable grant requirements and guidelines of the granting agency.

(a) Grant funds may be utilized for, but not limited to, the following:

(1) purchases;

(2) travel;

(3) training;

(4) hiring grant required positions;

(5) incentives and retention efforts; and

(6) any other requirements attached to the funds as a condition of the Nation's acceptance of the grant funds.

(b) Grant funds may be utilized for an expenditure even when other policies of the Nation do not allow for Tribal contribution to make that same expenditure, if only grant funds are utilized for the expenditure and all requirements or obligations of the grant are met. Provided that, grant funds may be subject to the requirements of the budget contingency plan and any cost containment initiatives adopted by the Oneida Business Committee.

121.7-2. *Exhaustion of Non-Tribal Funds.* When grant funds provide for forward funding as applicable to a function for which the Nation's funds have also been appropriated, those grant funds shall be used before appropriating the Nation's funds unless the Nation's funds are needed to make up an otherwise shortfall in the overall fund unit budget or there is a restriction on the grant funds that provide otherwise.

121.7-3. *Grant Reporting.* At the time of submission of proposed annual budgets, any fund unit which receives grant funding shall submit a status report of the grant funding received to the Oneida Business Committee. The status report shall include, but not be limited to:

(a) information on the progress of the utilization of the grant funds;

(b) the number of employees the grant funding supports fully or partially; and

(c) compliance with obligations of the grant funding.

121.7-4. *Grant Reserve Fund Account.* The Oneida Business Committee shall maintain a Grant Reserve Fund account within the ownership investment report to be used to pre-fund the

expenditures of grants upon receipt. The Grant Reserve Fund account shall be an obligated fund, that is fully funded with separately identified cash resources.

(a) The Treasurer, in consultation with the CFO, shall establish, and the Oneida Business Committee shall approve, the level of funds required in the Grant Reserve Fund account relative to the scale of grant dollars we receive on an annual basis.

(b) The Treasurer shall set aside funds within the budget in the Grant Reserve Fund account until the established level has been achieved.

121.7-5. *Grant Funded Positions*. If the grant funding for a fully grant funded position is eliminated, then the position shall be eliminated ~~until such~~. To transition a time that position from grant funding to being funded through the Nation's budget, a manager shall follow the standard procedure for seeking the development and approval of a new position ~~can be included and approved~~ in the Nation's annual budget and labor allocations.

121.8. Debts

121.8-1. *General*. The acquisition of debt by the Nation shall be processed in accordance with sound fiscal diligence. The Nation shall comply with all relevant federal and state banking laws, rules, and policies applicable to the credit agreement.

(a) Any debt instrument utilized by the Nation shall not exceed the life of what is being encumbered.

121.8-2. ~~Notice of the Acquisition of Debt~~. Any debt underwritten by the Nation for ~~one less than ten~~ million dollars (~~\$10,000,000~~) ~~or more~~ shall be noticed to the General Tribal Council at the next available meeting after the execution of the credit agreement encumbering all pledges of repayment. Any debt underwritten by the Nation for ten million dollars (\$10,000,000) or more shall be approved by the General Tribal Council prior to the execution of the credit agreement encumbering all pledges of repayment.

(a) If emergency circumstances exist which prevents the presentation to and approval of the acquisition of debt of ten million dollars (\$10,000,000) or more by the General Tribal Council, the Oneida Business Committee may approve the acquisition of debt.

121.8-3. *Use of Debt*. Credit proceeds may be utilized for project capital, general use, financing of equity, and all unspecified uses. Compliance with debt covenants is required to avoid credit default.

121.8-4. *Credit Ratios*. Maintaining fiscally responsible prudent credit ratios is consistent with effective budget management and financial control.

(a) *Debt Service Coverage Ratio*. The Debt Service Coverage Ratio shall not exceed ~~at the acceptable~~ range ~~of zero (0) to two (2)~~ as defined by ~~Generally Accepted Accounting Principles~~ low-risk debt financing options at the specific financial institution.

(b) *Fixed Charge Coverage Ratio*. The Fixed Charge Coverage Ratio shall be maintained at ~~at the acceptable~~ range ~~of one and twenty-five hundredths (1.25) or higher~~ as defined by ~~Generally Accepted Accounting Principles~~ low-risk debt financing options at the specific financial institution.

121.8-5. *Corporate Debt*. The Nation shall not be obligated to any debt obligations of its corporate entities.

121.9. Employment and Labor Allocations

121.9-1. *Employment Cap.* The Treasurer and CFO shall identify a maximum number of full-time equivalent (FTE) employees to be employed by the Nation. The Oneida Business Committee shall have the authority to approve this employment cap, and any amendments thereto, through the adoption of a resolution. The employment cap shall be reviewed annually by the Oneida Business Committee.

(a) Employment positions that are fully funded through grants shall not be included in the employment cap.

(b) The Nation shall not exceed the number of FTE employees identified in the employment cap.

121.9-2. *Labor Allocations List.* The Treasurer, CFO, Executive Managers, and the Executive Human Resources Director shall utilize the Nation's employment cap to develop a labor allocations list. The labor allocations list shall identify the number of FTE employees each employment area of the Nation is allocated. The Oneida Business Committee shall have the authority to adopt the labor allocation list, and any amendments thereto, through the adoption of a resolution. The Oneida Business Committee shall review the labor allocations list on an annual basis.

(a) The total number of FTE employees identified in the labor allocations list shall not exceed the Nation's employment cap.

(b) The Treasurer, CFO, Executive Managers, and Executive Human Resources Director shall develop a standard operating procedure which identifies a process for the consideration of requests to revise the labor allocations list. The Oneida Business Committee shall approve this standard operating procedure, and any amendments thereto, through the adoption of a resolution.

121.9-3. *Unbudgeted Positions.* Any position which has not been specifically budgeted for and included in the labor allocation list shall be prohibited. Budgeted labor dollars and approved positions shall not be transferrable in any form.

(a) *Exception.* The Oneida Business Committee may authorize an unbudgeted position for a fund unit. The CFO shall provide the Oneida Business Committee a written fiscal analysis and any input on the potential unbudgeted position. The Oneida Business Committee shall authorize the unbudgeted position through the adoption of a resolution.

121.10. Budget Contingency Planning

121.10-1. *Budget Contingency Plan.* The Oneida Business Committee shall work with the CFO, Executive Managers, and managers to create a budget contingency plan which provides a strategy for the Nation to respond to extreme financial distress that could negatively impact the Nation.

(a) Extreme financial distress includes, but is not limited to:

- (1) natural or human-made disasters;
- (2) United States Government shutdown;
- (3) emergency proclamations; and
- (4) economic downturns.

(b) The Oneida Business Committee shall approve the budget contingency plan, and any amendments thereto, through the adoption of a resolution.

121.10-2. *Cost Saving Tools.* As part of the budget contingency plan, the Oneida Business Committee may require the use of cost saving tools, provided that the use of such complies with

all laws of the Nation. Cost saving tools may include, but are not limited to, the use of the following:

- (a) stabilization funds;
- (b) reductions of expenditures;
- (c) furloughs; and
- (d) layoffs.

121.10-3. When the Oneida Business Committee determines that the Nation is under extreme financial distress, the Oneida Business Committee shall be responsible for implementing the budget contingency plan.

121.10-4. *Permanent Executive Contingency Fund Account.* The Oneida Business Committee shall maintain a Permanent Executive Contingency Fund account within the ownership investment report to be used to prevent default on debt and to sustain operations during times of extreme financial distress. The Permanent Executive Contingency Fund account shall be a restricted fund.

(a) The Permanent Executive Contingency Fund account shall consist of a minimum reserve of one (1) year of operating expenses to ensure continuity of business for the Nation.

(b) The Treasurer, in consultation with the CFO, shall establish, and the Oneida Business Committee shall approve through the adoption of a resolution, the percentage of the annual budget that shall be set aside in the Permanent Executive Contingency Fund account until the established level has been achieved.

(c) Funds in the Permanent Executive Contingency Fund account may only be used when the Oneida Business Committee has determined that the Nation is under extreme financial distress for the following purposes and only to the extent that alternative funding sources are unavailable:

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

121.11. Reporting

121.11-1. *Monthly Reporting.* The Treasurer shall provide monthly reports and quarterly operational reports from direct reports to the Oneida Business Committee in accordance with the Secretary's Oneida Business Committee packet schedule for the Oneida Business Committee meeting held for the acceptance of such reports.

(a) The Treasurer's monthly reports shall include revenue and expense summaries.

121.11-2. *Annual and Semi-Annual Reporting to the General Tribal Council.* The Treasurer shall report on all receipts and expenditures and the amount and nature of all funds in their possession and custody, at the annual and semi-annual General Tribal Council meetings, and at such other times as requested by the General Tribal Council or the Oneida Business Committee.

(a) The Treasurer reports shall include an independently audited annual financial statement that provides the status or conclusion of all the receipts and debts in possession of the

Treasurer including, but not limited to, all corporations owned in full or in part by the Nation.

121.11-3. *Audits.* The Internal Audit Department, annually, shall conduct independent comprehensive performance audits, in accordance with the Nation’s Audit law, the Financial Accounting Standards Board (FASB) and the Governmental Accounting Standards Board (GASB), of randomly selected fund units or of fund units deemed necessary by the Oneida Business Committee or Internal Audit Department. Each fund unit shall offer its complete cooperation to the Internal Audit Department. The Oneida Business Committee may, as it deems necessary, contract with an independent audit firm to conduct such audits.

121.12. Enforcement

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

(a) The Executive Managers shall notify the Oneida Business Committee of any fund unit which does not comply with the budget schedule or guidelines. A list of ~~all~~any fund units ~~of an elected entity~~ which did not comply with the budget schedule or guidelines shall be included in the annual report to the General Tribal Council.

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

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

End.

Adopted – BC-02-08-17-C

Emergency Amended – BC-11-24-20-E

Emergency Amended – BC-05-12-21-C

Emergency Extension – BC-11-10-21-B

Amended – BC-__-__-__-__

Title 1. Government and Finances – Chapter 121

BUDGET MANAGEMENT AND CONTROL

Twahwistatye'nítha?

We have a certain amount of money

BUDGET AND FINANCES

| | | | |
|--------|-----------------------------|---------|-------------------------------------|
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| 121.2. | Adoption, Amendment, Repeal | 121.8. | Budget Authority |
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121.1. Purpose and Policy

121.1-1. *Purpose.* The purpose of this law is to set forth the requirements to be followed by the Oneida Business Committee and Oneida fund units when preparing the budget to be presented to the General Tribal Council for approval, and to establish financial policies and procedures for the Nation which: a triennial strategy planning process for the Nation's budget.

(a) institutionalize best practices in financial management to guide decision makers in making informed decisions regarding the provision of services, implementation of business plans for enterprises, investments, and capital assets;

(b) provide a long term financial prospective and strategic intent, linking budget allocations to organizational goals, as well as providing fiscal controls and accountability for results and outcomes;

(c) identify and communicate to the membership of the Nation spending decisions for the government function, grant obligations, enterprises, membership mandates, capital expenditures, technology projects, and capital improvement projects;

(d) establish a framework for effective financial risk management; and

(e) encourage participation by the Nation's membership.

121.1-2. *Policy.* It is the policy of the Nation to rely on value-based balanced-based budgeting strategies, identifying proper authorities and ensuring compliance and enforcement. The Nation shall use Generally Accepted Accounting Principles (GAAP), established by the Financial Accounting Standards Board, and the Governmental Accounting Standards Board (GASB) in accounting and reporting for the financial activities of the various entities of the Nation, unless they conflict with applicable legal requirements.

121.2. Adoption, Amendment, Repeal

121.2-1. This law was adopted by the Oneida Business Committee by resolution BC-02-08-17-C, and amended by resolution BC- - - - .

121.2-2. This law may be amended or repealed by the Oneida Business Committee and/or the General Tribal Council pursuant to the procedures set out in the Legislative Procedures Act.

121.2-3. Should a provision of this law or the application thereof to any person or circumstances be held as invalid, such invalidity shall not affect other provisions of this law which are considered to have legal force without the invalid portions.

121.2-4. In the event of a conflict between a provision of this law and a provision of another law, the provisions of this law shall control. Provided that, nothing in this law amends or repeals the

requirements of resolution BC-10-08-08-A, *Adopting Expenditure Authorization and Reporting Requirements*.

121.2-5. This law is adopted under authority of the Constitution of the Oneida Nation.

121.3. Definitions

121.3-1. This section shall govern the definitions of words and phrases used within this law. All words not defined herein shall be used in their ordinary and everyday sense.

~~(a) “Appropriation” means the legislative act of designating funds for a specific purpose in accordance with the provisions contained in this law.~~

(a) “Balanced budget” means that the cost of current expenses and service provisions is equal to the forecasted current revenue sources.

(b) “Capital contribution” means an act of giving money or assets to a company or organization.

~~(b)~~ (c) “Capital expenditure” means any non-recurring and non-physical improvement as follows:

(1) Any item with a cost of five thousand dollars (\$5,000.~~00~~) or more and an estimated useful life of one (1) year or more; or

(2) Items purchased together where none of the items individually costs more than two thousand dollars (\$2,000.~~00~~), but the total purchase price for all of the items is ten thousand dollars (\$10,000.~~00~~) or more.

~~(c)~~ (d) “Capital improvement” means a non-recurring expenditure for physical improvements, including costs for:

(1) acquisition of existing buildings, land, or interests in land;

(A) Acquisition of existing buildings and land completed by the Oneida Land Commission are not included in this definition.

(2) construction of new buildings or other structures, including additions and major alterations;

(3) acquisition of fixed equipment;

(4) landscaping;

(5) physical infrastructure; and

(6) similar expenditures with a cost of five thousand dollars (\$5,000.~~00~~) or more and ~~an estimated a useful~~ life of one (1) year or more.⁺

~~(d)~~ (e) “CFO” means the Nation’s Chief Financial Officer, or their designee at their discretion.

~~(e)~~ (f) “Debt” means the secured or unsecured obligations owed by the Nation.

(g) “Debt Service Coverage Ratio” means a measurement of creditors available cash flow to pay debt obligations. This ratio evaluates if an entity has income capacity to service debts.

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

(h) “Enterprise” means any area or activity of the Nation that is engaged in for the business of profit.

~~(f) “Economic life” means the length of time an asset is expected to be useful.~~

(g) “Executive Manager” means a position of employment within the Nation that is the highest level in the chain of command under the Oneida Business Committee who is responsible for a department or division of the Nation, as identified by the Oneida Business Committee through the adoption of a resolution. any one of the following positions within the Nation: Chief Executive Officer/General Manager, Gaming General Manager, Legal Counsel and/or Chief Financial Officer.

(h) “Expenditure report” means a financial report which includes, but is not limited to, a statement of cash flows, revenues, costs and expenses, assets, liabilities, and a statement of financial position.

(k) “Finance Administration” means the department of the Nation which consists of the Chief Financial Officer, Assistant Chief Financial Officer, the executive assistant to the Chief Financial Officer, and any other designated employee.

(i) “Fiscal year” means the one (1) year period each year from October 1st to September 30th.

(m) “Fixed Charge Coverage Ratio” means a measurement of a creditors capacity of earnings level or ability to cover its fixed charges such as debt payments, interest expenses, and leases expenses. Financial institutions will evaluate this ratio for purposes of credit risk.

(j) “Fund unit” means any board, committee, commission, service, program, enterprise, department, office, or any other division or non-division of the Nation which receives an appropriation approved by the Nation.

(o) “Government service” means any area or activity of the Nation that is not expected to create revenue for the Nation and not expected to make a profit at any time.

~~(k) “General reserve fund” means the Nation’s main operating fund which is used to account for all financial resources not accounted for in other funds.~~

~~(l) “GTC allocations” means expenditures directed by the General Tribal Council as required payments and/or benefits to the Nation’s membership and are supported by either a General Tribal Council or Oneida Business Committee resolution.~~

(mp) “Line item” means the specific account within a fund unit’s budget or category that expenditures are charged to.

(nq) “Manager” means the person in charge of directing, controlling, and administering the activities of a fund unit.

(or) “Nation” means the Oneida Nation.

~~(p) “Rule” means a set of requirements, including citation fees and penalty schedules, enacted in accordance with the Administrative Rulemaking law based on authority delegated in this law in order to implement, interpret and enforce this law.~~

(s) “Secretary” means the Oneida Nation Secretary, or their designee at their discretion.

(qt) “Treasurer” means the elected Oneida Nation Treasurer, or his or her their designee at their discretion.

121.4. Strategic Planning Authority and Responsibilities

121.4-1. Oneida Business Committee. The Oneida Business Committee shall:

(a) oversee the development of the Nation’s budget;

(b) oversee the implementation of the Nation's budget;
(c) develop priorities, a strategic plan, or broad goals to assist in guiding the budget; and
(d) exercise the authority provided in Article IV, Section 1, of the Constitution and Bylaws of the Oneida Nation, as delegated to the Oneida Business Committee by the General Tribal Council. *Triennial Strategic Plan.* Prior to December 1st of each year, the Oneida Business Committee, in consultation with the Executive Managers, shall develop a triennial strategic plan which includes, but is not limited to:

(a) Major policy and budgetary goals for the Nation, both long and short term;
(b) Specific strategies and planned actions for achieving each goal; and
(c) Performance targets and indicators to track progress which, to the extent available, includes, but is not limited to:

- (1) Statistics and trending data for, at a minimum, the last three (3) complete fiscal years; and
- (2) Performance targets for, at a minimum, the next three (3) complete fiscal years moving forward.

121.4-2. Treasurer. In accordance with the Constitution and Bylaws of the Oneida Nation, the Nation's Treasurer shall:

(a) accept, receive, receipt for, preserve and safeguard all funds in the custody of the Nation, whether they be funds of the Nation or special funds for which the Nation is acting as trustee or custodian;

(b) deposit all funds in such depository as the Nation shall direct and shall make and preserve a faithful record of such funds;

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

- (1) the annual General Tribal Council meeting;
- (2) the semi-annual General Tribal Council meeting; and
- (3) other such times as may be directed by the Oneida Business Committee or the General Tribal Council; and

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

(a) A statement of the fund unit's mission;
(b) Specific goals including a description of the fund unit's strategies as part of its service group provided in 121.5-3(c) which aligns with the goals established in the Nation's triennial strategic plan;
(c) Specific strategies for achieving each of the fund unit's goals; and
(d) Performance targets and indicators to track progress which, to the extent available, includes, but is not limited to:

- (1) Statistics and trending data for, at a minimum, the last three (3) complete fiscal years; and
- (2) Performance targets for, at a minimum, the next three (3) complete fiscal years moving forward.

121.4-3. *Chief Financial Officer.* The CFO shall:

- (a) ensure the Nation's budget is properly implemented;
- (b) provide managers with monthly revenue and expense reports;
- (c) assist with the submission and presentation of the Treasurer's report to the Oneida Business Committee, which shall specifically include any monthly variances that are either:
 - (1) a difference of three percent (3%) or more from the adopted annual budget; or
 - (2) fifty thousand dollars (\$50,000) or more in total;
- (d) provide the Oneida Business Committee with information and reports as requested;
- (e) present the Treasurer's report and hold financial condition meetings with the Nation's management on a minimum of a quarterly basis; and
- (f) inform the appropriate Executive Manager of any fund unit which does not follow the budget development process guidelines or deadlines as set forth by the Treasurer.

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

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

~~(b) *Business Continuity Fund.* The Oneida Business Committee shall maintain a Permanent Executive Contingency account within the ownership investment report to be used to prevent default on debt and to sustain operations during times of extreme financial distress. The Treasurer, in consultation with the CFO, shall establish, and the Oneida Business Committee shall approve, the level of business continuity funds required in the Permanent Executive Contingency account. The Treasurer shall set aside business continuity funds in the Permanent Executive Contingency account until the established level has been achieved. Funds in the Permanent Executive Contingency may only be used for the following purposes and only to the extent that alternative funding sources are unavailable:~~

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

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

121.4-4. *Managers.* Managers shall:

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

~~(b) *Report* to the CFO and their relevant Executive Manager explanations and corrective actions for any monthly variance that is either:~~

~~(1) a difference of three percent (3%) or more from the adopted annual budget; or~~

~~(2) fifty thousand dollars (\$50,000) or more in total;~~

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

~~(d) submit a budget for their fund unit in accordance with the budget schedule and guidelines as adopted by the Oneida Business Committee.~~

121.5. Budget Process

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

~~(a) The Nation's budget shall be a balanced budget and not propose to spend more funds than are reasonably expected to become available to the Nation during that fiscal year.~~

~~(1) Underwriting debt resources or the utilization of existing debt instruments shall be expressly prohibited from use to balance the Nation's annual budget.~~

~~(b) The budget shall align with any strategic plan, broad goals, or priorities developed and adopted by the Oneida Business Committee on behalf of the Nation.~~

~~(c) The Nation's corporate entities shall not be included in the Nation's budget.~~

~~121.5-2. *Content of the Budget.* The Nation's budget shall include the following information:~~

~~(a) Estimated revenues to be received from all sources;~~

~~(b) The individual budgets of each fund unit;~~

~~(c) A description of each line item within each fund unit's budget;~~

~~(d) The estimated expenditures by each fund unit; and~~

~~(e) Summary of employment position counts including prior year, current year, and budgeted year.~~

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

a fund unit's requested deviation from the performance targets the fund unit submitted pursuant to 121.4-2(d)(2).

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

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

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

~~(d) The Treasurer shall work with the CFO to place a community budget input meeting packet on the Oneida Business Committee agenda no later than the last Oneida Business Committee Meeting in January. At a minimum, the packet is required to include:~~

~~(1) The community input budget meeting(s) transcript(s);~~

~~(2) Any applicable fund unit's requested forecast variations; and~~

~~(3) Responses and/or recommendations by the CFO and any relevant managers regarding requests for forecast variations and community members' comments and considerations related to forecast variations.~~

121.5-3. *Fund Categories.* The Nation's budget shall include, but not be limited to, the following categories of fund accounts:

(a) *General Fund.* The General Fund account is the Nation's main operating fund which is used to account for all financial resources not accounted for in other funds.

(b) *Permanent Executive Contingency Fund.* The Permanent Executive Contingency Fund account is used by the Nation to prevent default on debt and to sustain operations during times of extreme financial distress.

(c) *Grant Reserve Fund.* The Grant Reserve Fund account is used by the Nation to pre-fund the expenditures of grants upon receipt.

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

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

~~(1) Protection and Preservation of Natural Resources~~

~~(2) Protection and Preservation of Oneida Culture and Language~~

~~(3) Education and Literacy~~

~~(4) Health Care~~

~~(5) Economic Enterprises~~

~~(6) Building and Property Maintenance~~

~~(7) Human Services~~

~~(8) Public Safety~~

~~(9) Housing~~

~~(10) Utilities, Wells, Wastewater and Septic~~

~~(11) Planning, Zoning and Development~~

~~(12) Membership Administration~~

~~(13) Government Administration~~

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

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

121.5-4. Budget Adoption Procedure. The Nation shall develop and adopt its budget according to the following procedures:

(a) Budget Schedule and Guidelines. The Treasurer shall develop the necessary guidelines, including specific timelines and deadlines, to be followed by the managers that have budget responsibility in preparing and submitting proposed budgets. The Treasurer shall submit the guidelines to the Oneida Business Committee for review and approval through the adoption of a resolution.

(1) The budget schedule and guidelines shall include at least one (1) opportunity for community input from the Nation's membership on what should be included in the upcoming fiscal year budget.

(2) Each fund unit shall be responsible for complying with the budget schedule and guidelines to submit a proposed budget to the Treasurer. The Finance Administration shall not submit any budget on behalf of a fund unit unless granted express permission by the Oneida Business Committee.

(3) The Oneida Business Committee shall set a deadline through the adoption of a resolution for when the Treasurer shall submit their budget guidelines to the Oneida Business Committee for review and approval.

(b) Annual Proposed Budgets. The Treasurer shall receive, review, and compile the proposed budgets from all the fund units into the Nation's draft budget. The Treasurer shall present the Nation's draft budget to the Oneida Business Committee for review each year to ensure that it is consistent with the Nation's strategic plan, broad goals, and budget strategy.

(1) Notification of Budget Increase or Decrease. The Treasurer shall identify in the budget guidelines a percentage of an increase or decrease in a fund unit's budget from the prior year budget that is required to be noticed to the Oneida Business Committee. The Treasurer shall notify the Oneida Business Committee of any fund units whose proposed budget increased or decreased by this percentage.

(c) Final Draft Budget. The Oneida Business Committee shall work with the Treasurer, CFO, and managers to compile a final draft budget to be presented to the General Tribal Council. The Oneida Business Committee shall approve, by resolution, the final draft budget to be presented to the General Tribal Council.

(d) Community Meetings. Once the Oneida Business Committee has approved the final draft budget, the Treasurer shall hold, at a minimum, two (2) community informational meetings to present the contents of the final draft budget that will be presented to the General Tribal Council.

(e) Budget Adoption. The Oneida Business Committee shall present the budget to the General Tribal Council with a request for adoption by resolution no later than September 30th of each year. The General Tribal Council shall be responsible for adopting the Nation's budget.

(1) Continuing Budget Resolution. In the event that the General Tribal Council does not adopt a budget by September 30th, the Oneida Business Committee may

adopt a continuing budget resolution(s) for a period of time not to exceed three (3) months, until such time as a budget is adopted by the General Tribal Council. If the General Tribal Council does not adopt a budget within three (3) months of the adoption of the continuing budget resolution, then the Oneida Business Committee shall adopt the Nation's budget.

(2) Emergency Budget Adoption. In the event that the Nation proclaims an emergency, in accordance with the Emergency Management law, that stays in effect for at least one (1) month and prevents the presentation to and adoption of the budget by the General Tribal Council, the Oneida Business Committee shall adopt the Nation's budget.

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

~~(a) In accordance with the approved budgetary guidelines, fund units offering like services shall meet together to review each fund unit's budget and discuss strategies for attaining compliance with the approved budgetary guidelines. Each service group shall submit one (1) draft budget which contains each fund unit's individual proposed budget and demonstrates cumulative compliance with the approved budgetary guidelines.~~

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

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

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

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

121.5-5. Amendments to the Nation's Budget. After the budget is adopted, amendments of the budget shall not be permitted unless it is necessary to avoid a budget deficit. The Treasurer and CFO shall identify when forecasted revenue and forecasted expenses are impacted in a manner which creates a deficit for the current fiscal year. The CFO shall provide the Oneida Business Committee a written fiscal analysis and any input on the potential budget amendment. The Oneida

Business Committee shall be responsible for adopting an amendment to the budget through resolution of the Nation. The Oneida Business Committee shall present notification of the budget amendment at the next available General Tribal Council meeting.

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

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

~~121.5-6. Review of Draft Budget.~~ In the month of May, the CFO shall meet with the Oneida Business Committee to review the draft budget and provide any recommendations for modifications.

(a) ~~Following the Oneida Business Committee's review of the draft budget with the CFO, the Oneida Business Committee shall schedule meetings with managers of each fund unit for which the Oneida Business Committee is considering altering the fund unit's proposed budget.~~

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

~~121.5-7. Final Draft Budget.~~ The Oneida Business Committee shall work with fund unit managers and the CFO to compile a final draft budget to be presented to the General Tribal Council. The Oneida Business Committee shall approve, by resolution, the final draft budget to be presented to the General Tribal Council by the end of July each year.

~~121.5-8. Community Meetings.~~ Once the Oneida Business Committee has approved the final draft budget, the Treasurer shall hold, at a minimum, two (2) community informational meetings to present the contents of the final draft budget that will be presented to the General Tribal Council.

~~121.5-9. Budget Adoption.~~ The Oneida Business Committee shall present the budget to the General Tribal Council with a request for adoption by resolution no later than September 30th of each year. In the event that the General Tribal Council does not adopt a budget by September 30th, the Oneida Business Committee may adopt a continuing budget resolution(s) until such time as a budget is adopted.

121.6. Capital Improvements Expenditures and Assets

~~121.6-1. Authority to Expend Funds.~~ The Oneida Business Committee shall have the authority to expend appropriated funds in accordance with the Nation's adopted budget pursuant to the Procurement Rule Handbook developed by the Purchasing Department. The authority to expend funds is then necessarily delegated to other managers, including Executive Managers of the Nation who manage budgets pursuant to their job descriptions based on the Procurement Rule Handbook manual. Capital Improvement Plan for Government Services. The Oneida Business Committee shall develop and the General Tribal Council shall approve a capital improvement plan for government services and shall reassess the plan once every five (5) years. The capital improvement plan for government services shall cover a period of five (5) to ten (10) years and shall include any risks and liabilities. The Oneida Business Committee shall provide a status report and recommendation for any improvements that have not been completed or that have been modified at the time of the reassessment.

121.6-2. *Procurement Rule Handbook* The Purchasing Department is delegated rulemaking authority in accordance with the Administrative Rulemaking law to develop a Procurement Rule Handbook which provides the sign-off process and authorities required to expend funds on behalf of the Nation. ~~Capital Improvement Plan for Enterprises. Capital improvement plans for enterprises may be brought forward as needed in accordance with the capital improvement rules which the Community Development Planning Committee and the Development Division shall jointly create, provided that the rules shall include a provision that the Oneida Business Committee shall approve all capital improvement plans.~~

121.6-3. *Fees and Charges.* A program or service of the Nation funded through Tribal contribution may charge fees for their services to cover operational costs.

(a) Before charging fees for services, a program or service shall first determine the full cost of providing the program or service. The full cost of providing a program or service includes all costs including operation costs, overhead such as direct and indirect costs, and depreciation.

(b) Fees and charges may cover the full cost of service or goods whenever such fee or charge would not present an undue financial burden to the recipient.

(c) Programs and services charging fees may offer fee waivers, provided that the program or service has developed a standard operating procedure which outlines fee waiver eligibility and requirements. ~~Capital Improvement Plan Implementation. Capital Improvement plans shall be implemented, contingent on available funding capacity, using the capital improvement rules.~~

121.6-4. *Unbudgeted Expenditures.*

(a) *Approval of Unbudgeted Expenditures.* A fund unit shall not make an unbudgeted expenditure unless approval is granted by the Oneida Business Committee. The CFO shall provide the Oneida Business Committee a written fiscal analysis and any input on the potential unbudgeted expenditure. The Oneida Business Committee shall approve any unbudgeted expenditure through the adoption of a resolution prior to the expenditure being made by a fund unit.

(b) *Notification of Unbudgeted Expenditures.* The Oneida Business Committee shall set through resolution a threshold amount for unbudgeted expenditures that require notification by the Oneida Business Committee to the General Tribal Council at the next available General Tribal Council meeting.

(c) *Unbudgeted Supplemental Funding.* In the event that the Nation receives any supplemental or emergency funding of two hundred and fifty thousand dollars (\$250,000) or more, the Oneida Business Committee shall develop and adopt, through resolution, a spending plan to guide expenditures of the supplemental funding in accordance with any provided guidance for the supplemental funding and audit compliance.

121.6-5. *Obligated Future Expenditures.* Notwithstanding an approved multi-year contract, no fund unit shall obligate the Nation to make any future expenditures beyond the current budget year unless the fund unit identifies, and the Oneida Business Committee approves through the adoption of a resolution, the source and extent of any future funds that are recommended to be held in reserve to meet that future obligation.

121.6-6. *Unexpended Funds.*

(a) *Unexpended Capital Improvement Funds.* Unexpended capital improvement funds shall carry over to the next fiscal year's budget, provided that such funds are required to remain appropriated for the same purpose as originally budgeted until the project is

complete. Once a capital improvement project is complete, any remaining unexpended funds shall be returned to the ~~G~~eneral ~~F~~und.

(b) Unexpended Capital Expenditure Funds. The ~~Treasurer~~ shall ensure that all unexpended capital expenditure funds are reallocated to the fiscal year budget two (2) years out from the fiscal year in which the funds were unexpended. Such unexpended funds shall be returned to the General Fund.

121.6-7. Capital Contributions. Any capital contributions made by the Nation shall be identified in the annual budget.

(a) Any reassignment of a loan provided by the Nation into a capital contribution shall be noticed to the General Tribal Council.

121.6-8. Assets of the Nation shall not be divested, or borrowed against, to balance the annual budget.

121.6-9. Capital Improvements.

(a) Capital Improvement Plan for Government Services. The Oneida Business Committee shall develop, and the General Tribal Council shall approve, a capital improvement plan for government services.

(1) The capital improvement plan for government services shall cover a period of five (5) to ten (10) years and shall include any risks and liabilities.

(2) The capital improvement plan for government services shall be reassessed once every five (5) years. The Oneida Business Committee shall provide a status report and recommendation for any improvements that have not been completed or that have been modified at the time of the reassessment.

(b) Capital Improvement Plan for Enterprises. Capital improvement plans for enterprises may be brought forward as needed, provided that the Oneida Business Committee shall approve all capital improvement plans for enterprises.

(c) Capital Improvement Plan Implementation. Capital improvement plans ~~for government services and enterprises~~ shall be implemented, contingent on available funding capacity.

121.7. Appropriation of the Nation's Funds ~~Grants~~

121.7-1. Expending Grant Funds. Grant funds shall be ~~expended~~ according to any non-negotiable grant requirements and guidelines of the granting agency.

(a) Grant funds may be utilized for, but not limited to, the following:

(1) purchases;

(2) travel;

(3) training;

(4) hiring grant required positions;

(5) incentives and retention efforts; and

(6) any other requirements attached to the funds as a condition of the Nation's acceptance of the grant funds.

(b) Grant funds may be utilized for an expenditure even when other policies of the Nation do not allow for Tribal contribution to make that same expenditure, if only grant funds are utilized for the expenditure and all requirements or obligations of the grant are met. Provided that, grant funds may be subject to the requirements of the budget contingency plan and any cost containment initiatives adopted by the Oneida Business Committee.
~~Unexpended Capital Improvement Funds.~~ Unless the fund unit qualifies for an exception

~~as provided in the capital improvement rules, unexpended capital improvement funds carry over to the next fiscal year's budget, provided that such funds are required to remain appropriated for the same purpose as originally budgeted until the project is complete. Once a capital improvement project is complete, any remaining unexpended funds shall be returned to the general fund to be re-allocated in accordance with the Oneida Business Committee's priority list under 121.5-3 using the regular budget process under 121.5.~~

121.7-2. *Exhaustion of Non-Tribal Funds.* ~~When grant funds provide for forward funding as applicable to a function for which the Nation's funds have also been appropriated, those grant funds shall be used before appropriating the Nation's funds unless the Nation's funds are needed to make up an otherwise shortfall in the overall fund unit budget or there is a restriction on the grant funds that provide otherwise. *Unexpended Capital Expenditure Funds.* The CFO shall ensure that all unexpended capital expenditure funds are reallocated to the fiscal year budget two (2) years out from the fiscal year in which the funds were unexpended. Such unexpended funds shall be re-allocated in accordance with the Oneida Business Committee's priority list under 121.5-3 using the regular budget process under 121.5.~~

121.7-3. *Grant Reporting.* ~~At the time of submission of proposed annual budgets, any fund unit which receives grant funding shall submit a status report of the grant funding received to the Oneida Business Committee. The status report shall include, but not be limited to:~~

- ~~(a) information on the progress of the utilization of the grant funds;~~
- ~~(b) the number of employees the grant funding supports fully or partially; and~~
- ~~(c) compliance with obligations of the grant funding.~~

121.7-4. *Grant Reserve Fund Account.* ~~The Oneida Business Committee shall maintain a Grant Reserve Fund account within the ownership investment report to be used to pre-fund the expenditures of grants upon receipt. The Grant Reserve Fund account shall be an obligated fund, that is fully funded with separately identified cash resources.~~

~~(a) The Treasurer, in consultation with the CFO, shall establish, and the Oneida Business Committee shall approve, the level of funds required in the Grant Reserve Fund account relative to the scale of grant dollars we receive on an annual basis.~~

~~(b) The Treasurer shall set aside funds within the budget in the Grant Reserve Fund account until the established level has been achieved.~~

121.7-5. *Grant Funded Positions.* ~~If the grant funding for a fully grant funded position is eliminated, then the position shall be eliminated. To transition a position from grant funding to being funded through the Nation's budget, a manager shall follow the standard procedure for seeking the development and approval of a new position in the Nation's annual budget and labor allocations.~~

121.8. ~~Budget Authority Debts~~

121.8-1. *General.* ~~The acquisition of debt by the Nation shall be processed in accordance with sound fiscal diligence. The Nation shall comply with all relevant federal and state banking laws, rules, and policies applicable to the credit agreement.~~

~~(a) Any debt instrument utilized by the Nation shall not exceed the life of what is being encumbered. *Authority to Expend Funds.* The Treasurer's authority to expend appropriated funds is delegated to the CFO, who shall make such expenditures in accordance with the adopted budget. This authority is necessarily delegated to other managers, including executive managers, of the Nation who manage the budgets, pursuant to their job~~

~~descriptions based on the procurement manual rules developed by the Purchasing Department;~~

121.8-2. *Acquisition of Debt.* Any debt underwritten by the Nation for less than ten million dollars (\$10,000,000) shall be noticed to the General Tribal Council at the next available meeting after the execution of the credit agreement encumbering all pledges of repayment. Any debt underwritten by the Nation for ten million dollars (\$10,000,000) or more shall be approved by the General Tribal Council prior to the execution of the credit agreement encumbering all pledges of repayment.

(a) If emergency circumstances exist which prevents the presentation to and approval of the acquisition of debt of ten million dollars (\$10,000,000) or more by the General Tribal Council, the Oneida Business Committee may approve the acquisition of debt. *Exhaustion of Non-Tribal Funds.* When grant funds provide for forward funding as applicable to a function for which the Nation's funds have also been appropriated, those grant funds shall be used before appropriating the Nation's funds unless the Nation's funds are needed to make up an otherwise shortfall in the overall fund unit budget or there is a restriction on the grant funds that provide otherwise.

121.8-3. *Use of Debt.* Credit proceeds may be utilized for project capital, general use, financing of equity, and all unspecified uses. Compliance with debt covenants is required to avoid credit default. In addition to the authority and responsibilities provided elsewhere in this law, the following positions and fund units shall have the authority and responsibilities as outlined below:

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

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

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

(A) The annual General Tribal Council meeting;

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

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

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

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

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

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

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

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

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

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

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

121.8-4. Credit Ratios. Maintaining fiscally responsible prudent credit ratios is consistent with effective budget management and financial control.

(a) Debt Service Coverage Ratio. The Debt Service Coverage Ratio shall not exceed the acceptable range as defined by low-risk debt financing options at the specific financial institution.

(b) Fixed Charge Coverage Ratio. The Fixed Charge Coverage Ratio shall be maintained at the acceptable range as defined by low-risk debt financing options at the specific financial institution.

121.8-5. Corporate Debt. The Nation shall not be obligated to any debt obligations of its corporate entities.

121.9. Budget Transfers; Amendments Employment and Labor Allocations

121.9-1. Employment Cap. The Treasurer and CFO shall identify a maximum number of full-time equivalent (FTE) employees to be employed by the Nation. The Oneida Business Committee shall have the authority to approve this employment cap, and any amendments thereto, through the adoption of a resolution. The employment cap shall be reviewed annually by the Oneida Business Committee.

(a) Employment positions that are fully funded through grants shall not be included in the employment cap.

(b) The Nation shall not exceed the number of FTE employees identified in the employment cap. ~~Budget Transfers.~~ After the budget is adopted, transfer of funds within the budget is not permitted except as provided in section 121.8-3(a) and to allow the CFO to adjust the approved budget as required to accurately reflect the amount of grant funding actually received.

121.9-2. Labor Allocations List. The Treasurer, CFO, Executive Managers, and the Executive Human Resources Director shall utilize the Nation's employment cap to develop a labor allocations list. The labor allocations list shall identify the number of FTE employees each employment area of the Nation is allocated. The Oneida Business Committee shall have the authority to adopt the labor allocation list, and any amendments thereto, through the adoption of a resolution. The Oneida Business Committee shall review the labor allocations list on an annual basis.

(a) The total number of FTE employees identified in the labor allocations list shall not exceed the Nation's employment cap.

(b) The Treasurer, CFO, Executive Managers, and Executive Human Resources Director shall develop a standard operating procedure which identifies a process for the consideration of requests to revise the labor allocations list. The Oneida Business

Committee shall approve this standard operating procedure, and any amendments thereto, through the adoption of a resolution.

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

121.9-3. Unbudgeted Positions. Any position which has not been specifically budgeted for and included in the labor allocation list shall be prohibited. Budgeted labor dollars and approved positions shall not be transferrable in any form.

(a) Exception. The Oneida Business Committee may authorize an unbudgeted position for a fund unit. The CFO shall provide the Oneida Business Committee a written fiscal analysis and any input on the potential unbudgeted position. The Oneida Business Committee shall authorize the unbudgeted position through the adoption of a resolution.

121.10. Reporting Budget Contingency Planning

121.10-1. Budget Contingency Plan. The Oneida Business Committee shall work with the CFO, Executive Managers, and managers to create a budget contingency plan which provides a strategy for the Nation to respond to extreme financial distress that could negatively impact the Nation.

(a) Extreme financial distress includes, but is not limited to:

- (1) natural or human-made disasters;
- (2) United States Government shutdown;
- (3) emergency proclamations; and
- (4) economic downturns.

(b) The Oneida Business Committee shall approve the budget contingency plan, and any amendments thereto, through the adoption of a resolution. ~~Monthly Reporting. The CFO shall provide copies of the monthly Treasurer's reports and quarterly operational reports from direct reports to the Oneida Business Committee in accordance with Secretary's Oneida Business Committee packet schedule for the Oneida Business Committee Meeting held for the acceptance of such reports.~~

121.10-2. Cost Saving Tools. As part of the budget contingency plan, the Oneida Business Committee may require the use of cost saving tools, provided that the use of such tools complies with all laws of the Nation. Cost saving tools may include, but are not limited to, the use of the following:

- (a) stabilization funds;
- (b) reductions of expenditures;
- (c) furloughs; and
- (d) layoffs. ~~Audits. The Internal Audit Department, annually, shall conduct independent comprehensive performance audits, in accordance with the Audit Law, the Financial Accounting Standards Board (FASB) and the Governmental Accounting Standards Board (GASB), of randomly selected fund units or of fund units deemed necessary by the Oneida Business Committee or Internal Audit Department. Each fund unit shall offer its complete cooperation to the Internal Audit Department. The Oneida Business Committee may, as it deems necessary, contract with an independent audit firm to conduct such audits.~~

121.10-3. When the Oneida Business Committee determines that the Nation is under extreme financial distress, the Oneida Business Committee shall be responsible for implementing the budget contingency plan.

121.10-4. *Permanent Executive Contingency Fund Account.* The Oneida Business Committee shall maintain a Permanent Executive Contingency Fund account within the ownership investment report to be used to prevent default on debt and to sustain operations during times of extreme financial distress. The Permanent Executive Contingency Fund account shall be a restricted fund.

(a) The Permanent Executive Contingency Fund account shall consist of a minimum reserve of one (1) year of operating expenses to ensure continuity of business for the Nation.

(b) The Treasurer, in consultation with the CFO, shall establish, and the Oneida Business Committee shall approve through the adoption of a resolution, the percentage of the annual budget that shall be set aside in the Permanent Executive Contingency Fund account until the established level has been achieved.

(c) Funds in the Permanent Executive Contingency Fund account may only be used when the Oneida Business Committee has determined that the Nation is under extreme financial distress for the following purposes and only to the extent that alternative funding sources are unavailable:

(1) Ppayments to notes payable to debt service, both principal and interest, and applicable service fees;

(2) Eemployee payroll, including all applicable taxes;

(3) Ppayments to vendors for gaming and retail;

(4) Ppayments to vendors for governmental operations;

(5) Ppayments to any other debt; and

(6) Fto sustain any of the Nation's other operations during implementation of the budget contingency plan.

121.11. ~~Authorizations and Signatures~~ Reporting

121.11-1. *Monthly Reporting.* The Treasurer shall provide monthly reports and quarterly operational reports from direct reports to the Oneida Business Committee in accordance with the Secretary's Oneida Business Committee packet schedule for the Oneida Business Committee meeting held for the acceptance of such reports.

(a) The Treasurer's monthly reports shall include revenue and expense summaries.

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

121.11-2. *Annual and Semi-Annual Reporting to the General Tribal Council.* The Treasurer shall report on all receipts and expenditures and the amount and nature of all funds in their possession and custody, at the annual and semi-annual General Tribal Council meetings, and at such other times as requested by the General Tribal Council or the Oneida Business Committee.

(a) The Treasurer reports shall include an independently audited annual financial statement that provides the status or conclusion of all the receipts and debts in possession of the Treasurer including, but not limited to, all corporations owned in full or in part by the Nation.

~~Fees and Charges. Managers of programs and services requiring Tribal contribution that desire to charge fees for their services shall determine the full cost of providing the program and/or service and, only then, may charge fees to cover operational costs. The full cost of providing a program and/or service includes all costs including operation costs, overhead such as direct and indirect costs, and depreciation. Fees and charges may cover the full cost of service and/or goods whenever such fee or charge would not present an undue financial burden to recipient. Programs~~

~~and services charging fees may offer fee waivers, provided that the program/service has developed rules outlining the fee waiver eligibility and requirements.~~

121.11-3. Audits. The Internal Audit Department, annually, shall conduct independent comprehensive performance audits, in accordance with the Nation's Audit law, the Financial Accounting Standards Board (FASB) and the Governmental Accounting Standards Board (GASB), of randomly selected fund units or of fund units deemed necessary by the Oneida Business Committee or Internal Audit Department. Each fund unit shall offer its complete cooperation to the Internal Audit Department. The Oneida Business Committee may, as it deems necessary, contract with an independent audit firm to conduct such audits.

121.12. Enforcement

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

(a) The Executive Managers shall notify the Oneida Business Committee of any fund unit which does not comply with the budget schedule or guidelines. A list of any fund units of an elected entity which did not comply with the budget schedule or guidelines shall be included in the annual report to the General Tribal Council.

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

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

End.

Adopted-BC-02-08-17-C

Emergency Amended – BC-11-24-20-E

Emergency Amended – BC-05-12-21-C

Emergency Extension – BC-11-10-21-B

Amended – BC- - - -

Title 1. Government and Finances – Chapter 121

Twahwistatye'nítha?

We have a certain amount of money

BUDGET AND FINANCES

121.1. Purpose and Policy
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121.10. Budget Contingency Planning
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121.12. Enforcement

121.1. Purpose and Policy

121.1-1. *Purpose.* The purpose of this law is to set forth the requirements to be followed by the Oneida Business Committee and the Oneida fund units when preparing the budget to be presented to the General Tribal Council for approval, and to establish financial policies and procedures for the Nation which:

- (a) institutionalize best practices in financial management to guide decision makers in making informed decisions regarding the provision of services, implementation of business plans for enterprises, investments, and capital assets;
- (b) provide a long term financial prospective and strategic intent, linking budget allocations to organizational goals, as well as providing fiscal controls and accountability for results and outcomes;
- (c) identify and communicate to the membership of the Nation spending decisions for the government function, grant obligations, enterprises, membership mandates, capital expenditures, technology projects, and capital improvement projects;
- (d) establish a framework for effective financial risk management; and
- (e) encourage participation by the Nation's membership.

121.1-2. *Policy.* It is the policy of the Nation to rely on balanced-based budgeting strategies, identifying proper authorities and ensuring compliance and enforcement. The Nation shall use Generally Accepted Accounting Principles (GAAP), established by the Financial Accounting Standards Board, and the Governmental Accounting Standards Board (GASB) in accounting and reporting for the financial activities of the various entities of the Nation, unless they conflict with applicable legal requirements.

121.2. Adoption, Amendment, Repeal

121.2-1. This law was adopted by the Oneida Business Committee by resolution BC-02-08-17-C, and amended by resolution BC-__-__-__.

121.2-2. 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.

121.2-3. Should a provision of this law or the application thereof to any person or circumstances be held as invalid, such invalidity shall not affect other provisions of this law which are considered to have legal force without the invalid portions.

121.2-4. In the event of a conflict between a provision of this law and a provision of another law, the provisions of this law shall control. Provided that, nothing in this law amends or repeals the

requirements of resolution BC-10-08-08-A, *Adopting Expenditure Authorization and Reporting Requirements*.

121.2-5. This law is adopted under authority of the Constitution of the Oneida Nation.

121.3. Definitions

121.3-1. This section shall govern the definitions of words and phrases used within this law. All words not defined herein shall be used in their ordinary and everyday sense.

(a) “Balanced budget” means that the cost of current expenses and service provisions is equal to the forecasted current revenue sources.

(b) “Capital contribution” means an act of giving money or assets to a company or organization.

(c) “Capital expenditure” means any non-recurring and non-physical improvement as follows:

(1) Any item with a cost of five thousand dollars (\$5,000) or more and a useful life of one (1) year or more; or

(2) Items purchased together where none of the items individually costs more than two thousand dollars (\$2,000), but the total purchase price for all of the items is ten thousand dollars (\$10,000) or more.

(d) “Capital improvement” means a non-recurring expenditure for physical improvements, including costs for:

(1) acquisition of existing buildings, land, or interests in land;

(A) Acquisition of existing buildings and land completed by the Oneida Land Commission are not included in this definition.

(2) construction of new buildings or other structures, including additions and major alterations;

(3) acquisition of fixed equipment;

(4) landscaping;

(5) physical infrastructure; and

(6) similar expenditures with a cost of five thousand dollars (\$5,000.00) or more and a useful life of one (1) year or more.

(e) “CFO” means the Nation’s Chief Financial Officer, or their designee at their discretion.

(f) “Debt” means the secured or unsecured obligations owed by the Nation.

(g) “Debt Service Coverage Ratio” means a measurement of creditors available cash flow to pay debt obligations. This ratio evaluates if an entity has income capacity to service debts.

(h) “Enterprise” means any area or activity of the Nation that is engaged in for the business of profit.

(i) “Executive Manager” means a position of employment within the Nation that is the highest level in the chain of command under the Oneida Business Committee who is responsible for a department or division of the Nation, as identified by the Oneida Business Committee through the adoption of a resolution.

(j) “Expenditure report” means a financial report which includes, but is not limited to, a statement of cash flows, revenues, costs and expenses, assets, liabilities, and a statement of financial position.

(k) “Finance Administration” means the department of the Nation which consists of the

Chief Financial Officer, Assistant Chief Financial Officer, the executive assistant to the Chief Financial Officer, and any other designated employee.

(l) “Fiscal year” means the one (1) year period each year from October 1st to September 30th.

(m) “Fixed Charge Coverage Ratio” means a measurement of a creditors capacity of earnings level or ability to cover its fixed charges such as debt payments, interest expenses, and leases expenses. Financial institutions will evaluate this ratio for purposes of credit risk.

(n) “Fund unit” means any board, committee, commission, service, program, enterprise, department, office, or any other division or non-division of the Nation which receives an appropriation approved by the Nation.

(o) “Government service” means any area or activity of the Nation that is not expected to create revenue for the Nation and not expected to make a profit at any time.

(p) “Line item” means the specific account within a fund unit’s budget or category that expenditures are charged to.

(q) “Manager” means the person in charge of directing, controlling, and administering the activities of a fund unit.

(r) “Nation” means the Oneida Nation.

(s) “Secretary” means the Oneida Nation Secretary, or their designee at their discretion.

(t) “Treasurer” means the Oneida Nation Treasurer, or their designee at their discretion.

121.4. Authority and Responsibilities

121.4-1. *Oneida Business Committee*. The Oneida Business Committee shall:

- (a) oversee the development of the Nation’s budget;
- (b) oversee the implementation of the Nation’s budget;
- (c) develop priorities, a strategic plan, or broad goals to assist in guiding the budget; and
- (d) exercise the authority provided in Article IV, Section 1, of the Constitution and Bylaws of the Oneida Nation, as delegated to the Oneida Business Committee by the General Tribal Council.

121.4-2. *Treasurer*. In accordance with the Constitution and Bylaws of the Oneida Nation, the Nation’s Treasurer shall:

- (a) accept, receive, receipt for, preserve and safeguard all funds in the custody of the Nation, whether they be funds of the Nation or special funds for which the Nation is acting as trustee or custodian;
- (b) deposit all funds in such depository as the Nation shall direct and shall make and preserve a faithful record of such funds;
- (c) submit expenditure reports and other financial reports as deemed necessary by the Oneida Business Committee or the General Tribal Council at:
 - (1) the annual General Tribal Council meeting;
 - (2) the semi-annual General Tribal Council meeting; and
 - (3) other such times as may be directed by the Oneida Business Committee or the General Tribal Council; and
- (d) present the proposed draft budget to the General Tribal Council at the annual budget meeting.

121.4-3. *Chief Financial Officer*. The CFO shall:

- (a) ensure the Nation's budget is properly implemented;
- (b) provide managers with monthly revenue and expense reports;
- (c) assist with the submission and presentation of the Treasurer's report to the Oneida Business Committee, which shall specifically include any monthly variances that are either:
 - (1) a difference of three percent (3%) or more from the adopted annual budget; or
 - (2) fifty thousand dollars (\$50,000) or more in total;
- (d) provide the Oneida Business Committee with information and reports as requested;
- (e) present the Treasurer's report and hold financial condition meetings with the Nation's management on a minimum of a quarterly basis; and
- (f) inform the appropriate Executive Manager of any fund unit which does not follow the budget development process guidelines or deadlines as set forth by the Treasurer.

121.4-4. *Managers.* Managers shall:

- (a) ensure that their business units operate, on a day-to-day basis, in compliance with the budget adopted pursuant to this law;
- (b) report to the CFO and their relevant Executive Manager explanations and corrective actions for any monthly variance that is either:
 - (1) a difference of three percent (3%) or more from the adopted annual budget; or
 - (2) fifty thousand dollars (\$50,000) or more in total;
- (c) submit budget review reports to the CFO on a reasonable and timely basis not to exceed thirty (30) calendar days from the end of the month; and
- (d) submit a budget for their fund unit in accordance with the budget schedule and guidelines as adopted by the Oneida Business Committee.

121.5. Budget

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

- (a) The Nation's budget shall be a balanced budget and not propose to spend more funds than are reasonably expected to become available to the Nation during that fiscal year.
 - (1) Underwriting debt resources or the utilization of existing debt instruments shall be expressly prohibited from use to balance the Nation's annual budget.
- (b) The budget shall align with any strategic plan, broad goals, or priorities developed and adopted by the Oneida Business Committee on behalf of the Nation.
- (c) The Nation's corporate entities shall not be included in the Nation's budget.

121.5-2. *Content of the Budget.* The Nation's budget shall include the following information:

- (a) Estimated revenues to be received from all sources;
- (b) The individual budgets of each fund unit;
- (c) A description of each line item within each fund unit's budget;
- (d) The estimated expenditures by each fund unit; and
- (e) Summary of employment position counts including prior year, current year, and budgeted year.

121.5-3. *Fund Categories.* The Nation's budget shall include, but not be limited to, the following categories of fund accounts:

- (a) *General Fund.* The General Fund account is the Nation's main operating fund which is used to account for all financial resources not accounted for in other funds.

(b) *Permanent Executive Contingency Fund.* The Permanent Executive Contingency Fund account is used by the Nation to prevent default on debt and to sustain operations during times of extreme financial distress.

(c) *Grant Reserve Fund.* The Grant Reserve Fund account is used by the Nation to pre-fund the expenditures of grants upon receipt.

121.5-4. *Budget Adoption Procedure.* The Nation shall develop and adopt its budget according to the following procedures:

(a) *Budget Schedule and Guidelines.* The Treasurer shall develop the necessary guidelines, including specific timelines and deadlines, to be followed by the managers that have budget responsibility in preparing and submitting proposed budgets. The Treasurer shall submit the guidelines to the Oneida Business Committee for review and approval through the adoption of a resolution.

(1) The budget schedule and guidelines shall include at least one (1) opportunity for community input from the Nation's membership on what should be included in the upcoming fiscal year budget.

(2) Each fund unit shall be responsible for complying with the budget schedule and guidelines to submit a proposed budget to the Treasurer. The Finance Administration shall not submit any budget on behalf of a fund unit unless granted express permission from the Oneida Business Committee.

(3) The Oneida Business Committee shall set a deadline through the adoption of a resolution for when the Treasurer shall submit their budget guidelines to the Oneida Business Committee for review and approval.

(b) *Annual Proposed Budgets.* The Treasurer shall receive, review, and compile the proposed budgets from all the fund units into the Nation's draft budget. The Treasurer shall present the Nation's draft budget to the Oneida Business Committee for review each year to ensure that it is consistent with the Nation's strategic plan, broad goals, and budget strategy.

(1) *Notification of Budget Increase or Decrease.* The Treasurer shall identify in the budget guidelines a percentage of an increase or decrease in a fund unit's budget from the prior year budget that is required to be noticed to the Oneida Business Committee. The Treasurer shall notify the Oneida Business Committee of any fund units whose proposed budget increased or decreased by this percentage.

(c) *Final Draft Budget.* The Oneida Business Committee shall work with the Treasurer, CFO, and managers to compile a final draft budget to be presented to the General Tribal Council. The Oneida Business Committee shall approve, by resolution, the final draft budget to be presented to the General Tribal Council.

(d) *Community Meetings.* Once the Oneida Business Committee has approved the final draft budget, the Treasurer shall hold, at a minimum, two (2) community informational meetings to present the contents of the final draft budget that will be presented to the General Tribal Council.

(e) *Budget Adoption.* The Oneida Business Committee shall present the budget to the General Tribal Council with a request for adoption by resolution no later than September 30th of each year. The General Tribal Council shall be responsible for adopting the Nation's budget.

(1) *Continuing Budget Resolution.* In the event that the General Tribal Council does not adopt a budget by September 30th, the Oneida Business Committee may adopt a continuing budget resolution for a period of time not to exceed three (3) months, until such time as a budget is adopted by the General Tribal Council. If the General Tribal Council does not adopt a budget within three (3) months of the adoption of the continuing budget resolution, then the Oneida Business Committee shall adopt the Nation's budget.

(2) *Emergency Budget Adoption.* In the event that the Nation proclaims an emergency, in accordance with the Emergency Management law, that stays in effect for at least one (1) month and prevents the presentation to and adoption of the budget by the General Tribal Council, the Oneida Business Committee shall adopt the Nation's budget.

121.5-5. *Amendments to the Nation's Budget.* After the budget is adopted, amendments of the budget shall not be permitted unless it is necessary to avoid a budget deficit. The Treasurer and CFO shall identify when forecasted revenue and forecasted expenses are impacted in a manner which creates a deficit for the current fiscal year. The CFO shall provide the Oneida Business Committee a written fiscal analysis and any input on the potential budget amendment. The Oneida Business Committee shall be responsible for adopting an amendment to the budget through resolution of the Nation. The Oneida Business Committee shall present notification of the budget amendment at the next available General Tribal Council meeting.

121.6. Expenditures and Assets

121.6-1. *Authority to Expend Funds.* The Oneida Business Committee shall have the authority to expend appropriated funds in accordance with the Nation's adopted budget pursuant to the Procurement Rule Handbook developed by the Purchasing Department. The authority to expend funds is then necessarily delegated to other managers, including Executive Managers of the Nation who manage budgets pursuant to their job descriptions based on the Procurement Rule Handbook.

121.6-2. *Procurement Rule Handbook.* The Purchasing Department is delegated rulemaking authority in accordance with the Administrative Rulemaking law to develop a Procurement Rule Handbook which provides the sign-off process and authorities required to expend funds on behalf of the Nation.

121.6-3. *Fees and Charges.* A program or service of the Nation funded through Tribal contribution may charge fees for their services to cover operational costs.

(a) Before charging fees for services, a program or service shall first determine the full cost of providing the program or service. The full cost of providing a program or service includes all costs including operation costs, overhead such as direct and indirect costs, and depreciation.

(b) Fees and charges may cover the full cost of service or goods whenever such fee or charge would not present an undue financial burden to the recipient.

(c) Programs and services charging fees may offer fee waivers, provided that the program or service has developed a standard operating procedure which outlines fee waiver eligibility and requirements.

121.6-4. *Unbudgeted Expenditures.*

(a) *Approval of Unbudgeted Expenditures.* A fund unit shall not make an unbudgeted expenditure unless approval is granted by the Oneida Business Committee. The CFO shall

provide the Oneida Business Committee a written fiscal analysis and any input on the potential unbudgeted expenditure. The Oneida Business Committee shall approve any unbudgeted expenditure through the adoption of a resolution prior to the expenditure being made by a fund unit.

(b) *Notification of Unbudgeted Expenditures.* The Oneida Business Committee shall set through resolution a threshold amount for unbudgeted expenditures that require notification by the Oneida Business Committee to the General Tribal Council at the next available General Tribal Council meeting.

(c) *Unbudgeted Supplemental Funding.* In the event that the Nation receives any supplemental or emergency funding of two hundred and fifty thousand dollars (\$250,000) or more, the Oneida Business Committee shall develop and adopt, through resolution, a spending plan to guide expenditures of the supplemental funding in accordance with any provided guidance for the supplemental funding and audit compliance.

121.6-5. *Obligated Future Expenditures.* Notwithstanding an approved multi-year contract, no fund unit shall obligate the Nation to make any future expenditures beyond the current budget year unless the fund unit identifies, and the Oneida Business Committee approves through the adoption of a resolution, the source and extent of any future funds that are recommended to be held in reserve to meet that future obligation.

121.6-6. *Unexpended Funds.*

(a) *Unexpended Capital Improvement Funds.* Unexpended capital improvement funds shall carry over to the next fiscal year's budget, provided that such funds are required to remain appropriated for the same purpose as originally budgeted until the project is complete. Once a capital improvement project is complete, any remaining unexpended funds shall be returned to the General Fund.

(b) *Unexpended Capital Expenditure Funds.* The Treasurer shall ensure that all unexpended capital expenditure funds are reallocated to the fiscal year budget two (2) years out from the fiscal year in which the funds were unexpended. Such unexpended funds shall be returned to the General Fund.

121.6-7. *Capital Contributions.* Any capital contributions made by the Nation shall be identified in the annual budget.

(a) Any reassignment of a loan provided by the Nation into a capital contribution shall be noticed to the General Tribal Council.

121.6-8. Assets of the Nation shall not be divested, or borrowed against, to balance the annual budget.

121.6-9. *Capital Improvements.*

(a) *Capital Improvement Plan for Government Services.* The Oneida Business Committee shall develop, and the General Tribal Council shall approve, a capital improvement plan for government services.

(1) The capital improvement plan for government services shall cover a period of five (5) to ten (10) years and shall include any risks and liabilities.

(2) The capital improvement plan for government services shall be reassessed once every five (5) years. The Oneida Business Committee shall provide a status report and recommendation for any improvements that have not been completed or that have been modified at the time of the reassessment.

(b) *Capital Improvement Plan for Enterprises.* Capital improvement plans for enterprises may be brought forward as needed, provided that the Oneida Business Committee shall approve all capital improvement plans for enterprises.

(c) *Capital Improvement Plan Implementation.* Capital improvement plans for government services and enterprises shall be implemented, contingent on available funding capacity.

121.7. Grants

121.7-1. *Expending Grant Funds.* Grant funds shall be expended according to any non-negotiable grant requirements and guidelines of the granting agency.

(a) Grant funds may be utilized for, but not limited to, the following:

(1) purchases;

(2) travel;

(3) training;

(4) hiring grant required positions;

(5) incentives and retention efforts; and

(6) any other requirements attached to the funds as a condition of the Nation's acceptance of the grant funds.

(b) Grant funds may be utilized for an expenditure even when other policies of the Nation do not allow for Tribal contribution to make that same expenditure, if only grant funds are utilized for the expenditure and all requirements or obligations of the grant are met. Provided that, grant funds may be subject to the requirements of the budget contingency plan and any cost containment initiatives adopted by the Oneida Business Committee.

121.7-2. *Exhaustion of Non-Tribal Funds.* When grant funds provide for forward funding as applicable to a function for which the Nation's funds have also been appropriated, those grant funds shall be used before appropriating the Nation's funds unless the Nation's funds are needed to make up an otherwise shortfall in the overall fund unit budget or there is a restriction on the grant funds that provide otherwise.

121.7-3. *Grant Reporting.* At the time of submission of proposed annual budgets, any fund unit which receives grant funding shall submit a status report of the grant funding received to the Oneida Business Committee. The status report shall include, but not be limited to:

(a) information on the progress of the utilization of the grant funds;

(b) the number of employees the grant funding supports fully or partially; and

(c) compliance with obligations of the grant funding.

121.7-4. *Grant Reserve Fund Account.* The Oneida Business Committee shall maintain a Grant Reserve Fund account within the ownership investment report to be used to pre-fund the expenditures of grants upon receipt. The Grant Reserve Fund account shall be an obligated fund, that is fully funded with separately identified cash resources.

(a) The Treasurer, in consultation with the CFO, shall establish, and the Oneida Business Committee shall approve, the level of funds required in the Grant Reserve Fund account relative to the scale of grant dollars we receive on an annual basis.

(b) The Treasurer shall set aside funds within the budget in the Grant Reserve Fund account until the established level has been achieved.

121.7-5. *Grant Funded Positions.* If the grant funding for a fully grant funded position is eliminated, then the position shall be eliminated. To transition a position from grant funding to

being funded through the Nation's budget, a manager shall follow the standard procedure for seeking the development and approval of a new position in the Nation's annual budget and labor allocations.

121.8. Debts

121.8-1. *General*. The acquisition of debt by the Nation shall be processed in accordance with sound fiscal diligence. The Nation shall comply with all relevant federal and state banking laws, rules, and policies applicable to the credit agreement.

(a) Any debt instrument utilized by the Nation shall not exceed the life of what is being encumbered.

121.8-2. *Acquisition of Debt*. Any debt underwritten by the Nation for less than ten million dollars (\$10,000,000) shall be noticed to the General Tribal Council at the next available meeting after the execution of the credit agreement encumbering all pledges of repayment. Any debt underwritten by the Nation for ten million dollars (\$10,000,000) or more shall be approved by the General Tribal Council prior to the execution of the credit agreement encumbering all pledges of repayment.

(a) If emergency circumstances exist which prevents the presentation to and approval of the acquisition of debt of ten million dollars (\$10,000,000) or more by the General Tribal Council, the Oneida Business Committee may approve the acquisition of debt.

121.8-3. *Use of Debt*. Credit proceeds may be utilized for project capital, general use, financing of equity, and all unspecified uses. Compliance with debt covenants is required to avoid credit default.

121.8-4. *Credit Ratios*. Maintaining fiscally responsible prudent credit ratios is consistent with effective budget management and financial control.

(a) *Debt Service Coverage Ratio*. The Debt Service Coverage Ratio shall not exceed the acceptable range as defined by low-risk debt financing options at the specific financial institution.

(b) *Fixed Charge Coverage Ratio*. The Fixed Charge Coverage Ratio shall be maintained at the acceptable range as defined by low-risk debt financing options at the specific financial institution.

121.8-5. *Corporate Debt*. The Nation shall not be obligated to any debt obligations of its corporate entities.

121.9. Employment and Labor Allocations

121.9-1. *Employment Cap*. The Treasurer and CFO shall identify a maximum number of full-time equivalent (FTE) employees to be employed by the Nation. The Oneida Business Committee shall have the authority to approve this employment cap, and any amendments thereto, through the adoption of a resolution. The employment cap shall be reviewed annually by the Oneida Business Committee.

(a) Employment positions that are fully funded through grants shall not be included in the employment cap.

(b) The Nation shall not exceed the number of FTE employees identified in the employment cap.

121.9-2. *Labor Allocations List*. The Treasurer, CFO, Executive Managers, and the Executive Human Resources Director shall utilize the Nation's employment cap to develop a labor

allocations list. The labor allocations list shall identify the number of FTE employees each employment area of the Nation is allocated. The Oneida Business Committee shall have the authority to adopt the labor allocation list, and any amendments thereto, through the adoption of a resolution. The Oneida Business Committee shall review the labor allocations list on an annual basis.

(a) The total number of FTE employees identified in the labor allocations list shall not exceed the Nation's employment cap.

(b) The Treasurer, CFO, Executive Managers, and Executive Human Resources Director shall develop a standard operating procedure which identifies a process for the consideration of requests to revise the labor allocations list. The Oneida Business Committee shall approve this standard operating procedure, and any amendments thereto, through the adoption of a resolution.

121.9-3. *Unbudgeted Positions.* Any position which has not been specifically budgeted for and included in the labor allocation list shall be prohibited. Budgeted labor dollars and approved positions shall not be transferrable in any form.

(a) *Exception.* The Oneida Business Committee may authorize an unbudgeted position for a fund unit. The CFO shall provide the Oneida Business Committee a written fiscal analysis and any input on the potential unbudgeted position. The Oneida Business Committee shall authorize the unbudgeted position through the adoption of a resolution.

121.10. Budget Contingency Planning

121.10-1. *Budget Contingency Plan.* The Oneida Business Committee shall work with the CFO, Executive Managers, and managers to create a budget contingency plan which provides a strategy for the Nation to respond to extreme financial distress that could negatively impact the Nation.

(a) Extreme financial distress includes, but is not limited to:

- (1) natural or human-made disasters;
- (2) United States Government shutdown;
- (3) emergency proclamations; and
- (4) economic downturns.

(b) The Oneida Business Committee shall approve the budget contingency plan, and any amendments thereto, through the adoption of a resolution.

121.10-2. *Cost Saving Tools.* As part of the budget contingency plan, the Oneida Business Committee may require the use of cost saving tools, provided that the use of such complies with all laws of the Nation. Cost saving tools may include, but are not limited to, the use of the following:

- (a) stabilization funds;
- (b) reductions of expenditures;
- (c) furloughs; and
- (d) layoffs.

121.10-3. When the Oneida Business Committee determines that the Nation is under extreme financial distress, the Oneida Business Committee shall be responsible for implementing the budget contingency plan.

121.10-4. *Permanent Executive Contingency Fund Account.* The Oneida Business Committee shall maintain a Permanent Executive Contingency Fund account within the ownership investment

report to be used to prevent default on debt and to sustain operations during times of extreme financial distress. The Permanent Executive Contingency Fund account shall be a restricted fund.

(a) The Permanent Executive Contingency Fund account shall consist of a minimum reserve of one (1) year of operating expenses to ensure continuity of business for the Nation.

(b) The Treasurer, in consultation with the CFO, shall establish, and the Oneida Business Committee shall approve through the adoption of a resolution, the percentage of the annual budget that shall be set aside in the Permanent Executive Contingency Fund account until the established level has been achieved.

(c) Funds in the Permanent Executive Contingency Fund account may only be used when the Oneida Business Committee has determined that the Nation is under extreme financial distress for the following purposes and only to the extent that alternative funding sources are unavailable:

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

121.11. Reporting

121.11-1. *Monthly Reporting.* The Treasurer shall provide monthly reports and quarterly operational reports from direct reports to the Oneida Business Committee in accordance with the Secretary's Oneida Business Committee packet schedule for the Oneida Business Committee meeting held for the acceptance of such reports.

(a) The Treasurer's monthly reports shall include revenue and expense summaries.

121.11-2. *Annual and Semi-Annual Reporting to the General Tribal Council.* The Treasurer shall report on all receipts and expenditures and the amount and nature of all funds in their possession and custody, at the annual and semi-annual General Tribal Council meetings, and at such other times as requested by the General Tribal Council or the Oneida Business Committee.

(a) The Treasurer reports shall include an independently audited annual financial statement that provides the status or conclusion of all the receipts and debts in possession of the Treasurer including, but not limited to, all corporations owned in full or in part by the Nation.

121.11-3. *Audits.* The Internal Audit Department, annually, shall conduct independent comprehensive performance audits, in accordance with the Nation's Audit law, the Financial Accounting Standards Board (FASB) and the Governmental Accounting Standards Board (GASB), of randomly selected fund units or of fund units deemed necessary by the Oneida Business Committee or Internal Audit Department. Each fund unit shall offer its complete cooperation to the Internal Audit Department. The Oneida Business Committee may, as it deems necessary, contract with an independent audit firm to conduct such audits.

121.12. Enforcement

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

(a) The Executive Managers shall notify the Oneida Business Committee of any fund unit which does not comply with the budget schedule or guidelines. A list of any fund units of an elected entity which did not comply with the budget schedule or guidelines shall be included in the annual report to the General Tribal Council.

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

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

End.

Adopted – BC-02-08-17-C

Emergency Amended – BC-11-24-20-E

Emergency Amended – BC-05-12-21-C

Emergency Extension – BC-11-10-21-B

Amended – BC-__-__-__-__



BUDGET MANAGEMENT AND CONTROL LAW AMENDMENTS 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"> Revise the name of this law from Budget Management and Control Law to <i>Budget and Finances Law</i>; Expand the purpose and policy of this Law to address other financial policies and procedures for the Nation beyond just the budget process [1 O.C. 121.1-1, 121.1-2]; Eliminate the strategic planning provisions from this Law, instead providing simply that the Oneida Business Committee should develop and adopt a strategic plan, broad goals, or priorities for the Nation that the budget shall reflect [1 O.C. 121.4-1(c), 121.5-1(b)]; Clarify the authority and responsibilities of those individuals who play a part in the Nation's budget process [1 O.C. 121.4]; Simplify the budget process and procedure contained in the Law to improve the Nation's compliance with the Law and provide more flexibility to adjust the budget development and adoption procedure to meet the Nation's current circumstances [1 O.C. 121.5]; Include new provisions which address: <ul style="list-style-type: none"> unbudgeted expenditures [1 O.C. 121.6-4]; obligated future expenditures [1 O.C. 121.6-5]; capital contributions [1 O.C. 121.6-7]; grants [1 O.C. 121.7]; debt [1 O.C. 121.8]; employment and labor allocations [1 O.C. 121.9]; and unbudgeted positions. [1 O.C. 121.6-4]. |
| Purpose | <p>To set forth the requirements to be followed by the Oneida Business Committee and Oneida fund units when preparing the budget to be presented to the General Tribal Council for approval, and to establish financial policies and procedures for the Nation which:</p> <ul style="list-style-type: none"> institutionalize best practices in financial management to guide decision makers in making informed decisions regarding the provision of services, implementation of business plans for enterprises, investments, and capital assets; provide a long term financial prospective and strategic intent, linking budget allocations to organizational goals, as well as providing fiscal controls and accountability for results and outcomes; identify and communicate to the membership of the Nation spending decisions for the government function, grant obligations, enterprises, membership mandates, capital expenditures, technology projects, and capital improvement projects; establish a framework for effective financial risk management; and encourage participation by the Nation's membership. [1 O.C. 121.1-1]. |
| Affected Entities | Oneida Business Committee, Finance Administration, Executive Managers, Oneida Fund Units. |

| | |
|---------------------|---|
| Related Legislation | Legislative Procedures Act, Internal Audit law, Emergency Management law, Oneida Personnel Policies and Procedures, Administrative Rulemaking law, Furlough Policy, Layoff Policy, Conflict of Interest law, Code of Ethics law, Removal law. |
| Public Meeting | A public comment period was held open until February 2, 2022. A public meeting was not held in accordance with the Nation's COVID-19 Core Decision Making Team's declaration, <i>Suspension of Public Meetings under the Legislative Procedures Act</i> . |
| Fiscal Impact | On March 16, 2022, the Legislative Operating Committee will direct the Finance Department to provide a fiscal impact statement on the proposed amendments to the Budget Management and Control law amendments by March 31, 2022. |

SECTION 2. LEGISLATIVE DEVELOPMENT

- A. Background.** The Budget Management and Control law ("the Law") was adopted by the Oneida Business Committee through resolution BC-02-08-17-C to set forth the requirements to be followed by the Oneida Business Committee and Oneida fund units when preparing the budget to be presented to the General Tribal Council for approval and to establish a triennial strategy planning process for the Nation's budget. [1 O.C. 121.1-1]. On August 12, 2020, during an executive session discussion on the supervision of the Chief Financial Officer, the Oneida Business Committee adopted a motion to send the entire subject of supervision of the Chief Financial Officer to the LOC for further analysis to create permanent amendments in the Budget Management and Control law for Tiers III, IV, and V for future events. The Legislative Operating Committee added the Law to its Active Files List on October 7, 2020.
- B. Emergency Amendments Adopted through Resolution BC-11-24-20-E.** In November 2020, the Oneida Business Committee sought emergency amendments to the Law to address the adoption of the Nation's budget during the COVID-19 Public Health State of Emergency. Due to the COVID-19 pandemic, holding a General Tribal Council meeting to adopt the budget would place members in significant jeopardy of contact with the virus and cause the virus to spread throughout the community, which would unduly jeopardize the health and safety of elders, children, and adults. On November 24, 2020, the Oneida Business Committee adopted an emergency amendment to the Law through the adoption of resolution BC-11-24-20-E which included a new provision that provided that if the Nation proclaims an emergency, in accordance with the Emergency Management law, which prevents presentation and adoption of the budget by the General Tribal Council, the Oneida Business Committee shall adopt the Nation's budget. These emergency amendments to the Law were set to expire on May 24, 2021.
- C. Emergency Amendments Adopted through Resolution BC-05-12-21-C.** At the April 28, 2021, Oneida Business Committee meeting the Nation's Secretary provided a memorandum which expressed concerns regarding the Nation's lack of compliance with the Law and requested that the Oneida Business Committee make one of the following considerations: an emergency repeal of the Law due to the fact that the processes and procedures, specifically the deadlines for the various steps of the budget process contained in the law are not currently being followed; or emergency amendments to the Law to remove much of the budget process and/or deadlines and revise the Law so it simply states a budget should be adopted by September 30th. The Oneida Business Committee then adopted a motion directing the Legislative Operating Committee to develop emergency amendments to the Law to address this issue. The Oneida Business Committee then adopted emergency amendments to the Law on May 12, 2021, through resolution BC-05-12-21-C which removed details of the budget process from the Law and instead directed the Treasurer to develop the necessary guidelines and procedures, including specific deadlines, for the Nation's budget development process, and then submit those guidelines for

the development of the budget to the Oneida Business Committee for review and approval. These emergency amendments to the Law were set to expire on November 12, 2021.

D. *Emergency Amendments Extended through Resolution BC-11-10-21-B.* On November 10, 2021, the Oneida Business Committee extended the emergency amendments to the Law adopted through resolution BC-05-12-21-C for an additional six (6) month period. The Legislative Procedures Act allows the Oneida Business Committee to extend emergency amendments for a six (6) month period. [1 O.C. 109.9-5(b)]. A six (6) month extension of the emergency amendments to the Law was requested to provide additional time for the Legislative Operating Committee to process the adoption of permanent amendments to the Law. The emergency amendments to the Law will now expire on May 12, 2022.

E. The Legislative Operating Committee is now seeking the permanent adoption of comprehensive amendments to the Law.

SECTION 3. CONSULTATION AND OUTREACH

A. The following positions within the Nation participated in the development of this Law and legislative analysis:

- Treasurer;
- Chief Financial Officer;
- Assistance Chief Financial Officer;
- Budget Analyst; and
- Strategic Planner.

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

- Legislative Procedures Act;
- Internal Audit law;
- Emergency Management law;
- Oneida Personnel Policies and Procedures;
- Administrative Rulemaking law;
- Furlough Policy;
- Layoff Policy;
- Conflict of Interest law;
- Code of Ethics law; and
- Removal law.

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 this Law to its Active Files List.
- On November 24, 2020, the Oneida Business Committee adopted an emergency amendment to the Law through the adoption of resolution BC-11-24-20-E to address the adoption of the Nation's budget during the COVID-19 Public Health State of Emergency.
- On May 12, 2021, the Oneida Business Committee adopted additional emergency amendments through resolution BC-05-12-21-C which removed details of the budget process from the Law and instead directed the Treasurer to develop the necessary guidelines and procedures, including specific deadlines, for the Nation's budget development process, and then submit

- those guidelines for the development of the budget to the Oneida Business Committee for review and approval.
- On November 3, 2021, the Legislative Operating Committee approved the draft of proposed amendments to the Law.
 - Additionally, on November 3, 2021, the Legislative Operating Committee approved the emergency amendments extensions packet and forwarded these items to the Oneida Business Committee for consideration.
 - On November 10, 2021, the Oneida Business Committee extended the emergency amendments to the Law for an additional six (6) month period through the adoption of resolution BC-11-10-21-B.
 - On December 15, 2021, the Legislative Operating Committee approved an updated draft of amendments to the Law and legislative analysis. The Legislative Operating Committee also directed that a public comment period be held open for the proposed amendments to this Law until February 2, 2022.
 - Notification of this public comment period was:
 - posted on the Nation's website on the Oneida Register;
 - electronically provided to every director, manager, and supervisor of the Nation;
 - published in the Kalihwisaks on both January 12, 2022, and January 26, 2022; and
 - shared by members of the LOC during Facebook Live events.
 - The public comment period for the proposed amendments to the Law closed on February 2, 2022. One (1) submission of written comments were received during this public comment period. One late submission of comments was received on February 16, 2022.
 - On February 16, 2022, the Legislative Operating Committee accepted the public comments and the public comment review memorandum and deferred to a work meeting for further discussion.
- B.** At the time this legislative analysis was developed the following work meetings had been held regarding the development of this Law:
- October 21, 2020: LOC work meeting held with the Treasurer, Chief Financial Officer, Assistant Chief Financial Officer, Budget Analyst, and Strategic Planner.
 - December 2, 2020: LOC work meeting.
 - January 22, 2021: Work meeting with Chief Financial Officer, Assistant Chief Financial Officer, Budget Analyst, and Strategic Planner.
 - January 28, 2021: LOC work meeting.
 - February 9, 2021: Work meeting with Treasurer, Chief Financial Officer, Assistant Chief Financial Officer, Budget Analyst, and Strategic Planner.
 - February 25, 2021: Work meeting with Treasurer, Chief Financial Officer, Assistant Chief Financial Officer, Budget Analyst, and Strategic Planner.
 - April 29, 2021: LOC work meeting.
 - May 25, 2021: Work meeting with Chief Financial Officer, Assistant Chief Financial Officer, and Budget Analyst.
 - June 16, 2021: Work meeting with Treasurer, Chief Financial Officer, Assistant Chief Financial Officer, and Budget Analyst.
 - July 7, 2021: Work meeting with Treasurer, Chief Financial Officer, Assistant Chief Financial Officer, and Budget Analyst.

- 123 ▪ October 12, 2021: Work meeting with Treasurer, Chief Financial Officer, Assistant Chief
- 124 Financial Officer, and Budget Analyst.
- 125 ▪ October 14, 2021: LOC work meeting.
- 126 ▪ October 15, 2021: LOC work meeting.
- 127 ▪ October 20, 2021: LOC work meeting.
- 128 ▪ November 3, 2021: LOC work meeting.
- 129 ▪ November 4, 2021: Work Meeting with the Chief Financial Officer, Assistant Chief Financial
- 130 Officer, and Budget Analyst.
- 131 ▪ November 9, 2021: LOC work meeting.
- 132 ▪ December 9, 2021: LOC work meeting.
- 133 ▪ February 16, 2022: LOC work meeting.
- 134 ▪ February 24, 2022: LOC work meeting.
- 135 ▪ February 24, 2022: Work Meeting with the Assistant Chief Financial Officer, and Budget
- 136 Analyst.
- 137 ▪ March 2, 2022: LOC work meeting.
- 138 ▪ March 10, 2022: LOC work meeting.

139 **C. COVID-19 Pandemic's Effect on the Legislative Process.** The world is currently facing a pandemic
140 of COVID-19. The COVID-19 pandemic has resulted in high rates of infection and mortality, as well
141 as vast economic impacts including effects on the stock market and the closing of all non-essential
142 businesses. A public meeting for the proposed amendments to the Law will not be held due to the
143 COVID-19 pandemic, but a public comment period for the submission of written comments will be
144 held open.

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

- 146 ▪ On March 12, 2020, Chairman Tehassi Hill signed a “*Declaration of Public Health State*
147 *of Emergency*” regarding the COVID-19 pandemic which declared a Public Health State
148 of Emergency for the Nation until April 12, 2020, and set into place the necessary authority
149 for action to be taken and allows the Nation to seek reimbursement of emergency
150 management actions that may result in unexpected expenses.
- 151 ▪ The Public Health State of Emergency has since been extended until March 24, 2022, by
152 the Oneida Business Committee through the adoption of resolutions BC-03-28-20-A, BC-
153 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-
154 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-
155 21-D, BC-05-12-21-A, BC-06-23-21-B, BC-07-28-21-N, BC-09-22-21-A, BC-11-24-21-
156 F, and BC-01-12-22-B.

157 ▪ *COVID-19 Core Decision Making Team Declaration: Suspension of Public Meetings under the*
158 *Legislative Procedures Act.*

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

- 166 ▪ *Oneida Business Committee Resolution BC-12-8-21-B, Updating Public Gathering Guidelines*
167 *During Public Health State of Emergency - COVID-19.*
 - 168 ▪ On December 8, 2021, the Oneida Business Committee adopted resolution BC-12-08-21-
169 *B, Updating Public Gathering Guidelines During Public Health State of Emergency -*
170 *COVID-19*, which superseded Oneida Business Committee resolution BC-08-13-21-A,
171 *Setting Public Gathering Guidelines During Public Health State of Emergency - COVID-*
172 *19*, and provides updated guidelines on holding meetings both indoors and outdoors.
 - 173 ▪ This resolution provides that when the following levels are met, indoor meetings of the
174 Nation are feasible, provided that all organizers and participants should consider additional
175 health safety measures when attending such as wearing a face mask, washing hands
176 frequently, and social distancing:
 - 177 ▪ When COVID-19 Case Activity rates are at or below low in Brown and Outagamie
178 Counties, or the county in which the activity is being held, as identified on the
179 Wisconsin Department of Health Services website for the most recent period.
 - 180 ▪ When COVID-19 Percent Positive rates are at or below low in Brown and
181 Outagamie Counties, or the county in which the activity is being held, as identified
182 on the Wisconsin Department of Health Services website for the most recent
183 period.
 - 184 ▪ When COVID-19 Community Transmission Rates by ZIP Code Tabulation Area
185 are at or below low in designated ZIP Codes or the ZIP Code in which the activity
186 is being held, as identified on the Wisconsin Department of Health Services
187 website for the most recent period.
- 188 ▪ *Conclusion.*
 - 189 ▪ Although a public meeting was not held on the proposed amendments to the Law, a public
190 comment period was still held open until February 2, 2022, in accordance with resolution
191 BC-12-08-21-B and the Legislative Procedures Act as modified by the COVID-19 Core
192 Decision Making Team's "*Suspension of Public Meetings under the Legislative*
193 *Procedures Act*" declaration.

195 **SECTION 5. CONTENTS OF THE LEGISLATION**

196 **A. Purpose and Policy.** Both the purpose and policy section of this law has been extended through the
197 proposed amendments. The purpose of this Law has always been to set forth the requirements to be
198 followed by the Oneida Business Committee and the Oneida fund units when preparing the budget to
199 be presented to the General Tribal Council for approval, but now the Law goes on to provide that the
200 purpose is also to establish financial policies and procedures for the Nation which: institutionalize best
201 practices in financial management to guide decision makers in making informed decisions regarding
202 the provision of services, implementation of business plans for enterprises, investments, and capital
203 assets; provide a long term financial prospective and strategic intent, linking budget allocations to
204 organizational goals, as well as providing fiscal controls and accountability for results and outcomes;
205 identify and communicate to the membership of the Nation spending decisions for the government
206 function, grant obligations, enterprises, membership mandates, capital expenditures, technology
207 projects, and capital improvement projects; establish a framework for effective financial risk
208 management; and encourage participation by the Nation's membership. [1 O.C. 121.1-1]. The policy
209 of the Nation has been amended so that it is clear that the Nation relies on balanced-based budgeting

strategies, not value-based budgeting strategies as previously included in the Law, which identify the proper authorities and ensure compliance and enforcement. [1 O.C. 121.1-2]. The policy has also been expanded to include that the Nation shall use Generally Accepted Accounting Principles (GAAP), established by the Financial Accounting Standards Board, and the Governmental Accounting Standards Board (GASB) in accounting and reporting for the financial activities of the various entities of the Nation, unless they conflict with applicable legal requirements. [1 O.C. 121.1-2].

- **Effect.** The proposed amendments to the purpose and policy provisions of the Law provide greater insight on the various general financial policies and procedures of the Nation that this Law governs in addition to the requirements to be followed by the Oneida Business Committee and the Oneida fund units when preparing the budget to be presented to the General Tribal Council for approval.

B. Removal of the Strategic Planning Provisions. The provisions of the Law regarding strategic planning, previously found in section 121.4, has been removed from the Law. Previously, the Law included detailed provisions on the Oneida Business Committee's development of the triennial strategic plan, as well as the fund unit's contribution to the strategic plan. Now, the Law simply references that it is a responsibility of the Oneida Business Committee to develop priorities, a strategic plan, or broad goals to assist in guiding the budget [1 O.C. 121.4-1(c)], and to review the draft budget developed by the Treasurer each year to ensure that it is consistent with the Nation's strategic plan, broad goals, and budget strategy. [1 O.C. 121.5-4(b)]. The budget is required to align with any strategic plan, broad goals, or priorities developed and adopted by the Oneida Business Committee on behalf of the Nation. [1 O.C. 121.5-1(b)].

- **Effect.** The provisions of the Law regarding the strategic planning process were removed to allow greater flexibility in how the Oneida Business Committee and the corresponding fund units develop a strategic plan. In August 2020, the Oneida Business Committee hired a Strategic Planner whose role and responsibilities include assisting the Oneida Business Committee with their strategic planning responsibilities. Removing the details of the strategic planning process from this Law will allow the Strategic Planner flexibility in changing the process for how a strategic plan is developed until the most effective and efficient process is found.

C. Authority and Responsibilities. Section 121.4 has been reorganized as the authority and responsibilities section of the Law and contains provisions that were previously found in the Law as well as new provisions. This section of the Law provides the various authority and responsibilities of different entities including the Oneida Business Committee, the Treasurer, the Chief Financial Officer (CFO), and the managers. The authorities and responsibilities of the Oneida Business Committee has been expanded. Previously the Law provided that the Oneida Business Committee was responsible for budget oversight, necessary emergency action, and supervision of the CFO. Now the Law provides that the Oneida Business Committee shall oversee the development and implementation of the Nation's budget; develop priorities, a strategic plan, or broad goals to assist in guiding the budget; and exercise the authority provided in Article IV, Section 1, of the Constitution and Bylaws of the Oneida Nation, as delegated to the Oneida Business Committee by the General Tribal Council. [1 O.C. 121.4-1]. In regard to the authority and responsibilities of the Treasurer, the Law has been expanded to include accept, receive, receipt for, preserve and safeguard all funds in the custody of the Nation, whether they be funds of the Nation or special funds for which the Nation is acting as trustee or custodian; and deposit all funds in such depository as the Nation shall direct and shall make and preserve a faithful record of such funds in addition to the responsibilities previously found in the Law. [1 O.C. 121.4-2]. In regard to the authority and responsibilities of the CFO, the Law has been expanded to include the following

responsibilities in addition to the responsibilities previously found in the Law: ensure the Nation's budget is properly implemented; assist with the submission and presentation of the Treasurer's report to the Oneida Business Committee, which shall specifically include any monthly variances that are either: a difference of three percent (3%) or more from the adopted annual budget or fifty thousand dollars (\$50,000) or more in total; provide the Oneida Business Committee with information and reports as requested; present the Treasurer's report and hold financial condition meetings with the Nation's management on a minimum of a quarterly basis; and inform the appropriate Executive Manager of any fund unit which does not follow the budget development process guidelines or deadlines as set forth by the Treasurer. [1 O.C. 121.4-3]. Regarding the authority and responsibilities of the managers, the Law has been expanded to include the following responsibilities in addition to the responsibilities previously found in the Law submit a budget for their fund unit in accordance with the budget schedule and guidelines as adopted by the Oneida Business Committee; and that the managers report to their relevant Executive Manager in addition to the CFO any explanations and corrective action for monthly variances. [1 O.C. 121.4-3].

- **Effect.** The expansion of the authorities and responsibilities section of the Law ensures that the authorities and responsibilities of the various entities and individuals who play a role in the execution of this Law is clear and transparent to all parties involved. The increased transparency in the authorities and responsibilities in the proposed amendments also hopes to increase accountability and compliance with the Law.

D. General Information on the Budget. The Law provides general information on the Nation's budget. The Nation is required to develop, adopt, and manage an annual budget, of which, all revenues and expenditures of the Nation shall be in accordance with. [1 O.C. 121.5-1]. The Nation's budget is required to be a balanced budget, meaning that it does not propose to spend more funds than are reasonably expected to become available to the Nation during that fiscal year. [1 O.C. 121.5-1(a)]. The Law expressly prohibits underwriting debt resources or the utilization of existing debt instruments to balance the Nation's annual budget. [1 O.C. 121.5-1(a)(1)]. Information on the Nation's corporate entities is not included in the Nation's budget. [1 O.C. 121.5-1(c)]. The provisions regarding the content of the budget remain as previously provided in the Law, except that a new requirement for the content of the budget was included. Now the Law requires that a summary of employment position counts, including prior year, current year, and budgeted year be included in the Nation's budget. [1 O.C. 121.5-2(e)]. A new provision was added to the Law to address the fund categories of the Nation's budget. The Nation's budget is now required to include the General Fund – which is the Nation's main operating fund which is used to account for all financial resources not accounted for in other funds; the Permanent Executive Contingency Fund – which is used by the Nation to prevent default on debt and to sustain operations during times of extreme financial distress; and the Grant Reserve Fund – which is used by the Nation to pre-fund the expenditures of grants upon receipt. [1 O.C. 121.5-3].

- **Effect.** The proposed amendments to the Law provide greater clarification on general principles regarding the Nation's budget. The requirement that the Nation's budget be a balanced budget, that was not balanced using debt instruments, sets the overall tone and provides guidance for how the budget is then developed.

E. Budget Adoption Procedure. The Law sets forth the procedure to be followed when developing the Nation's budget. Previously, the Law was very detailed and contained a great amount of process and procedure regarding the development of the budget. Previously the budget development and adoption procedure in the Law was as follows: the Treasurer's office was required to schedule at least one (1)

community input budget meeting prior to December 1st of each year where community members are afforded an opportunity to provide input as to what should be included in the upcoming fiscal year budget. The Treasurer then had to place a community budget input meeting packet on the Oneida Business Committee agenda no later than the last Oneida Business Committee meeting in January. The Oneida Business Committee was then required to review the community budget input meeting packet and hold work meetings to create a priority list of services of the Nation, which had to be approved by resolution no later than the last meeting in February. Then the Chief Financial Officer was required to develop the necessary guidelines, including specific deadlines, to be followed by the managers that have budget responsibility in preparing and submitting proposed budgets, and submit those guidelines, as approved by the Treasurer, to the Oneida Business Committee. The Oneida Business Committee was then responsible for revising the guidelines as necessary and approving those guidelines within thirty (30) calendar days of receiving the guidelines from the Chief Financial Officer. The Chief Financial Officer was then responsible for receiving, reviewing, and compiling the proposed budgets into the Nation's draft budget, and presenting that draft budget to the Oneida Business Committee no later than the last Oneida Business Committee meeting in May. In the month of May, the CFO and the Oneida Business Committee would meet to review the draft budget and provide any recommendations for modifications, and then meet with the managers of each fund unit for which the Oneida Business Committee is considering altering the fund unit's proposed budget. The Oneida Business Committee was required to complete all meetings with fund unit managers by the end of June each year. The Oneida Business Committee would then work with fund unit managers and the CFO to compile a final draft budget to be presented to the General Tribal Council, which had to be approved, by resolution of the Oneida Business Committee, to be presented to the General Tribal Council by the end of July each year. Once the Oneida Business Committee has approved the final draft budget, the Treasurer was then required to hold, at a minimum, two (2) community informational meetings to present the contents of the final draft budget that will be presented to the General Tribal Council. The Oneida Business Committee was required to present the budget to the General Tribal Council with a request for adoption by resolution no later than September 30th of each year. In the event that the General Tribal Council did not adopt a budget by September 30th, the Oneida Business Committee was permitted to adopt a continuing budget resolution(s) until such time as a budget is adopted. The proposed amendments to the Law take a much more simplified approach. The proposed amendments to the Law provide that the Treasurer shall develop the necessary guidelines, including specific timelines and deadlines, to be followed by the managers that have budget responsibility in preparing and submitting proposed budgets, and that the Treasurer shall submit the guidelines to the Oneida Business Committee for review and approval through the adoption of a resolution. [1 O.C. 121.5-4(a)]. The deadline for when the Treasurer shall submit their budget guidelines to the Oneida Business Committee for review and approval shall be set through the adoption of a resolution. [1 O.C. 121.5-4(a)(3)]. The Treasurer's guidelines are required to include at least one (1) opportunity for community input from the Nation's membership on what should be included in the upcoming fiscal year budget. [1 O.C. 121.5-4(a)(1)]. Each fund unit is then responsible for complying with the budget schedule and guidelines to submit a proposed budget to the Treasurer. [1 O.C. 121.5-4(a)(2)]. The provisions of the Law regarding the review and compilation of all annual proposed budgets into the final draft budget to be presented to the General Tribal Council, and subsequent community meetings regarding the budget, are substantially similar to the provisions of the Law that were previously excluded without excess process and deadline dates. [1 O.C. 121.5-4(b)-(e)]. The proposed amendments to the Law add clarification as to the use of

continuing budget resolutions and provides that continuing budget resolutions may only stay in effect for up to three (3) months, and if the General Tribal Council does not adopt a budget within three (3) months of the adoption of the continuing budget resolution, then the Oneida Business Committee shall adopt the Nation's budget. [1 O.C. 121.5-4(e)(1)]. The proposed amendments to the Law also include a new emergency budget adoption provision which provides that in the event that the Nation proclaims an emergency, in accordance with the Emergency Management law, that stays in effect for at least one (1) month and prevents the presentation to and adoption of the budget by the General Tribal Council, the Oneida Business Committee shall adopt the Nation's budget. [1 O.C. 121.5-4(e)(2)]. The proposed amendments then address amendments to the Nation's budget and provides that after the budget is adopted, amendments of the budget shall not be permitted unless it is necessary to avoid a budget deficit, and the Oneida Business Committee is responsible for adopting an amendment to the budget through resolution of the Nation, but notification of the budget amendment is required to be made at the next available General Tribal Council meeting. [1 O.C. 121.5-5].

▪ **Effect.** The proposed amendments to the Law greatly simplify and streamline the budget development and adoption procedure. Since the original adoption of this Law in 2017, the Nation has struggled to comply with all the provisions and deadlines contained in this Law. Although the proposed amendments to the Law keep the same general framework, it provides more flexibility to adjust the budget development and adoption procedure to meet the Nation's current circumstances so that the most effective and efficient process can be utilized.

F. Expenditures and Assets. Section 121.6 of the Law provides information on expenditures and assets and addresses the following topics: authority to expend funds, the Procurement Rule Handbook, fees and charges, unbudgeted expenditures, obligated future expenditures, unexpended funds, capital contributions, and capital improvements. Previously, the Law provided that the Treasurer's authority to expend appropriated funds is delegated to the CFO, who shall make such expenditures in accordance with the adopted budget. The Law then previously provided that authority is necessarily delegated to other managers, including executive managers, of the Nation who manage the budgets, pursuant to their job descriptions based on the procurement manual rules developed by the Purchasing Department. Now the Law has been revised to provide that it is the Oneida Business Committee that has the authority to expend appropriated funds in accordance with the Nation's adopted budget pursuant to the Procurement Rule Handbook developed by the Purchasing Department, and that the authority to expend funds is then necessarily delegated to other managers, including Executive Managers of the Nation who manage budgets pursuant to their job descriptions based on the Procurement Rule Handbook. [1 O.C. 121.6-1]. The provision on fees and charges remains substantively the same as previously included in the Law. [1 O.C. 121.6-3]. The provision regarding unbudgeted expenditures is a new addition to the Law and provides guidance on the approval of unbudgeted expenditures, when notification of unbudgeted expenditures is required to go to the General Tribal Council, and the requirement for spending plans for unbudgeted supplemental funding that is received by the Nation. [1 O.C. 121.6-4]. The provision regarding obligated future expenditures is a new addition to the Law and prohibits any fund unit from obligating the Nation to make any future expenditures beyond the current budget year unless the fund unit identifies, and the Oneida Business Committee approves through the adoption of a resolution, the source and extent of any future funds that are recommended to be held in reserve to meet that future obligation. [1 O.C. 121.6-5]. This section does not apply to a fund unit that has an approved multi-year contract. The provisions regarding unexpended capital improvement funds and unexpended capital expenditure funds remain the same as previously found in the Law, except that clarification was added

that unexpended capital expenditure funds shall be returned to the General Fund. [1 O.C. 121.6-6]. The provision regarding capital contributions is a new addition to the Law and requires that any capital contributions made by the Nation be identified in the annual budget, and any reassignment of a loan provided by the Nation into a capital contribution be noticed to the General Tribal Council. [1 O.C. 121.6-7]. The Law then prohibits any assets of the Nation from being divested or borrowed against to balance the annual budget. [1 O.C. 121.6-8]. The provisions of the Law regarding capital improvement plans for both government services and enterprises remains as found previously in the Law. [1 O.C. 121.6-9].

▪ **Effect.** The proposed amendments to the Law expend the information that is provided in the Law regarding expenditures and assets of the Nation. New provisions were included in the Law regarding unbudgeted expenditures, obligated future expenditures, and capital contributions to provide greater insight on how these issues should be handled by the Nation since the Law was previously silent on these matters. It should be noted that the Law provides that the Oneida Business Committee shall set through resolution a threshold amount for unbudgeted expenditures that require notification by the Oneida Business Committee to the General Tribal Council at the next available General Tribal Council meeting. [1 O.C. 121.6-4(b)]. Notification of unbudgeted expenditures is currently address by Oneida Business Committee resolution BC-10-08-08-A, *Adopting Expenditure Authorization and Reporting Requirements*. Resolution BC-10-08-08-A requires that expenditures for items and specific projects which were not identified in the approved budget and total two hundred and fifty thousand dollars (\$250,000) or more, shall be formally noticed to the General Tribal Council at the next available General Tribal Council regular or special meeting. This resolution would control notification of unbudgeted expenditure in compliance with section 121.6-4 of this Law until such a time that the resolution is amended, rescinded, or superseded to provide a different threshold for unbudgeted expenditures that requires notification to the General Tribal Council.

G. Grants. A new section regarding grants was added to the Law. Previously, the Law referenced grants in regard to budget contingency planning, how grant funding may be utilized, and the exhaustion of non-tribal funds. The Law previously provided that grant funds are exempt from requirements of the budget contingency plan and any cost containment initiatives as such funding is not reliant on Tribal contributions. Now the Law addresses expending grant funds, exhaustion of non-tribal funds, grant reporting, a Grant Reserve Fund Account, and grant funded positions. The Law currently reflects the same guidance on expending grant funds as was previously included in the Law, except now the Law clarifies that grant funds may also be utilized for incentives and retention efforts. [1 O.C. 121.7-1(a)]. The Law then clarifies that Grant funds may be utilized for an expenditure even when other policies of the Nation do not allow for Tribal contribution to make that same expenditure, if only grant funds are utilized for the expenditure and all requirements or obligations of the grant are met, provided that, grant funds may be subject to the requirements of the budget contingency plan and any cost containment initiatives adopted by the Oneida Business Committee. [1 O.C. 121.7-1(b)]. The provision on the exhaustion of non-tribal funds remains the same as previously included in the Law. The provisions on grant reporting are new additions to the Law. At the time of submission of proposed annual budgets, any fund unit which receives grant funding is required to submit a status report of the grant funding received to the Oneida Business Committee. [1 O.C. 121.7-3]. The Law now creates a Grant Reserve Fund account for the Nation, which is an obligated fund, to be used to pre-fund the expenditures of grants upon receipt, that is fully funded with separately identified cash resources. [1 O.C. 121.7-4]. The

Law then provides guidance on grant funded positions, providing that if the grant funding for a fully grant funded position is eliminated, then the position shall be eliminated. [1 O.C. 121.7-5]. To transition a position from grant funding to being funded through the Nation's budget, a manager shall follow the standard procedure for seeking the development and approval of a new position in the Nation's annual budget and labor allocations. [1 O.C. 121.7-5].

- **Effect.** The purpose of the new provisions regarding grants that have been added to the Law is to add clarification to ensure that grants are utilized effectively and efficiently within Nation. The expanded provisions of the Law regarding the utilization of grants will provide more flexibility in how grant funds are spent. The provisions of the Law regarding grant reporting will ensure that pertinent information on grants is efficiently tracked and shared with the Oneida Business Committee. The creation of the Grant Reserve Fund account will ensure that the Nation is prepared and ready to pre-fund the expenditure of grants if needed.

H. Debts. A new section regarding debt was added to the Law. Previously, the Law only referenced debt in regard to allowable payments to be made from the Permanent Executive Contingency Fund account under budget contingency planning guidelines. This new section of the Law addresses general provisions on debt, notice of the acquisition of debt, use of debt, credit ratios, and corporate debt. The Law provides that any acquisition of debt by the Nation shall be processed in accordance with sound fiscal diligence, and that the Nation will comply with all relevant federal and state banking laws, rules, and policies applicable to the credit agreement. [1 O.C. 121.8-1]. Any debt instrument utilized by the Nation is prohibited from exceeding the life of what is being encumbered. [1 O.C. 121.8-1(a)]. The Law now provides guidance on when the acquisition of debt is required to be noticed or approved by the General Tribal Council. Any debt underwritten by the Nation for less than ten million dollars (\$10,000,000) or more shall be noticed to the General Tribal Council at the next available meeting after the execution of the credit agreement encumbering all pledges of repayment, while any debt underwritten by the Nation for ten million dollars (\$10,000,000) or more shall be approved by the General Tribal Council prior to the execution of the credit agreement encumbering all pledges of repayment. [1 O.C. 121.8-2]. If emergency circumstances exist which prevents the presentation to and approval of the acquisition of debt of ten million dollars (\$10,000,000) or more by the General Tribal Council, the Oneida Business Committee may approve the acquisition of debt. [1 O.C. 121.8-2(a)]. Credit can then be used for project capital, general use, financing of equity, and all unspecified uses. [1 O.C. 121.8-3]. The Law then provides guidance on maintaining fiscally responsible prudent credit ratios – such as the Debt Service Coverage Ratio and the Fixed Charge Coverage Ratio – in accordance with low-risk debt financing options at the specific financial institution. [1 O.C. 121.8-4]. The section on debt then prohibits the Nation from being obligated to any debt obligations of its corporate entities. [1 O.C. 121.8-5].

- **Effect.** It is essential for effective budget management and financial control that the Nation have guidelines for the acquisition and utilization of debt. The provisions included in the Law will assist in ensuring that the Nation is fiscally responsible and exercising sound diligence if utilizing debt in the future.

I. Employment and Labor Allocations. A new section regarding employment and labor was added to the Law. Previously the Law did not address employment levels within the Nation or labor allocations. This new section of the Law addresses an employment cap for the Nation, a labor allocations list, and unbudgeted positions. The Law will now require that the Oneida Business Committee adopt an employment cap for the Nation which sets the maximum number of full-time equivalent employees to

be employed by the Nation. [1 O.C. 121.9-1]. The Law also requires that the Oneida Business Committee adopt a labor allocations list which identifies the number of full-time equivalent employees each employment area of the Nation is allocated. [1 O.C. 121.9-2]. The Law then prohibits any position which has not been specifically budgeted for and included in the labor allocation list, while specifying that budgeted labor dollars and approved positions shall not be transferrable in any form. [1 O.C. 121.9-3]. Although unbudgeted positions are expressly prohibited, and exception was included in the Law which allows the Oneida Business Committee to authorize unbudgeted positions for a fund unit. [1 O.C. 121.9-3(a)].

- **Effect.** This is the first time that an employment cap or a labor allocations list is addressed in the Law. These provisions were included in the Law to ensure that the Nation maintains a manageable employment level. Costs related to maintaining the thousands of individuals employed by the Nation is one of the Nation's highest costs it must budget for, so it is essential that we are able to ensure that the Nation maintains control over sustainable employee levels. The requirement to maintain a labor allocation list will also ensure that the labor distribution throughout the various employment areas of the Nation is regularly reviewed so that it can be ensured that labor is allocated throughout the employment areas based on the needs of the Nation so that the best service can be provided by all employment areas. [1 O.C. 121.9-2]. Although this will be the first time the Law addresses an employment cap, this issue has previously been addressed through resolution by the Oneida Business Committee. One such example of the Oneida Business Committee adopting an employment cap for the Nation occurred within the adoption of the Fiscal Year 2021 budget as adopted through resolution BC-11-24-20-F, *Approval of Final Draft Fiscal Year 2021 Budget and Budget Directives*, which set an employment cap of two thousand and two hundred (2,200) employees.

J. Budget Contingency Planning. The provisions of the Law regarding budget contingency planning were moved from what used to be the strategic planning section of the Law to its own section. The amendments to the budget contingency planning section of the Law clarifies that emergency proclamations qualify as extreme financial distress, while tribal shutdowns – which occurs when the General Tribal Council has not approved a budget for the Nation prior to the beginning of a new fiscal year – does not qualify as extreme financial distress. [1 O.C. 121.10-1(a)]. The Law requires that the Oneida Business Committee maintain a Permanent Executive Contingency Fund account. Previously, the Law provided that the Treasurer, in consultation with the CFO, shall establish, and the Oneida Business Committee shall approve, the level of business continuity funds required in the Permanent Executive Contingency account, that the Treasurer shall set aside business continuity funds in the Permanent Executive Contingency account until the established level has been achieved. Now the Law was clarified that the Permanent Executive Contingency Fund account is a restricted fund, and that Permanent Executive Contingency Fund account shall consist of a minimum reserve of one (1) year of operating expenses to ensure continuity of business for the Nation. [1 O.C. 121.10-4(a)]. The amendments also clarify that the Oneida Business Committee shall approve through the adoption of a resolution the percentage of the annual budget that is required to be set aside in the Permanent Executive Contingency Fund account until the established level has been achieved. [1 O.C. 121.10-4(b)].

- **Effect.** Regarding the clarification on what constitutes extreme financial distress, Tribal shutdowns was removed from the Law as an example of extreme financial distress because it was not accurate that the General Tribal Council not approving a budget for the Nation prior to the beginning of a new fiscal year that means the Nation has shut down and is in extreme financial distress. The Law

already addresses if the General Tribal Council does not adopt a budget by September 30th of each year and provides that the Oneida Business Committee may then adopt a continuing budget resolution(s) until such time as a budget is adopted. [1 O.C. 121.5-4(e)(1)]. Therefore, budget contingency planning for if the General Tribal Council does not adopt a budget by September 30th of each year is not necessary. Additionally, emergency proclamations were added as an example of extreme financial distress based on the Nation's experience with the COVID-19 pandemic and its resulting emergency proclamations. Regarding the amendments on the Permanent Executive Contingency Fund Account, clarification was added so that the Law is specific as to what level of funds is required to be in the Permanent Executive Contingency Fund account, and that the Oneida Business Committee will approve through resolution the percentage of the annual budget that is required to be set aside in the Permanent Executive Contingency Fund account each year. These clarifications will ensure that the Treasurer and the Oneida Business Committee can properly plan to fund the Permanent Executive Contingency Fund account so that the Nation is prepared for times of extreme financial distress.

K. Reporting. Clarification was added to this section of the Law which provides that the Treasurer's monthly reports to the Oneida Business Committee should include revenue and expense summaries. [1 O.C. 121.11-1(a)]. Additionally, a new provision was added to this section of the Law which addresses annual and semi-annual reporting to the General Tribal Council. The Law now states that the Treasurer shall report on all receipts and expenditures and the amount and nature of all funds in their possession and custody, at the annual and semi-annual General Tribal Council meetings, and at such other times as requested by the General Tribal Council or the Oneida Business Committee. [1 O.C. 121.11-2]. The Treasurer's reports are also required to include an independently audited annual financial statement that provides the status or conclusion of all the receipts and debts in possession of the Treasurer including, but not limited to, all corporations owned in full or in part by the Nation. [1 O.C. 121.11-2(a)].

- **Effect.** The revisions to the Law in this section provide more clarify on what information is expected to be included in the Treasurer's reports to the Oneida Business Committee and the General Tribal Council. Although a new addition to this Law, the requirements of section 121.11-2(a) are not new requirements for the Treasurer's reports, and this information was previously contained in resolution GTC-11-15-08-C, *Treasurer's Report to include all Receipts and Expenditures and the Amount and Nature of all Funds in the Treasurer's Possession and Custody*.

L. Enforcement. A provision was added to the enforcement section of the Law that provides that the Executive Managers shall notify the Oneida Business Committee of any fund unit which does not comply with the budget schedule or guidelines. [1 O.C. 121.12-1(a)]. A list of any fund unit of an elected entity which did not comply with the budget schedule or guidelines shall be included in the annual report to the General Tribal Council. [1 O.C. 121.12-1(a)].

- **Effect.** This provision was added to the Law to encourage compliance with the Law by the fund units and ensure there is accountability for those fund units that do not comply with the Law. Requiring this information to be shared to the Oneida Business Committee or in the annual report to the General Tribal Council also ensures transparency with the information shared with the Oneida Business Committee and the General Tribal Council.

M. Minor Drafting Changes. Additional drafting and formatting changes have been made throughout the Law for clarity.

SECTION 6. EXISTING LEGISLATION

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

- *Administrative Rulemaking law.* The Administrative Rulemaking law provides an efficient, effective, and democratic process for enacting and revising administrative rules. [1 O.C. 106.1-2].
 - Previously, this Law required the Procurement Manual to be adopted as rules in accordance with the Administrative Rulemaking law. The proposed amendments to the Law remove this provision and now only require that the Procurement Manual be approved by the Oneida Business Committee through the adoption of a resolution. [1 O.C. 121.6-2].
 - This Law no longer delegates authority for the promulgation of rules in accordance with the Administrative Rulemaking law.
- *Internal Audit Law.* The Internal Audit law creates a process by which internal audits are conducted upon the Nation's entities and to delegate responsibilities for the purposes of conducting such audits. [1 O.C. 108.1-1].
 - The Law provides that the Internal Audit Department, annually, shall conduct independent comprehensive performance audits, in accordance with the Nation's Audit law, the Financial Accounting Standards Board (FASB) and the Governmental Accounting Standards Board (GASB), of randomly selected fund units or of fund units deemed necessary by the Oneida Business Committee or Internal Audit Department. [1 O.C. 121.11-3].
 - Any internal audits conducted by the Internal Audit Department shall be made in accordance with the audit process provided in the Internal Audit law. [1 O.C. 108.6].
- *Emergency Management Law.* The purpose of the Emergency Management law is to provide for the development and execution of plans for the protection of residents, property, and the environment in an emergency or disaster; provide for the direction of emergency management, response, and recovery on the Reservation, as well as coordinating with other agencies, victims, businesses, and organizations; establish the use of the National Incident Management System (NIMS); and designate authority and responsibilities for public health preparedness. [3 O.C. 302.1-1].
 - This Law provides that if the Nation proclaims an emergency, in accordance with the Emergency Management law, that stays in effect for at least one (1) month and prevents the presentation to and adoption of the budget by the General Tribal Council, the Oneida Business Committee shall adopt the Nation's budget. [1 O.C. 121.5-4(e)(2)].
 - Under the Emergency Management law, the Oneida Business Committee is delegated the responsibility to proclaim or ratify the existence of an emergency. [3 O.C. 302.8-1]. An emergency means a situation that poses an immediate risk to health, life, safety, property, or environment which requires urgent intervention to prevent further illness, injury, death, or other worsening of the situation. [3 O.C. 302.3-1(f)]. No proclamation of an emergency by the Oneida Business Committee may last for longer than sixty (60) days, unless renewed by the Oneida Business Committee. [3 O.C. 302.8-2].
- *Oneida Personnel Policies and Procedures.* The Oneida Personnel Policies and Procedures is the Nation's law which governs employment. The Oneida Personnel Policies and Procedures

provides the process for handling complaints, disciplinary actions, and grievances. [Section V.D.].

- The Law provides that violations of this Law shall be addressed using the applicable enforcement tools provided by the Nation's laws and policies including, but not limited to, those related to employment with the Nation, conflicts of interest, ethics, and removal from an elected position. [1 O.C. 121.12-2].
- An employee of the Nation who violates this Law may be addressed through the disciplinary procedures found in Section V.D. of the Oneida Personnel Policies and Procedures.
- *Conflict of Interest Law.* The Conflict of Interest law ensures that all employees, contractors, elected officials, officers, political appointees, appointed and elected members and all others who may have access to information or materials that are confidential or may be used by competitors of the Nation's enterprises or interests be subject to specific limitations to which such information and materials may be used in order to protect the interests of the Nation. [2 O.C. 217.1-1].
 - The Law provides that violations of this Law shall be addressed using the applicable enforcement tools provided by the Nation's laws and policies including, but not limited to, those related to employment with the Nation, conflicts of interest, ethics, and removal from an elected position. [1 O.C. 121.12-2].
 - The Conflict of Interest law provides that if a supervisor is provided credible evidence that an employee has failed to disclose a conflict of interest, the employee shall be placed on leave pursuant to the Nation's Investigative Leave Policy, except that the duration of the investigation for an alleged conflict of interest shall be concluded within seven (7) days of the employee being placed on leave. A supervisor shall terminate an employee from his or her employment with the Nation when an investigation substantiates that the employee failed to disclose a conflict of interest. [2 O.C. 217.6-1].
 - The Conflict of Interest law provides that an Oneida Business Committee member who fails to disclose a conflict of interest may be subject to removal pursuant to the Removal Law or penalties pursuant to laws of the Nation regarding penalties. [2 O.C. 217.6-2].
 - The Conflict of Interest law provides that an elected or appointed official of the Nation who fails to disclose a conflict of interest may be subject to penalties pursuant to laws of the Nation regarding penalties, and subject to removal pursuant to the Removal Law for elected members, or have their appointment terminated by the Oneida Business Committee pursuant to the law governing board, committees and commissions for appointed members. [2 O.C. 217.6-3].
- *Code of Ethics.* The Code of Ethics law promotes the highest ethical conduct in all its elected and appointed officials, and employees. [1 O.C. 103.1-1].
 - The Law provides that violations of this Law shall be addressed using the applicable enforcement tools provided by the Nation's laws and policies including, but not limited to, those related to employment with the Nation, conflicts of interest, ethics, and removal from an elected position. [1 O.C. 121.12-2].

- The Code of Ethics law provides that a government official who violates any portion of the Code of Ethics as it applies to them, may be subject to removal, if elected, or termination, if appointed. [1 O.C. 103.6-1(a)].
- The Code of Ethics law provides that an individual from a program or enterprise of the Nation who violates any portion of the Code of Ethics as it applies to them, may be subject to the disciplinary procedures found in the Oneida Personnel Policies and Procedures. [1 O.C. 103.6-1(b)].
- *Removal Law.* The Removal law governs the removal of persons elected to serve on boards, committees, and commissions of the Nation. [1 O.C. 104.1-1].
 - The Law provides that violations of this Law shall be addressed using the applicable enforcement tools provided by the Nation's laws and policies including, but not limited to, those related to employment with the Nation, conflicts of interest, ethics, and removal from an elected position. [1 O.C. 121.12-2].
 - An elected official of the Nation who violates this Law may be addressed through the removal procedures found the Removal law.
- *Furlough Policy.* The Furlough Policy enables the Nation to implement a furlough as a tool to remedy an operating budget deficit. [2 O.C. 205.1-1].
 - This Law provides that as part of the budget contingency plan, the Oneida Business Committee may require the use of cost saving tools, provided that the use of such complies with all laws of the Nation. [1 O.C. 121.10-2]. Cost saving tools may include furloughs. [1 O.C. 121.10-2(c)].
 - Any furloughs made as part of the Nation's budget contingency plan shall be made in accordance with the furlough process provided in the Furlough Policy. [2 O.C. 205].
- *Layoff Policy.* The purpose of the Layoff Policy is to establish a fair, respectful policy for employee layoff and recall which enables the Nation's programs and enterprises to operate effectively and efficiently in varying economic conditions within the parameters of Oneida Nation Seventh Generation mission, priorities, and objectives. [2 O.C. 207.1-1].
 - This Law provides that as part of the budget contingency plan, the Oneida Business Committee may require the use of cost saving tools, provided that the use of such complies with all laws of the Nation. Cost saving tools may include layoffs.
 - Any layoffs made as part of the Nation's budget contingency plan shall be made in accordance with the layoff process provided in the Layoff Policy. [2 O.C. 207].

SECTION 8. ENFORCEMENT AND ACCOUNTABILITY

- A. *Enforcement.*** The Law provides that all employees and officials of the Nation are required to comply with and enforce this Law to the greatest extent possible. [1 O.C. 121.12-1]. The Executive Managers are required to notify the Oneida Business Committee of any fund unit which does not comply with the budget schedule or guidelines. A list of any fund unit of an elected entity which did not comply with the budget schedule or guidelines shall be included in the annual report to the General Tribal Council. [1 O.C. 121.12-1].
- B. *Consequences of Violation of this Law.*** Violations of this law shall be addressed using the applicable enforcement tools provided by the Nation's laws and policies including, but not limited to, those related to employment with the Nation, conflicts of interest, ethics, and removal from an elected position. [1

O.C. 121.12-2]. Additionally, this Law does not preclude the Nation from pursuing civil or criminal charges under any federal or state civil or criminal laws, or any laws of the Nation. [1 O.C. 121.12-3].

SECTION 9. OTHER CONSIDERATIONS

A. *Approval Through Adoption of a Resolution.* There are many instances throughout this Law in which the approval of information, plans, or guidelines by the Oneida Business Committee or the General Tribal Council is required to occur through the adoption of a resolution.


▪ *Examples.* Examples of the requirement of approval through the adoption of a resolution can be seen in the following instances throughout the Law:

- *Section 121.5-4 Budget Schedule and Guidelines.* The Treasurer is required to submit budget guidelines to the Oneida Business Committee for review and approval through the adoption of a resolution.
- *Section 121.5-4(3) Budget Schedule and Guidelines Deadline.* The Oneida Business Committee is required to set a deadline through the adoption of a resolution for when the Treasurer shall submit their budget guidelines to the Oneida Business Committee for review and approval.
- *Section 121.5-4(c) Final Draft Budget.* The Oneida Business Committee shall approve, by resolution, the final draft budget to be presented to the General Tribal Council.
- *Section 121.5-4(e) Budget Adoption.* The Oneida Business Committee shall present the budget to the General Tribal Council with a request for adoption by resolution no later than September 30th of each year.
- *Section 121.5-4(e)(1) Continuing Budget Resolution.* If the General Tribal Council does not adopt a budget by September 30th, the Oneida Business Committee may adopt a continuing budget resolution(s) until such time as a budget is adopted by the General Tribal Council.
- *Section 121.5-5 Amendments to the Nation's Budget.* The Oneida Business Committee shall be responsible for adopting any amendment to the budget through resolution of the Nation.
- *Section 121.6-2 Procurement Manual.* The Procurement Manual, and any amendments thereto, shall be approved by the Oneida Business Committee through adoption of a resolution.
- *Section 121.6-4(a) Approval of Unbudgeted Expenditures.* The Oneida Business Committee shall approve any unbudgeted expenditure through the adoption of a resolution prior to the expenditure being made by a fund unit.
- *Section 121.6-4(b) Notification of Unbudgeted Expenditures.* The Oneida Business Committee shall set through resolution a threshold amount for unbudgeted expenditures that require notification by the Oneida Business Committee to the General Tribal Council at the next available General Tribal Council meeting.
- *Section 121.6-4(c) Unbudgeted Supplemental Funding.* If the Nation receives any supplemental or emergency funding of two hundred and fifty thousand dollars (\$250,000) or more, the Oneida Business Committee shall develop and adopt, through resolution, a spending plan to guide expenditures of the supplemental funding in accordance with any provided guidance for the supplemental funding and audit compliance.

- 733 ▪ **Section 121.6-5 Obligated Future Expenditures.** No fund unit shall obligate the Nation
734 to make any future expenditures beyond the current budget year unless the fund unit
735 identifies, and the Oneida Business Committee approves through the adoption of a
736 resolution, the source and extent of any future funds that are recommended to be held in
737 reserve to meet that future obligation.
- 738 ▪ **Section 121.8-4(c).** The Treasurer, in consultation with the CFO, shall provide, and the
739 Oneida Business Committee shall approve through the adoption of a resolution, the
740 calculations for determining the debt service coverage ratio and the fixed charge coverage
741 ratio for the Nation. This resolution shall also include the current acceptable range for both
742 the debt service coverage ratio and the fixed charge coverage ratio as defined by the
743 Generally Accepted Accounting Principles.
- 744 ▪ **Section 121.9-1 Employment Cap.** The Oneida Business Committee shall have the
745 authority to approve this employment cap, and any amendments thereto, through the
746 adoption of a resolution.
- 747 ▪ **Section 121.9-2 Labor Allocations List.** The Oneida Business Committee shall have the
748 authority to adopt the labor allocation list, and any amendments thereto, through the
749 adoption of a resolution.
- 750 ▪ **Section 121.9-2 Labor Allocations List SOP.** The Oneida Business Committee shall
751 approve this standard operating procedure for revisions to the labor allocations list, and
752 any amendments thereto, through the adoption of a resolution.
- 753 ▪ **Section 121.9-3 Unbudgeted Positions.** The Oneida Business Committee shall authorize
754 the approval of an unbudgeted position through the adoption of a resolution.
- 755 ▪ **Section 121.10-1(b) Budget Contingency Plan.** The Oneida Business Committee shall
756 approve the budget contingency plan, and any amendments thereto, through the adoption
757 of a resolution.
- 758 ▪ **Section 121.10-4 Permanent Executive Contingency Fund Account.** The Treasurer, in
759 consultation with the CFO, shall establish, and the Oneida Business Committee shall
760 approve through the adoption of a resolution, the percentage of the annual budget that shall
761 be set aside in the Permanent Executive Contingency Fund account until the established
762 level has been achieved.
- 763 ▪ **Conclusion.** The Legislative Operating Committee will need to ensure that any information that is
764 required to be approved through resolution prior to this Law being implemented is presented to the
765 Oneida Business Committee for consideration in a resolution at the time of adoption of this Law.
766 Additionally, the Legislative Operating Committee will need to ensure the Oneida Business
767 Committee is aware of its responsibilities of approving information, guidelines, or plans through
768 the adoption of a resolution when it is applicable.
- 769 **B. Fiscal Impact.** Under the Legislative Procedures Act, a fiscal impact statement is required for all
770 legislation except emergency legislation [1 O.C. 109.6-1]. Oneida Business Committee resolution BC-
771 10-28-20-A titled, “*Further Interpretation of ‘Fiscal Impact Statement’ in the Legislative Procedures*
772 *Act,*” provides further clarification on who the Legislative Operating Committee may direct complete
773 a fiscal impact statement at various stages of the legislative process, as well as timeframes for
774 completing the fiscal impact statement.
- 775 ▪ **Conclusion.** The Legislative Operating Committee will request that a fiscal impact statement for
776 the amendments to this Law be completed by March 31, 2022. A fiscal impact statement will be

777 needed in the future, prior to the consideration of this Law by the Oneida Business Committee.
778



TO: Cristina Danforth, Treasurer
Lawrence E. Barton, Chief Financial Officer
Ralinda Ninham-Lamberies, Assistance Chief Financial Officer
FROM: David P. Jordan, Legislative Operating Committee Chairman 
DATE: March 16, 2022
RE: Budget Management and Control Law Amendments Fiscal Impact Statement

The Legislative Operating Committee (LOC) is currently developing amendments to the Budget Management and Control law. The Legislative Procedures Act requires that a fiscal impact statement be provided for all proposed legislation of the Nation. [1 O.C. 109.6-1]. The fiscal impact statement is an estimate of the total fiscal year financial effects associated with the proposed legislation, and should include:

- startup costs;
- personnel;
- office costs;
- documentation costs; and
- an estimate of the amount of time necessary for an individual or agency to comply with the law after implementation. [1 O.C. 109.3-1(c)].

The fiscal impact statement must be completed and submitted to the LOC prior to the proposed legislation being forwarded to the Oneida Business Committee for consideration. [1 O.C. 109.6-2]. The fiscal impact statement provides the Oneida Business Committee information on what the potential adoption of the proposed legislation will cost the Nation, so that the Oneida Business Committee can determine if adoption of the proposed legislation is in the best interest of the Nation.

The Legislative Procedures Act grants the LOC the authority to direct the Finance Department or any agency who may administer a program if the legislation is enacted or may have financial information concerning the subject matter of the legislation to submit a fiscal impact statement. [1 O.C. 109.6-1].

Oneida Business Committee resolution BC-10-28-20-A titled, “*Further Interpretation of ‘Fiscal Impact Statement’ in the Legislative Procedures Act*” provides further clarification on the process for directing a fiscal impact statement be completed. This resolution provides that upon final approval of draft legislation by the LOC, the LOC may direct the Finance Department to provide a neutral and unbiased fiscal impact statement to the LOC within ten (10) business days for inclusion in adoption materials.

On March 16, 2022, the Legislative Operating Committee approved the final draft of the proposed amendments to the Budget Management and Control law. Therefore, the LOC is directing the

Finance Department to provide a fiscal impact statement on the proposed amendments to the Budget Management and Control law by March 31, 2022.

A copy of the proposed amendments to the Budget Management and Control law, as well as the legislative analysis, have been attached to this memorandum for your convenience.

Requested Action

Provide the LOC a fiscal impact statement of the proposed amendments to the Budget Management and Control law by March 31, 2022.



Legislative Operating Committee
March 16, 2022

Wellness Court Law

| | |
|--|-------------------------------|
| Submission Date: 12/20/17 | Public Meeting: n/a |
| LOC Sponsor: Daniel Guzman King | Emergency Enacted: n/a |

Summary: *This item was carried over from last term. The request to develop a Wellness Court law came from the Tribal Action Plan (TAP)- Laws and Policies Sub-Committee in December 2017. A Wellness Court brings together alcohol and drug treatment, community healing resources, and the tribal justice process by using a team approach to achieve the physical and spiritual healing of the individual participant, and to promote Native Nation building and the well-being of the community.*

10/7/20 LOC: Motion by Kirby Metoxen to add the Wellness Court Law to the Active Files List with Daniel Guzman King as the sponsor; seconded by Jennifer Webster. Motion carried unanimously.

11/18/20: *THWCPI Training.* Present: Marc Panasiewicz (NADCP), Kris Pacheco (TLPI), Misti Porter (NADCP), Brittany Lanier (NADCP), Katy Burke (WI Statewide Treatment Court Coordinator), Chelsea Place (WI DOC Probation & Parole), David P. Jordan, Jennifer Webster, Daniel Guzman King, Marie Summers, Clorissa N. Santiago, Kristal Hill, Rhiannon Metoxen, Deborah Thundercloud, Mari Kriescher, Elijah Metoxen, Hon. Layatalati Hill, Hon. John Powless, Hon. Patricia Hoeft, Simone Ninham, Eric Boulanger, Joel Maxam, Tsyoslake House, Wesley Martin, Gerald Hill. The group participated in the Tribal Healing to Wellness Court Planning Initiative (THTWCPI) Training presented by the National Association of Drug Court Professionals (NADCP) held through Microsoft Teams.

11/19/20: *THWCPI Training.* Present: Marc Panasiewicz (NADCP), Kris Pacheco (TLPI), Misti Porter (NADCP), Brittany Lanier (NADCP), Katy Burke (WI Statewide Treatment Court Coordinator), Chelsea Place (WI DOC Probation & Parole), David P. Jordan, Daniel Guzman King, Marie Summers, Clorissa N. Santiago, Kristal Hill, Rhiannon Metoxen, Deborah Thundercloud, Mari Kriescher, Elijah Metoxen, Hon. Layatalati Hill, Hon. John Powless, Hon. Patricia Hoeft, Simone Ninham, Joel Maxam, Wesley Martin, Gerald Hill. The group participated in the Tribal Healing to Wellness Court Planning Initiative (THTWCPI) Training presented by the National Association of Drug Court Professionals (NADCP) held through Microsoft Teams.

11/20/20: *THWCPI Training.* Present: Marc Panasiewicz (NADCP), Kris Pacheco (TLPI), Misti Porter (NADCP), Brittany Lanier (NADCP), Katy Burke (WI Statewide Treatment Court Coordinator), Chelsea Place (WI DOC Probation & Parole), David P. Jordan, Jennifer Webster, Daniel Guzman King, Marie Summers, Clorissa N. Santiago, Kristal Hill, Rhiannon Metoxen, Deborah Thundercloud, Mari Kriescher, Elijah Metoxen, Hon. Layatalati Hill, Hon. John Powless, Hon. Patricia Hoeft, Simone Ninham, Eric Boulanger, Tsyoslake House, Wesley Martin, Gerald Hill. The group participated in the Tribal Healing to Wellness Court

Planning Initiative (THTWCPI) Training presented by the National Association of Drug Court Professionals (NADCP) held through Microsoft Teams.

- 1/6/21:** *Work Meeting.* Present: David P. Jordan, Jennifer Webster, Daniel Guzman King, Marie Summers, Clorissa N. Santiago, Eric Boulanger, Joel Maxam, Hon. Layatalati Hill, Hon. John Powless, Hon. Patricia Hoeft, Simone Ninham, Deborah Thundercloud, Mari Kriescher, Tsyoslake House, Wesley Martin, Gerald Hill, Kristal Hill, Rhiannon Metoxen, Bridget Mendolla-Cornelius, Chelsea Place. This work meeting was held through Microsoft Teams. The purpose of this work meeting was to begin the development of the Nation's Wellness Court law by reviewing an initial draft based off of other Tribal Healing to Wellness Court laws to serve as an outline for discussion. The drafting attorney will schedule another work meeting to continue the review of the draft.
- 1/20/21:** *Work Meeting.* Present: David P. Jordan, Kirby Metoxen, Jennifer Webster, Daniel Guzman King, Marie Summers, Clorissa N. Santiago, Eric Boulanger, Joel Maxam, Hon. Layatalati Hill, Hon. Patricia Hoeft, Simone Ninham, Mari Kriescher, Tsyoslake House, Wesley Martin, Gerald Hill, Kristal Hill, Rhiannon Metoxen, Chelsea Place. This work meeting was held through Microsoft Teams. The purpose of this work meeting was to continue review and discussion of the Wellness Court law draft.
- 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.
- 2/5/21:** *Work Meeting.* Present: Clorissa N. Santiago, Hon. Layatalati Hill, Hon. Patricia Hoeft, Simone Ninham. This was a work meeting held through Microsoft Teams. The purpose of this work meeting was to provide the Judiciary an opportunity to provide input on the development of the Wellness Court law.
- 3/2/21:** *Work Meeting.* Present: Daniel Guzman King, Clorissa N. Santiago, Eric Boulanger, Joel Maxam, Hon. John Powless, Hon. Patricia Hoeft, Simone Ninham, Mari Kriescher, Leslie Doxtator, Renita Hernandez, Deborah Thundercloud, Tsyoslake House, Wesley Martin, Gerald Hill. This was a work meeting held through Microsoft Teams. The purpose of this work meeting was to review the various objectives for "TAP, Goal 4: Create and implement a comprehensive Justice System that includes a Wellness Court and a rehabilitative corrections system" and set a process for moving forward with work meetings.
- 3/16/21:** *Work Meeting.* Present: Daniel Guzman King, Clorissa N. Santiago, Eric Boulanger, Joel Maxam, Hon. John Powless, Simone Ninham, Mari Kriescher, Leslie Doxtator, Renita Hernandez, Wesley Martin. This was a work meeting held through Microsoft Teams. The purpose of this work meeting was to review and discuss potential eligibility requirements for the Wellness Court.
- 5/18/21:** *Work Meeting.* Present: Clorissa N. Santiago, Hon. John Powless, Hon. Patricia Hoeft, Simone Ninham, Mari Kriescher, Leslie Doxtator, Renita Hernandez, Robert Brown. This was a work meeting held through Microsoft Teams. The purpose of this work meeting was to review and discuss Wellness Court phase considerations.
- 1/19/22:** *Work Meeting.* Present: David P. Jordan, Kirby Metoxen, Jennifer Webster, Marie Summers, Daniel Guzman King, Clorissa N. Santiago, Carmen Vanlanen, Kristen Hooker, Kristal Hill. This was a work meeting held through Microsoft Teams. The purpose of this work meeting

was to review the updated and simplified draft of the Wellness Court law and determine the next steps for moving this legislative item forward.

1/27/22: *Work Meeting.* Present: David P. Jordan, Kirby Metoxen, Jennifer Webster, Marie Summers, Daniel Guzman King, Clorissa N. Santiago, Carmen Vanlanen, Kristen Hooker, Rhiannon Metoxen, Hon. Layatalati Hill, Hon. John Powless, Hon. Patricia Hoeft, Simone Ninham, Eric Boulanger. This was a work meeting held through Microsoft Teams. The purpose of this work meeting was to review updated and simplified draft of the Wellness Court law with the larger group, as well receive an update from the Judiciary on the progress of the internal policies and procedures for the Wellness Court.

2/10/22: *Work Meeting.* Present: Jennifer Webster, Kirby Metoxen, Daniel Guzman King, Clorissa N. Santiago, Carmen Vanlanen, Hon. Layatalati Hill, Hon. John Powless, Hon. Patricia Hoeft, Simone Ninham, Eric Boulanger, Joel Maxam, Kristal Hill. This was a work meeting held through Microsoft Teams. The purpose of this work meeting was to review the two issues identified in the last work meeting (closed court vs. open court, and court of record vs. not a court of record), as well as review and discuss some suggested revisions from the Judiciary.

2/16/22 LOC: Motion by Marie Summers to approve the draft of the Healing to Wellness Court law and direct that a legislative analysis be developed; seconded by Kirby Metoxen. Motion carried unanimously.

Next Steps:

- Approve the legislative analysis for the Healing to Wellness Court law.



ADD ONEIDA TITLE IN ONEIDA LANGUAGE HEALING TO WELLNESS COURT LAW LEGISLATIVE ANALYSIS

SECTION 1. EXECUTIVE SUMMARY

| REQUESTER: Tribal Action Plan (TAP)-Laws and Policies Sub- Committee | SPONSOR: Daniel Guzman King | DRAFTER: Clorissa N. Santiago | ANALYST: Carmen VanLanen |
|---|--|---|------------------------------------|
| Intent of the Legislation or Amendments | To establish the Nation's Healing to Wellness Court to bring together community healing resources with the Nation's justice system to work collaboratively with intragovernmental and intergovernmental partnerships to reduce the abuse of alcohol and other drugs and drug-related criminal activity affecting the Nation's community in an effort to promote life-long substance abuse recovery and the reintegration of participants into the Oneida community [8 O.C. 808.1-2]. | | |
| Purpose | <p>The purpose of this law is to establish the Nation's Healing to Wellness Court to:</p> <ul style="list-style-type: none"> • Offer intensive case management, treatment, and court supervision to individuals who committed an offense directly or indirectly related to a substance abuse or addiction issue [8 O.C. 808.1-1(a)]; • Provide access to holistic, structured, and phased substance abuse treatment and rehabilitation services that incorporate culture, tradition, and Tsi Niyukwaliho t^ (Our Ways) [8 O.C. 808.1-1(b)]; • Create intragovernmental and intergovernmental collaborative teams to interact with each participant [8 O.C. 808.1-1(c)]; and • Encourage and support each participant in the goal of recovery to lead lawful, productive lives free of substance abuse and addiction [8 O.C. 808.1-1(d)]. | | |
| Affected Entities | The Nation's Judiciary, Oneida Police Department, and Oneida Behavioral Health | | |
| Related Legislation | Public Peace Law; Judiciary Law; Oneida Judiciary Rules of Civil Procedure Law; Oneida Judiciary Rules of Evidence Law | | |
| Public Meeting | A public comment period has not yet been held. | | |
| Fiscal Impact | A fiscal impact statement prepared in accordance with the Legislative Procedures Act has not yet been requested. | | |

SECTION 2. LEGISLATIVE DEVELOPMENT

- A. *Background.*** The request to develop a Healing to Wellness Court law came from the Tribal Action Plan (TAP)- Laws and Policies Sub-Committee in December 2017. The Law was first added to the Active Files List on October 7, 2020.
- B. *History of Drug Courts.*** The drug court movement started in the late 1980s to help combat an increase in the number drug-related offenses and re-offenses that resulted in overcrowded jails and prisons, which incarceration alone was not able to control.¹ Between 1980 and 2000, arrests for drug offenses more than doubled.² Those who were imprisoned were not being treated for their substance abuse and the underlying problems and were subjected to traumatization by the prison system and faced many barriers upon release³. The response to this issue was to develop a court approach that systematically prioritized treatment in substance abuse cases.⁴ A drug court is a special court docket to which cases involving alcohol and other substance abusing offenders are assigned for intensive supervision and treatment.⁵ Drug courts are distinguished by several features, such as expedited case processing, outpatient treatment, and support services (e.g., job placement and housing services).⁶
- C. *Development of Healing to Wellness Courts in Native Nations.*** Native nations were looking to develop a court that would help confront intergenerational substance abuse issues while avoiding the term “drug court”, thus developing the term “healing to wellness court”. This term referred to the healing and wellness aspects of this approach, along with the idea that wellness is an ongoing journey.⁷ In August 2003, state and national drug court efforts were used to help draft tribal-specific healing to wellness court curriculums. The newly developed Healing to Wellness Courts were not simply tribal courts that heard cases involving substance abuse but were special court docket-collaboratives that partnered with service providers to create a program for participants that included extensive supervision and treatment.⁸ Tribal Healing to Wellness courts are guided by the Tribal Ten Key Components, which are the fundamental essentials of the drug court concept that were adjusted to reflect the tribal notions of healing and wellness, particularly the concept of a healing to wellness journey and the collaboration involved.⁹

SECTION 3. CONSULTATION AND OUTREACH

- A.** The following departments within the Nation participated in the development of this Law and legislative analysis:
- Oneida Nation Judiciary;
 - Oneida Police Department;
 - Oneida Behavioral Health;
 - Tribal Action Plan (TAP);

¹ U.S. Department of Justice Office of Justice Programs, “Tribal Healing to Wellness Court: The Key Components,” (April 2003).

² Arthur J. Lurigio, “The First 20 Years of Drug Treatment Courts: A Brief Description of Their History and Impact”.

³ Tribal Law and Policy Institute, “Tribal Healing to Wellness Courts: Intergovernmental Collaboration,” (May 2021).

⁴ *Id.*

⁵ *Id.*

⁶ Arthur J. Lurigio, “The First 20 Years of Drug Treatment Courts: A Brief Description of Their History and Impact”.

⁷ Tribal Law and Policy Institute, “Tribal Healing to Wellness Courts: Intergovernmental Collaboration,” (May 2021).

⁸ *Id.*

⁹ *Id.*

- Legal Resource Center;
 - General Manager; and
 - Oneida Business Committee
- B. The following groups outside of the Nation were consulted in the drafting of this law and analysis:
- Tribal Law and Policy Institute;
 - National Association of Drug Court Professionals (NADCP);
 - Wisconsin Department of Corrections; and
 - Wisconsin Statewide Treatment Court Coordinator.
- C. The following laws and ordinances from other States, municipalities, and Tribes were reviewed in the drafting of this Law and analysis:
- Ho-Chunk Nation Healing to Wellness Court Code;
 - Cherokee Tribal Drug Court Code of Ordinances;
 - Confederated Tribes of Coos, Lower Umpqua, and Siuslaw Indians Wellness Court Tribal Code;
 - Fort Peck Wellness Court Code;
 - Penobscot Nation Healing to Wellness Court Program Procedures;
 - Poarch Band Creek of Indians Healing to Wellness Court Code;
 - Swinomish Tribal Court Code;
 - Fort McDowell Yavapai Nation Law and Order Code;
 - Winnebago Tribal Traditional Wellness Court Code; and
 - Tlingit and Haida Indian Tribes of Alaska Wellness Court Code.

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 this Law to its Active Files List.
 - On February 16, 2022, the Legislative Operating Committee approved the draft of this law and directed that a legislative analysis be developed.
- B. A group that included members from the departments of the Legislative Reference Office, Legislative Operating Committee, and the Oneida Business Committee participated in the Tribal Healing to Wellness Court Planning Initiative (THTWCPI) Training held by the National Association of Drug Court Professionals (NADCP) through Microsoft Teams on the following dates:
- November 18, 2020;
 - November 19, 2020; and
 - November 20, 2020.
- C. At the time this legislative analysis was developed the following work meetings had been held regarding the development of this Law:
- January 6, 2021: LOC work meeting with the Oneida Police Department, Oneida Judiciary, General Manager, Oneida Behavioral Health, Legal Recourse Center, and Wisconsin Department of Corrections.
 - January 20, 2021: LOC work meeting Oneida Police Department, Oneida Judiciary, General Manager, Oneida Behavioral Health, Legal Recourse Center, and Wisconsin Department of Corrections.
 - January 28, 2021: LOC work meeting.

- February 5, 2021: Work meeting with Oneida Judiciary.
- March 2, 2021: LOC work meeting with Oneida Police Department, Oneida Judiciary, General Manager, Oneida Behavioral Health, Legal Recourse Center, and Tribal Action Plan.
- March 16, 2021: LOC work meeting with Oneida Police Department, Oneida Judiciary, General Manager, Oneida Behavioral Health, and Legal Recourse Center.
- May 18, 2021: Work meeting with Oneida Judiciary, Oneida Behavioral Health, Tribal Action Plan, Cultural Heritage.
- January 19, 2022: LOC work meeting.
- January 27, 2022: LOC work meeting with Oneida Police Department, and Oneida Judiciary.
- February 10, 2022: LOC work meeting with Oneida Police Department, and Oneida Judiciary.

D. COVID-19 Pandemic's Effect on the Legislative Process. The world is currently facing a pandemic of COVID-19. 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 the 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.

- *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 May 23, 2022, 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, BC-07-28-21-N, BC-09-22-21-A, BC-11-24-21-F, and BC-01-12-22-B.

- *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.

- *Oneida Business Committee Resolution BC-12-8-21-B, Updating Public Gathering Guidelines During Public Health State of Emergency - COVID-19.*

- On December 8, 2021, the Oneida Business Committee adopted resolution BC-12-08-21-B, *Updating Public Gathering Guidelines During Public Health State of*

Emergency - COVID-19, which superseded Oneida Business Committee resolution BC-08-13-21-A, *Setting Public Gathering Guidelines During Public Health State of Emergency - COVID-19*, and provides updated guidelines on holding meetings both indoors and outdoors.

- This resolution provides that when the following levels are met, indoor meetings of the Nation are feasible, provided that all organizers and participants should consider additional health safety measures when attending such as wearing a face mask, washing hands frequently, and social distancing:
 - When COVID-19 Case Activity rates are at or below low in Brown and Outagamie Counties, or the county in which the activity is being held, as identified on the Wisconsin Department of Health Services website for the most recent period.
 - When COVID-19 Percent Positive rates are at or below low in Brown and Outagamie Counties, or the county in which the activity is being held, as identified on the Wisconsin Department of Health Services website for the most recent period.
 - When COVID-19 Community Transmission Rates by ZIP Code Tabulation Area are at or below low in designated ZIP Codes or the ZIP Code in which the activity is being held, as identified on the Wisconsin Department of Health Services website for the most recent period.
- *Conclusion.*
 - Although a public meeting on the proposed Law will not be held due to the conditions of resolution BC-12-08-21-B not being met, a public comment period will still be held open , in accordance with resolution BC-12-08-21-B and the Legislative Procedures Act as modified by the COVID-19 Core Decision Making Team’s “*Suspension of Public Meetings under the Legislative Procedures Act*” declaration.

SECTION 5. CONTENTS OF THE LEGISLATION

- A. *Purpose and Policy.*** The purpose of this Law is to establish the Nation’s Healing to Wellness Court. The Court shall offer intensive treatment, case management, and court supervision to individuals who have committed an offense directly or indirectly related to substance abuse or addiction issues. [8 O.C. 808.1-1]. It is the policy of the Nation to bring together community-healing resources with the Nation’s justice system to collaborate with partnerships to reduce the risk of substance abuse and criminal activity related to substance abuse. [8 O.C. 808.1-2].
- B. *Establishment.*** The Healing to Wellness Court is hereby established as a division of the Trial Court. [8 O.C. 808.4-1]. The Court shall have the authority to issue all orders necessary to ensure the safety, well-being, and rehabilitation of individuals who come within or consent to its jurisdiction. [8 O.C. 808.4-1(a)]. The Court shall have the power to implement all the duties, responsibilities, and remedies set out in this Law, including the power to enforce subpoenas and orders of restriction, fines and orders of restitution, contempt, and other powers as appropriate. [8 O.C. 808.4-1(b)].
- C. *Jurisdiction.*** The Healing to Wellness Court shall have jurisdiction over matters related to substance abuse and addiction and any matters arising under this Law .[8 O.C. 808.4-2].
- D. *Healing to Wellness Court Team.*** The Healing to Wellness Court program shall be administered by a Healing to Wellness Court Team, which shall be comprised of the following individuals:

1. Trial Court Judge;
2. Healing to Wellness Court Coordinator;
3. Oneida Police Department Officer;
4. Representative of Probation;
5. Substance Abuse Treatment Provider;
6. Representative of Oneida culture and heritage; and
7. Any other member to be determined by the Healing to Wellness Court Team. [8 O.C. 808.4-3(a)].

The composition of the Healing to Wellness Court Team may be revised as necessary as determined by the Court. The Court shall provide notification of any revision to the composition of the Healing to Wellness Court Team to the Oneida Business Committee and General Manager. [8 O.C. 808.4-3(b)].

E. *Healing to Wellness Court Procedures.* The Court shall establish policies and procedures governing the operation and implementation of the Healing to Wellness Court program. [8 O.C. 808.5-1]. All Healing to Wellness Court Team meetings and hearings shall be closed to the public except for invited guests as allowed by HIPAA regulations. [8 O.C. 808.5-3]. The Court shall not be a court of record. Any information obtained, used, or disclosed by a member of the Healing to Wellness Court Team, including the participant, while the participant is under the jurisdiction of the Court shall not be used as evidence against the participant in any other proceeding in the Judiciary or any other court in any other jurisdiction. All Court records are privileged and confidential and shall not be disclosed except to the members of the Healing to Wellness Court Team. [8 O.C. 808.5-7]. However, confidential information may always be disclosed after the participant has signed a proper consent form, even if it is protected by Federal confidentiality regulations. The regulations also permit disclosure without a participant's consent in several situations, including medical emergencies, program evaluations, and communications among program staff. [8 O.C. 808.5-7(a)].

SECTION 6. RELATED LEGISLATION

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

- ***Judiciary law.*** The Judiciary law established a Judiciary for the Nation, and provides for the administration of law, justice, judicial procedures and practices by the Nation as a sovereign nation by exercising the inherent power to make, execute, apply and enforce its own law, and to apply its own customs and traditions in matters affecting the Oneida people. [8 O.C. 801.1-1].
 - ***Court Open to the Public.*** The Judiciary law provides that proceedings of the Trial Court shall be public and members of the general public may freely attend the same, except for peacemaking or mediation proceedings or if expressly prohibited by law. [8 O.C. 801.4-4].
 1. This Law provides that all Healing to Wellness Court Team hearings shall be closed to the public except for invited guests as allowed by HIPAA regulations. [8 O.C. 808.5-3].
 - ***Subject Matter Jurisdiction.*** The Judiciary law provides that Trial Court shall have subject matter jurisdiction over cases and controversies where laws of the Nation specifically authorize the Trial Court to exercise jurisdiction.

1. This Law provides that the Healing to Wellness Court shall have jurisdiction over matters related to substance abuse and addiction and any matters arising under this law. [8 O.C. 808.4-2].

- *Internal Operating Procedures.* The Judiciary law provides that the Judiciary is authorized to establish internal operating procedures governing the operation of the court, as long as the procedures shall not affect substantive rights and shall not conflict with existing law, the Rules of Procedure, or other rules enacted or approved by the Oneida Business Committee or Oneida General Tribal Council.

1. This Law provides that the Court shall establish policies and procedures governing the operation and implementation of the Healing to Wellness Court program. [8 O.C. 808.5-1].

- *Oneida Judiciary Rules of Civil Procedure.* The Oneida Judiciary Rules of Civil Procedure governs all civil actions that fall under the jurisdiction of the Nation to ensure that there is a consistent set of rules governing the process for civil claims, in order to ensure equal and fair treatment to all persons who come before the Tribal Courts to have their disputes resolved. [8 O.C. 803.1-1, 803.1-2].

- This Law provides that the Oneida Judiciary Rules of Civil Procedure shall not apply in any Court proceedings. [8 O.C. 808.5-6].

- *Oneida Judiciary Rules of Evidence.* The Oneida Judiciary Rules of Evidence establishes rules of evidence to apply in proceedings held in the Trial court and Family Court of the Oneida Judiciary administer Court proceedings fairly, eliminate unjustifiable expense and delay, and promote the development of evidence law, by obtaining the truth and securing a just determination. [8 O.C. 804.1-1, 804.1-2].

- This Law provides that the Oneida Judiciary Rules of Evidence shall not apply in any Court proceedings. [8 O.C. 808.5-6].

- *Public Peace Law.* The Public Peace law sets 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 Public Peace law prohibits a person from committing a civil infraction involving alcohol, tobacco, and drugs. [3 O.C. 309.4-4, 309.9]. Upon a finding by the Trial Court that a violation of the Public Peace law has occurred, the individual may be ordered to participate in counseling or any other program relevant and available to the Nation. [3 O.C. 309.11-2(c)].

- Potentially, a person who violates the Public Peace law may be ordered to participate in the Nation's Healing to Wellness Court program is allowed by Court's policies and procedures.

SECTION 7. OTHER CONSIDERATIONS

A. *Fiscal Impact.* Please refer to the fiscal impact statement for any fiscal impacts.

- a. Under the Legislative Procedures Act, a fiscal impact statement is required for all legislation except emergency legislation. [1 O.C. 109.6-1].
 - i. A fiscal impact statement shall be submitted by agencies as directed by the Legislative Operating Committee. [1 O.C. 109.6-1].
 - ii. Fiscal Impact statements may be prepared by any agency who may receive funding if

the legislation is enacted, any agency who may administer a program if the legislation is enacted, any agency who may have financial information concerning the subject matter of the legislation, or by the Finance Office, upon request of the Legislative Operating Committee. [1 O.C. 109.6-1(a) and (b)].

- iii. Oneida Business Committee resolution BC-10-28-20-A titled, “Further Interpretation of ‘Fiscal Impact Statement’ in the Legislative Procedures Act,” provides further clarification on who the Legislative Operating Committee may direct complete a fiscal impact statement at various stages of the legislative process, as well as timeframes for completing the fiscal impact statement.

- b. *Conclusion.* The Legislative Operating Committee has not yet requested that a fiscal impact statement be developed for this Law.

Title 8. Judiciary - Chapter 808
Oneida Language
Oneida Translation
HEALING TO WELLNESS COURT

808.1. Purpose and Policy
808.2. Adoption, Amendment, Repeal
808.3. Definitions

808.4. General
808.5. Healing to Wellness Court Procedures

808.1. Purpose and Policy

808.1-1. *Purpose.* The purpose of this law is to establish the Nation's Healing to Wellness Court to:

- (a) offer intensive case management, treatment, and court supervision to individuals who committed an offense directly or indirectly related to a substance abuse or addiction issue;
- (b) provide access to holistic, structured, and phased substance abuse treatment and rehabilitation services that incorporate culture, tradition, and Tsi Niyukwaliho tǎ (Our Ways);
- (c) create intragovernmental and intergovernmental collaborative teams to interact with each participant; and
- (d) encourage and support each participant in the goal of their recovery to lead lawful productive lives free of substance abuse and addiction.

808.1-2. *Policy.* It is the policy of the Nation to bring together community-healing resources with the Nation's justice system to work collaboratively with intragovernmental and intergovernmental partnerships to reduce the abuse of alcohol and other drugs and drug-related criminal activity affecting the Nation's community in an effort to promote life-long substance abuse recovery and the reintegration of participants into the Oneida community.

808.2. Adoption, Amendment, Repeal

808.2-1. This law was adopted by the Oneida Business Committee by resolution BC-__-__-__.

808.2-2. This law may be amended or repealed by the Oneida Business Committee and/or General Tribal Council pursuant to the procedures set out in the Legislative Procedures Act.

808.2-3. 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.

808.2-4. 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.

808.2-5. This law is adopted under authority of the Constitution of the Oneida Nation.

808.3. Definitions

808.3-1. 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) "Court" means the Oneida Healing to Wellness Court, which is a division under the Trial Court that has the designated responsibility to oversee the Healing to Wellness Court program matters.

(b) "Court of competent jurisdiction" means a federal, state, or tribal court that has jurisdiction and authority to do a certain act or hear a certain dispute.

(c) “Healing to Wellness Court program” means a court-supervised evidence-based treatment program which promotes recover through a coordinated community-based response for individuals who abuse or are dependent on any controlled substance or alcohol.

(d) “Intragovernmental” means relating to or conducted within a government.

(e) “Intergovernmental” means relating to or conducted between two (2) or more governments.

(f) “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.

(g) “Nation” means the Oneida Nation.

(h) “Participant” means an individual who is admitted to the Healing to Wellness Court.

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

808.4. General

808.4-1. *Establishment.* The Healing to Wellness Court is hereby established as a division of the Trial Court.

(a) The Court shall have the authority to issue all orders necessary to ensure the safety, well-being, and rehabilitation of individuals who come within or consent to its jurisdiction.

(b) The Court shall have the power to implement all the duties, responsibilities, and remedies set out in this law, including the power to enforce subpoenas and orders of restriction, fines and orders of restitution, contempt, and other powers as appropriate.

808.4-2. *Jurisdiction.* The Court shall have jurisdiction over matters related to substance abuse and addiction and any matter arising under this law.

(a) *Concurrent Jurisdiction.* The Court shall have the authority to collaborate with courts of competent jurisdiction that exercise concurrent jurisdiction.

(b) The Court may enter into collaborative inter-jurisdictional agreements with other courts of competent jurisdiction, law enforcement agencies, and other service providers upon approval by the Oneida Business Committee.

808.4-3. *Healing to Wellness Court Team.* The Healing to Wellness Court program shall be administered by a Healing to Wellness Court Team. The Healing to Wellness Court Team is the group of professionals who are primarily responsible for overseeing the day-to-day operations of the Healing to Wellness Court program and administering the treatment and supervisory interventions.

(a) *Composition.* The Healing to Wellness Court Team shall be comprised of the following individuals:

(1) Trial Court Judge;

(2) Healing to Wellness Court Coordinator;

(3) Oneida Police Department Officer;

(4) Representative of Probation;

(5) Substance Abuse Treatment Provider;

(6) Representative of Oneida culture and heritage; and

(7) any other member to be determined by the Healing to Wellness Court Team.

(b) *Revisions to the Composition of the Healing to Wellness Court Team.* The composition of the Healing to Wellness Court Team may be revised as necessary as determined by the

Court. The Court shall provide notification of any revision to the composition of the Healing to Wellness Court Team to the Oneida Business Committee and General Manager.

808.5. Healing to Wellness Court Procedures

808.5-1. *Establishment of Policies and Procedures.* The Court shall establish policies and procedures governing the operation and implementation of the Healing to Wellness Court program. The policies and procedures of the Healing to Wellness Court program shall not affect substantive rights and shall not conflict with existing law or rules enacted or approved by the Oneida Business Committee or Oneida General Tribal Council unless otherwise provided for within this law.

808.5-2. Healing to Wellness Court Team meetings and hearings shall proceed pursuant to the policies and procedures adopted by the Court.

808.5-3. All Healing to Wellness Court Team meetings and hearings shall be closed to the public except for invited guests as allowed by HIPAA regulations.

808.5-4. The Court is strictly a non-adversarial forum.

808.5-5. The Court judge shall make all findings of facts relevant to each participant's case pursuant to the policies and procedures adopted by the Court.

808.5-6. *Exclusion from the Oneida Judiciary Rules of Evidence and Oneida Judiciary Rules of Civil Procedure.* The Oneida Judiciary Rules of Evidence as well as the Oneida Judiciary Rules of Civil Procedure shall not apply in any Court proceedings.

808.5-7. *Not a Court of Record.* The Court shall not be a court of record. Any information obtained, used, or disclosed by a member of the Healing to Wellness Court Team, including the participant, while the participant is under the jurisdiction of the Court shall not be used as evidence against the participant in any other proceeding in the Judiciary or any other court in any other jurisdiction. All Court records are privileged and confidential and shall not be disclosed except to the members of the Healing to Wellness Court Team.

(a) Confidential information may always be disclosed after the participant has signed a proper consent form, even if it is protected by Federal confidentiality regulations. The regulations also permit disclosure without a participant's consent in several situations, including medical emergencies, program evaluations and communications among program staff.

End.

Adopted – BC-__-__-__-__



Legislative Operating Committee
March 2, 2022

Elder Assistance Program Law

| | |
|-------------------------------------|-------------------------------|
| Submission Date: 11/3/21 | Public Meeting: N/A |
| LOC Sponsor: David P. Jordan | Emergency Enacted: N/A |

Summary: *This request for a new law was brought forward by Councilman David P. Jordan based on a recommendation from the Chief Financial Officer during the October 20, 2021, LOC meeting. This request asks the LOC to consider developing a new law to establish an approved program under the Oneida General Welfare law which transitions the Nation's Elderly 65+ Per Capita Payment Distribution Fund, from being utilized for per capita payments to being utilized for general welfare assistance payments for elders.*

11/3/21 LOC: Motion by Marie Summers add the Elder Assistance Program law to the Active Files List with David Jordan as the sponsor; seconded by Jennifer Webster. Motion carried unanimously.

1/13/22: *Work Meeting.* Present: David P. Jordan, Jennifer Webster, Daniel Guzman King, Clorissa N. Santiago, Kristen Hooker, 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 initial draft of the Law with the LOC and prepare for the work meeting next week with Finance, Oneida Law Office, Trust Enrollment Department, and Trust Enrollment Committee.

1/19/22: *Work Meeting.* Present: David P. Jordan, Jennifer Webster, Daniel Guzman King, Kirby Metoxen, Marie Summers, Clorissa N. Santiago, Carmen Vanlanen, Kristal Hill, Carl Artman, Keith Doxtator, Lawrence Barton. This was a work meeting held through Microsoft Teams. The purpose of this work meeting was to begin discussing with the Oneida Law Office, Finance, and Trust Enrollment Department the possibility of transitioning the Nation's Elderly 65+ Per Capita Payment Distribution Fund from being utilized for per capita payments to being utilized for general welfare assistance payments for elders.

2/16/22: *Work Meeting.* Present: David P. Jordan, Jennifer Webster, Kirby Metoxen, Daniel Guzman King, Marie Summers, Clorissa N. Santiago. This was a work meeting held through Microsoft Teams. The purpose of this work meeting was to discuss next steps for moving this legislative item forward.

2/22/22: *Work Meeting.* Present: Clorissa N. Santiago, Carl Artman. This was a work meeting held through Microsoft Teams. The purpose of this work meeting was for Carl to gain more clarification on the purpose of the memorandum he is providing the Legislative Operating Committee.

2/25/22: *Work Meeting.* Present: David P. Jordan, Kirby Metoxen, Daniel Guzman King, Marie Summers, Clorissa N. Santiago, Carmen Vanlanen, Kristal Hill. This was a work meeting held through Microsoft Teams. The purpose of this work meeting was to review the draft of the Law and determine next steps for moving this item forward.

3/2/22 LOC: Motion by Marie Summers to accept the draft of the Oneida Elder Assistance Program law and defer to a work meeting for further discussion; seconded by Jennifer Webster. Motion carried unanimously.

3/10/22: *Work Meeting.* Present: David P. Jordan, Kirby Metoxen, Daniel Guzman King, Marie Summers, Jennifer Webster, 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 for the LOC to review and consider the input received from the Trust Enrollment Department Director and the General Manager.

Next Steps:

- Approve the updated draft of the Elder Assistance Program law and direct that a legislative analysis be developed.

Title 10. General Welfare Exclusion - Chapter 1002
~~ONEIDA~~ ELDER ASSISTANCE PROGRAM

1002.1. Purpose and Policy
1002.2. Adoption, Amendment, Repeal
1002.3. Definitions
1002.4. Establishment

1002.5. Guidelines and Requirements
1002.6. Funding

1002.1. Purpose and Policy

1002.1-1. *Purpose.* The purpose of this law is to establish the ~~Oneida~~ Elder Assistance Program to govern how the Nation provides financial assistance to elders, pursuant to the principles of General Welfare Exclusion.

1002.1-2. *Policy.* It is the policy of the Nation to prioritize the general welfare needs of its elders. The Nation recognizes that its elders possess unique and irreplaceable stores of knowledge, skill, culture, and experience that enhance and enrich the lives of every member of the Nation. The interests of the Nation are advanced when its elders remain confident that their general welfare needs can be met.

1002.2. Adoption, Amendment, Repeal

1002.2-1. This law was adopted by the Oneida Business Committee by resolution BC-__-__-__-__.

1002.2-2. 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.

1002.2-3. 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.

1002.2-4. 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.

1002.2-5. This law is adopted under authority of the Constitution of the Oneida Nation.

1002.3. Definitions

1002.3-1. 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 a General Welfare Exclusion, administered under specific guidelines, and is adopted by the Oneida Business Committee through resolution or law of the Nation in accordance with the Oneida General Welfare law.

(b) "Assistance" means benefits or payments under an approved program, which are paid to or on behalf of a recipient pursuant to this law. Assistance provided under an approved program shall not be considered income of the recipient.

(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.

(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.

1002.4. Establishment

1002.4-1. *Establishment.* The ~~Oneida~~ Elder Assistance Program is hereby established as an approved program of the Nation in accordance with the Oneida General Welfare law. The purpose of the ~~Oneida~~ Elder Assistance Program is to provide financial assistance to elders of the Nation to address the unique and compounding general welfare needs of elders.

1002.4-2. *General Welfare Exclusion.* The ~~Oneida~~ Elder Assistance Program meets the requirements of the General Test as defined in the Oneida General Welfare law; General Criteria as defined in I.R.S. Rev. Proc. 2014-35, section 5; and the requirements of the Tribal General Welfare Exclusion Act of 2014, 26 U.S.C. §139E(b). The assistance provided through the ~~Oneida~~ Elder Assistance Program is:

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

1002.5. Guidelines and Requirements

1002.5-1. *Eligibility.* The ~~Oneida~~ Elder Assistance Program shall be open to any individual who meets the following criteria:

- (a) is a member of the Nation;
- (b) is age sixty-five (65) or older; and
- (c) submits a completed application during the designated submission timeframe.

1002.5-2. *Distribution Period.* The Oneida Business Committee, in consultation with the Oneida Trust Enrollment Committee, shall set forth through the adoption of a resolution an application submission period and disbursement timeframe for a distribution of assistance from the Elder Assistance Program.

1002.5-3. *Application for Funds.* Any individual seeking assistance from the ~~Oneida~~ Elder Assistance Program shall submit an application.

- (a) The Trust Enrollment Department shall make available an ~~Oneida~~ Elder Assistance Program application form and instructions ~~prior to July 1st of the year.~~

(1) The application shall require, at a minimum, the following information:

- (A) first and last name;
- (B) date of birth;
- (C) street address, city, state, zip code;
- (D) phone number;
- (E) e-mail address;
- (F) enrollment number;
- (G) bank account information for direct deposit if necessary;
- (H) ~~description of need provided through options on the application and additional space provided therein;~~

(~~I~~) ~~confirmation~~declaration from the applicant that their need exists, and all information provided therein is accurate and in accordance with the laws of the Nation and federal law; and

(~~J~~) signature of the applicant, electronic or handwritten, affirming the attestation.

(2) On the application the applicant shall designate the means by which they would like to receive their disbursement of funds from the ~~Oneida~~ Elder Assistance Program, either through direct deposit or check.

(b) Applicants shall complete and return the ~~Oneida~~ Elder Assistance Program application form to the Trust Enrollment Department by the ~~close of business on or before September 1st~~ deadline set through resolution by the Oneida Business Committee in order to be eligible for assistance from the ~~Oneida~~ Elder Assistance Program.

(1) The information provided in the ~~Oneida~~ Elder Assistance Program application form may be provided to any department, division, or personnel that processes the applications.

1002.5-~~34~~. *Disbursement of Funds.* Assistance provided through the ~~Oneida~~ Elder Assistance Program shall be disbursed ~~on or before September 30th of each year~~ in accordance with the timeframe set through resolution by the Oneida Business Committee. Funds from the ~~Oneida~~ Elder Assistance Program may be disbursed through direct deposit, or check, depending on the selection made on the application by the recipient.

1002.5-~~4~~5. *Qualifying Expenditures.* The following types of expenses shall be considered qualifying expenditures for use of assistance from the ~~Oneida~~ Elder Assistance Program by the recipient:

(a) costs relating to housing needs of principal residences such as:

- (1) mortgage payments, rent payments, and down payments;
- (2) enhancements for habitability of housing;
- (3) basic housing repairs or rehabilitation;
- (4) improvements to adapt housing for special health needs;

(b) costs for paying utility bills and charges, including, but not limited to, the following:

- (1) water;
- (2) electricity;
- (3) gas;
- (4) basic communication services such as:

- (A) phone;
- (B) internet; and
- (C) cable;

(c) costs associated with food security;

(d) costs associated with home care assistance;

(e) costs associated with vehicle payments, maintenance, repair, and insurance;

(f) costs associated with medical care and transportation, room, and board costs for seeking medical care;

(g) funeral and burial expenses and expenses for attending wakes, funerals, burials, bereavements, and subsequent honoring events; and

(h) costs related to any other emergency circumstance.

1002.5-~~4~~6. *Oversight.* The Trust Enrollment Department shall oversee the collection, review, and permitted distribution of funds from the ~~Oneida~~ Elder Assistance Program to the qualifying

recipients.

1002.5-~~57~~. *Records Maintenance*. The Trust Enrollment Department shall be responsible for maintenance of records for the ~~Oneida~~-Elder Assistance Program. The recipient shall retain receipts for the expenditure of the funds associated with the ~~Oneida~~-Elder Assistance Program.

1002.6. Funding

1002.6-1. *Funding Source*. The ~~Oneida~~ Elder Assistance Program shall be funded through the Elder, Education and General Welfare Trust Fund, which is derived from the Emigrant NY Indian Claims Award Docket 75 Trust Fund, and any other funding source deemed necessary by the Oneida Business Committee.

1002.6-2. *Amount of Available Funding*. The Oneida Trust Enrollment Committee shall determine the amount of assistance available to an eligible recipient from the ~~Oneida~~-Elder Assistance Program per any permitted distribution.

End.

Adopted – BC-__-__-__-__

Title 10. General Welfare Exclusion - Chapter 1002 ELDER ASSISTANCE PROGRAM

1002.1. Purpose and Policy
1002.2. Adoption, Amendment, Repeal
1002.3. Definitions
1002.4. Establishment

1002.5. Guidelines and Requirements
1002.6. Funding

1002.1. Purpose and Policy

1002.1-1. *Purpose.* The purpose of this law is to establish the Elder Assistance Program to govern how the Nation provides financial assistance to elders, pursuant to the principles of General Welfare Exclusion.

1002.1-2. *Policy.* It is the policy of the Nation to prioritize the general welfare needs of its elders. The Nation recognizes that its elders possess unique and irreplaceable stores of knowledge, skill, culture, and experience that enhance and enrich the lives of every member of the Nation. The interests of the Nation are advanced when its elders remain confident that their general welfare needs can be met.

1002.2. Adoption, Amendment, Repeal

1002.2-1. This law was adopted by the Oneida Business Committee by resolution BC-__-__-__-__.

1002.2-2. 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.

1002.2-3. 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.

1002.2-4. 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.

1002.2-5. This law is adopted under authority of the Constitution of the Oneida Nation.

1002.3. Definitions

1002.3-1. 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 a General Welfare Exclusion, administered under specific guidelines, and is adopted by the Oneida Business Committee through resolution or law of the Nation in accordance with the Oneida General Welfare law.

(b) "Assistance" means benefits or payments under an approved program, which are paid to or on behalf of a recipient pursuant to this law. Assistance provided under an approved program shall not be considered income of the recipient.

(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.

(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.

1002.4. Establishment

1002.4-1. *Establishment.* The Elder Assistance Program is hereby established as an approved program of the Nation in accordance with the Oneida General Welfare law. The purpose of the Elder Assistance Program is to provide financial assistance to elders of the Nation to address the unique and compounding general welfare needs of elders.

1002.4-2. *General Welfare Exclusion.* The Elder Assistance Program meets the requirements of the General Test as defined in the Oneida General Welfare law; General Criteria as defined in I.R.S. Rev. Proc. 2014-35, section 5; and the requirements of the Tribal General Welfare Exclusion Act of 2014, 26 U.S.C. §139E(b). The assistance provided through the Elder Assistance Program is:

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

1002.5. Guidelines and Requirements

1002.5-1. *Eligibility.* The Elder Assistance Program shall be open to any individual who meets the following criteria:

- (a) is a member of the Nation;
- (b) is age sixty-five (65) or older; and
- (c) submits a completed application during the designated submission timeframe.

1002.5-2. *Distribution Period.* The Oneida Business Committee, in consultation with the Oneida Trust Enrollment Committee, shall set forth through the adoption of a resolution an application submission period and disbursement timeframe for a distribution of assistance from the Elder Assistance Program.

1002.5-3. *Application for Funds.* Any individual seeking assistance from the Elder Assistance Program shall submit an application.

- (a) The Trust Enrollment Department shall make available an Elder Assistance Program application form and instructions.

(1) The application shall require, at a minimum, the following information:

- (A) first and last name;
- (B) date of birth;
- (C) street address, city, state, zip code;
- (D) phone number;
- (E) e-mail address;
- (F) enrollment number;
- (G) bank account information for direct deposit if necessary;
- (H) declaration from the applicant that their need exists, and all information provided therein is accurate and in accordance with the laws of the Nation

and federal law; and

(I) signature of the applicant, electronic or handwritten, affirming the attestation.

(2) On the application the applicant shall designate the means by which they would like to receive their disbursement of funds from the Elder Assistance Program, either through direct deposit or check.

(b) Applicants shall complete and return the Elder Assistance Program application form to the Trust Enrollment Department by the deadline set through resolution by the Oneida Business Committee in order to be eligible for assistance from the Elder Assistance Program.

(1) The information provided in the Elder Assistance Program application form may be provided to any department, division, or personnel that processes the applications.

1002.5-4. *Disbursement of Funds.* Assistance provided through the Elder Assistance Program shall be disbursed in accordance with the timeframe set through resolution by the Oneida Business Committee. Funds from the Elder Assistance Program may be disbursed through direct deposit, or check, depending on the selection made on the application by the recipient.

1002.5-5. *Qualifying Expenditures.* The following types of expenses shall be considered qualifying expenditures for use of assistance from the Elder Assistance Program by the recipient:

(a) costs relating to housing needs of principal residences such as:

(1) mortgage payments, rent payments, and down payments;

(2) enhancements for habitability of housing;

(3) basic housing repairs or rehabilitation;

(4) improvements to adapt housing for special health needs;

(b) costs for paying utility bills and charges, including, but not limited to, the following:

(1) water;

(2) electricity;

(3) gas;

(4) basic communication services such as:

(A) phone;

(B) internet; and

(C) cable;

(c) costs associated with food security;

(d) costs associated with home care assistance;

(e) costs associated with vehicle payments, maintenance, repair, and insurance;

(f) costs associated with medical care and transportation, room, and board costs for seeking medical care;

(g) funeral and burial expenses and expenses for attending wakes, funerals, burials, bereavements, and subsequent honoring events; and

(h) costs related to any other emergency circumstance.

1002.5-6. *Oversight.* The Trust Enrollment Department shall oversee the collection, review, and permitted distribution of funds from the Elder Assistance Program to the qualifying recipients.

1002.5-7. *Records Maintenance.* The Trust Enrollment Department shall be responsible for maintenance of records for the Elder Assistance Program. The recipient shall retain receipts for the expenditure of the funds associated with the Elder Assistance Program.

1002.6. Funding

1002.6-1. *Funding Source.* The Elder Assistance Program shall be funded through the Elder, Education and General Welfare Trust Fund, which is derived from the Emigrant NY Indian Claims Award Docket 75 Trust Fund, and any other funding source deemed necessary by the Oneida Business Committee.

1002.6-2. *Amount of Available Funding.* The Oneida Trust Enrollment Committee shall determine the amount of assistance available to an eligible recipient from the Elder Assistance Program per any permitted distribution.

End.

Adopted – BC-__-__-__-__



Legislative Operating Committee

March 16, 2022

Oneida Nation Gaming Ordinance Amendments

| | |
|--------------------------------------|--|
| Submission Date: 12/2/2020 | Public Meetings: n/a |
| LOC Sponsor: Jennifer Webster | Emergency Enacted: 5/12/21, 11/10/21 Expires: 5/12/22 |

Summary: *This item was added to the Active Files List on December 2, 2020 per the November 10, 2020 directive of the Oneida Business Committee that the Legislative Operating Committee place the Law Enforcement Ordinance and/or the Oneida Nation Gaming Ordinance on the Active Files List to address the placement of Gaming's Internal Security Department. Following a work meeting with the Oneida Law Office, this item was designated as emergency legislation under the Legislative Procedures Act by the Legislative Operating Committee to expedite the disposal of the legal issue that exists under the current law. The Oneida Business Committee adopted the emergency amendments to the Oneida Nation Gaming Ordinance on May 12, 2021, through resolution BC-05-12-21-D. The emergency adoption of the amendments to the Oneida Nation Gaming Ordinance was set to expire on November 12, 2021. On November 10, 2021, the Oneida Business Committee extended the emergency amendments for an additional six (6) month period through the adoption of resolution BC-11-10-21-A. The emergency amendments to the Oneida Nation Gaming Ordinance Are now set to expire of May 12, 2022.*

12/2/20 LOC: Motion by Jennifer Webster to add the Oneida Nation Gaming Ordinance Amendments to the Active Files List with Jennifer Webster as the sponsor; seconded by Kirby Metoxen. Motion carried unanimously.

1/7/2021: *Work Meeting.* Present: James Bittorf, Kelly McAndrews, Kristen Hooker. This work meeting was held through Microsoft Teams. The purpose of this work meeting was to discuss the issue that is driving the need for amendments to be made to the Oneida Nation Gaming Ordinance. The next step is for the drafting attorney to schedule a meeting with the Legislative Operating Committee to convey the information that was shared during that meeting and discuss the most effective manner in which to move forward.

1/14/21: *Work Meeting.* Present: Marie Summers, David Jordan, Kirby Metoxen, Daniel Guzman-King, Kristal Hill, Clorissa Santiago, Kristen Hooker. This work meeting was held through Microsoft Teams. The purpose of this meeting was to provide the Legislative Operating Committee with additional information regarding the issue that prompted this item to be added to the Active Files List by motion of the Oneida Business Committee and to have the LOC decide whether to process the amendments relating to this issue on an emergency basis moving forward. Per consensus of the LOC, the amendments will be processed as an emergency based on the risk of continued litigation that exists under the status quo.

- 2/19/21:** *Work Meeting.* Present: David Jordan, Kirby Metoxen, Chad Fuss, Kelly McAndrews, Jonas Hill, William Cornelius, Richard VanBoxtel, Clorissa Santiago, Michelle Braaten, Katsitsiyo Danforth, Joel Maxam, Eric Boulanger, Kristal Hill, Kristen Hooker. This work meeting was held through Microsoft Teams. The purpose of this work meeting was to provide the LOC with an opportunity to hear from various stakeholders regarding the issue of placing Internal Security for Gaming under an area other than the Oneida Police Department. The next step will be for the drafting attorney to schedule a follow-up work meeting with the LOC to have it decide where to move Internal Security so the drafting attorney can move forward with the development of emergency amendments reflective of the LOC's decision.
- 2/25/21:** *Work Meeting.* Present: Kirby Metoxen, Jennifer Webster, Daniel Guzman-King, Marie Summers, Kristal Hill, Clorissa Santiago, Kristen Hooker. This work meeting was held through Microsoft Teams. The purpose of this work meeting was to have a discussion with the LOC in follow-up to the meeting of February 19, 2021 between the LOC and the work group on the reorganization of the Internal Security Department to an area within the Nation other than under the Oneida Police Department.
- 3/11/21:** *Work Meeting.* Present: David Jordan, Kirby Metoxen, Daniel Guzman-King, Jennifer Webster, Marie Summers, Kristal Hill, Jo Anne House, Clorissa Santiago, Kristen Hooker. This work meeting was held through Microsoft Teams. The purpose of this work meeting was to finish the discussion regarding where to house the Internal Security Department on a temporary basis pending its permanent placement under a department other than the Oneida Police Department. The next step is for the LRO attorney to draft a memo to the stakeholders regarding the plan moving forward and to schedule a follow-up meeting with those stakeholders to have a final discussion on the issue.
- 4/7/21:** *Work Meeting.* Present: David Jordan, Kirby Metoxen, Jennifer Webster, Daniel Guzman-King, Marie Summers, Kristen Hooker. The purpose of this work meeting was to review and discuss the submissions received in response to the memo that was sent out on March 16, 2021 per the directive of the Legislative Operating Committee during the previous work meeting of March 11, 2021. Next steps are for the Legislative Reference Office Attorney to: (1) draft a memo to the stakeholders who were sent the March 16th memo, informing them of the LOC's decision to temporarily place the Internal Security Department under the Oneida Business Committee while a more permanent placement is developed; and (2) begin processing emergency amendments to ONGO that reassign the oversight of the Internal Security Department to the Oneida Business Committee.
- 4/29/21:** *Work Meeting.* Present: David Jordan, Kirby Metoxen, Jennifer Webster, Daniel Guzman-King, Marie Summers, Kristen Hooker, Kristal Hill, Rhiannon Metoxen. This work meeting was held through Microsoft Teams. The purpose of this work meeting was to go through the draft of emergency amendments to ONGO with the Legislative Operating Committee. The next step is for the Legislative Reference Office Attorney to prepare the emergency amendments adoption packet for an upcoming Legislative Operating Committee meeting.
- 5/5/21 LOC:** Motion by Marie Summers to approve the Oneida Nation Gaming Ordinance Emergency Amendments and Legislative Analysis and forward to the Oneida Business Committee for consideration; Seconded by Jennifer Webster. Motion carried.
- 5/12/21 OBC:** Motion by Lisa Liggins to adopt resolution 05-12-21-D Emergency Amendments to the Oneida Nation Gaming Ordinance; Seconded by Jennifer Webster. Motion carried.

- 5/19/21:** *Work Meeting.* Present: David Jordan, Kirby Metoxen, Jennifer Webster, Daniel Guzman-King, Marie Summers, Kristal Hill, Kristen Hooker. The purpose of this work meeting was to develop a plan for moving forward with the permanent amendments to ONGO, which will include a permanent placement for the Gaming Security Department to be transferred to when the emergency amendment period expires. The next step is for the drafting attorney to set up a workgroup to develop amendments for the permanent re-assignment of the Gaming Security Department to a newly established Public Safety Commission that will absorb the Oneida Police Commission.
- 6/30/21:** *Work Meeting.* Present: Mark Powless (OGC), Eric Boulanger, Kelly McAndrews, Jonas Hill, Jessica Vandekamp, Michelle Braaten, Reynold Danforth, Katsitsiyo Danforth, Kristen Hooker. This work meeting was held through Microsoft Teams. The purpose of the work meeting was to discuss with the workgroup the permanent placement of the Gaming Security Department under ONGO. Following a discussion, the consensus of the workgroup mirrored that of the LOC, which was to place the Security Department under a newly established Public Safety Commission that will absorb the currently established Oneida Police Commission.
- 9/1/21:** *Work Meeting.* Present: David Jordan, Kirby Metoxen, Jennifer Webster, Daniel Guzman-King, Marie Summers, Kristal Hill, Clorissa Santiago, Kristen Hooker, Carmen Vanlanen. This work meeting was held through Microsoft Teams. The purpose of the work meeting was to have the LOC begin making policy decisions relating to the establishment of the Public Safety Commission, which will absorb the currently established Oneida Police Commission and be the permanent place for the Gaming Security Department to be assigned under section 501.9 of ONGO.
- 10/6/21:** *Work Meeting.* Present: David Jordan, Kirby Metoxen, Jennifer Webster, Daniel Guzman King, Marie Summers, Kristal Hill, Clorissa Santiago, Kristen Hooker, Carmen Vanlanen. This work meeting was held through Microsoft Teams. During this work meeting, the LOC went through ONGO line by line to highlight which provisions the LOC would like to see added, removed and/or revised during the amendment process. The next step is for the drafting attorney to set up a meeting with the workgroup to go through a similar process with respect to the law.
- 10/22/21:** *Work Meeting.* Present: Mark Powless SR, William Cornelius, Richard VanBoxtel, Eric Boulanger, James Martin JR, Michelle Braaten, Carmen Vanlanen, Kristen Hooker. This work meeting was held through Microsoft Teams. The purpose of the meeting was to go through ONGO line-by-line with the workgroup to collect any information or suggestions regarding possible amendments to ONGO that the workgroup would like to have the LOC consider as it moves forward with the amendment process.
- 11/3/21 LOC:** Motion by Jennifer Webster to approve the Oneida Nation Gaming Ordinance emergency amendments extension packet and forward to the Oneida Business Committee for consideration; Seconded by Marie Summers. Motion carried unanimously.
- 11/10/21 OBC:** Motion by Marie Summers to adopt resolution 11-10-21-A Extension of Emergency Amendments to the Oneida Nation Gaming Ordinance; Seconded by David P. Jordan. Motion carried.
- 12/09/21:** *Work Meeting.* Present: David Jordan, Jennifer Webster, Marie Summers, Kristal Hill, Rhiannon Metoxen, Clorissa Santiago, Kristen Hooker, Carmen Vanlanen. This was a work meeting held through Microsoft Teams. The purpose of the meeting was to have the LOC review a first draft of amendments to the Oneida Law Enforcement Ordinance. For purposes

of efficiency, amendments to the Ordinance should be developed and adopted simultaneous with the amendments to ONGO; specifically, those relating to the placement of the Security Department, which is now going to report directly to a Public Safety Commission once the Oneida Police Commission is re-established as such under the Oneida Law Enforcement Ordinance. The next step is for the drafting attorney to meet with the heads of the Police Department and Conservation Department to discuss possibly removing the Conservation Department from the Oneida Police Department's oversight to have it report directly to the Public Safety Commission.

12/15/21: *Work Meeting.* Present: David Jordan, Marie Summers, Jennifer Webster, Daniel Guzman-King, Kristal Hill, Clorissa Santiago, Kristen Hooker, Carmen Vanlanen. This was a work meeting held through Microsoft Teams. The purpose of the meeting was to discuss the meeting scheduled for December 21, 2021 with the heads of the Oneida Police Department and the Conservation Department to discuss the transition of the Conservation Department from under the Oneida Police Department to under the Public Safety Commission.

12/21/21: *Work Meeting.* Present: David Jordan, Daniel Guzman-King, Marie Summers, Kristal Hill, Eric Boulanger, Joel Maxam, Shad Webster, Terry Metoxen, Nicole Rommel, Rhiannon Metoxen, Kristen Hooker, Carmen Vanlanen. This was a work meeting held through Microsoft Teams. The purpose of the meeting was to discuss with representatives from the Oneida Police Department and Conservation Department the possibility of removing the Conservation Department from under the Police Department and placing it under the Public Safety Commission, which will be a re-established version of the Oneida Police Commission, but with enlarged oversight responsibilities. The next step is for the Police Department and Conservation Department to forward their internal policies/protocols to the LRO so it may review them in anticipation of discussing the transfer in more depth with the LOC.

1/28/22: *Work Meeting.* Present: Richard VanBoxtel, Jeanette Ninham, Kristen Hooker, Carmen Vanlanen. This was a meeting held through Microsoft Teams. The purpose of the meeting was to hear from members of the Oneida Police Commission in regard to the proposal to reorganize the Commission, as well as the Conservation Department, in a manner that better suits the Nation and its members.

3/10/22: *Work Meeting.* Present: David P. Jordan, Kirby Metoxen, Daniel Guzman King, Marie Summers, Jennifer Webster, 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 for the LOC to review and consider the draft and public comment period notice.

Next Steps:

- Approve the draft and legislative analysis of the amendments to ONGO and direct that a public comment period be held open for the proposed amendments to ONGO until April 13, 2022.

Title 5. Business - Chapter 501

~~**ONEIDA NATION GAMING ORDINANCE**~~

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Matters of interest to where they make the money

ONEIDA NATION GAMING ORDINANCE

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|--|--|
| 501.1. Purpose and Policy | 501.11. Licenses, Generally |
| 501.2. Adoption, Amendment, Repeal | 501.12. Gaming Employee License |
| 501.3. Jurisdiction <u>Definitions</u> | 501.13. Gaming Services Licensing and Non-Gaming Services Permitting |
| 501.4. Definitions <u>Jurisdiction</u> | 501.14. Gaming Facility License |
| 501.5. Oneida Business Committee: Powers and Duties | 501.15. Gaming Operator License |
| 501.6. Oneida Gaming Commission | 501.16. Games |
| 501.7. Gaming Surveillance: Powers, Duties and Limitations | 501.17. Allocation of Gaming Funds |
| 501.8. [Reserved for future use.] | 501.18. Audits |
| 501.9. Gaming Security Department | 501.19. Enforcement and Penalties |
| 501.10. Background Investigations | |

501.1. Purpose and Policy

501.1-1. Purpose. -The purpose of this Ordinance is to set forth the laws of the Oneida ~~Tribe of Indians of Wisconsin~~Nation regarding all Gaming Activities conducted within the jurisdiction set forth in this Ordinance. -It is intended to govern the Gaming Activities of all persons, Gaming Employees, consultants, business entities, vendors, boards, committees, commissions and hearing bodies. -This Ordinance does not authorize the operation of Gaming by a private person or private entity for gain. -This Ordinance shall govern all Gaming Activities occurring on lands under the jurisdiction set forth in this Ordinance and all individuals or entities engaged in Gaming Activities, including those providing goods or services to any person or entity engaged in Gaming Activities.

501.1-2. Policy. -It is the policy of this Ordinance to ensure that the Oneida ~~Tribe~~Nation is the primary beneficiary of its Gaming Operations and has the sole proprietary interest, ~~and~~ that Gaming Activities within the jurisdiction set forth in this Ordinance are conducted fairly and honestly; ~~and~~ that all internal departments, enterprises, officials and employees of the ~~Oneida Tribe~~Nation work cooperatively to advance the best interests of the ~~Oneida Tribe~~Nation, to protect ~~the Tribe's~~sits gaming resources, ~~to~~ protect the integrity of all Gaming Activities operated under the jurisdiction set forth in this Ordinance, ~~and~~ to ensure fairness of all games offered to the ~~Tribe's~~Nation's gaming patrons.

501.2. Adoption, Amendment, Repeal

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

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

501.2-3 ~~Severability.~~ -Should a provision of this Ordinance or the application thereof to any person or circumstances be held as invalid, such invalidity shall not affect other provisions of this Ordinance which are considered to have legal force without the invalid portions.

501.2-4. In the event of a conflict between a provision of this Ordinance and a provision of another law, the provisions of this Ordinance shall control. ~~—Provided; provided,~~ that, this Ordinance repeals the following:

- (a) BC-04-21-89-D (Adoption of the Oneida Gaming Control Ordinance);

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

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

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

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

501.3. Definitions~~Jurisdiction~~

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

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

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

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

501.4. Definitions

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

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

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

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

(d) “Class II Gaming” means:

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

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

(B) The holder of the card covers such numbers or designations when

objects, similarly numbered or designated, are drawn or electronically determined.

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

(2) Card games that:

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

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

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

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

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

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

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

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

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

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

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

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

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

(p) “Gaming Operator” means the ~~Tribe~~Nation, an enterprise owned by the ~~Tribe~~Nation, or such other entity of the ~~Tribe~~Nation as the ~~Tribe~~Nation may from time ~~to~~to time

designate as the wholly-owned entity having full authority and responsibility for the operation and management of Gaming Operations.

(q) “Gaming Services” means the provision of any goods and services, except legal services and accounting services, to a Gaming Operation, including, but not limited to, equipment, transportation, food, linens, janitorial supplies, maintenance, or security services.

(r) “Indian Gaming Regulatory Act or IGRA” means Public Law 100-497, 102 Stat. 2426, 25 U.S.C. sec. 2701, *et seq.*, as amended.

(s) “Judiciary” means the Oneida Nation Judiciary, which is the judicial system that was established by Oneida General Tribal Council resolution GTC ~~#1-01~~-07-13-B to administer the judicial authorities and responsibilities of the TribeNation.

(t) “License” means a certificate or other document that represents the grant of a revocable authorization to conduct the licensed activity. ~~A License must be supported by a physical document, badge, certification or other physical manifestation of the issuance of the revocable authorization to conduct the licensed activity.~~

(u) “Licensee” means a person or entity issued a valid License.

(v) “Nation” means the Oneida Nation.

(w) “NIGC” means the National Indian Gaming Commission.

~~(w-x)~~ “Oneida Business Committee” means the elected governing body of the Tribe exercising Nation that exercises the authority delegated ~~from it by~~ the Oneida General Tribal Council ~~of the Oneida Tribe of Indians of Wisconsin~~ under Article IV of the Constitution and By-laws ~~for of~~ the Oneida Tribe of Indians of Wisconsin, approved December 21, 1936 Nation, as ~~thereafter may be~~ amended from time-to-time hereafter.

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

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

~~(z-aa)~~ “Regulatory Incident” means the occurrence of any event giving rise to a potential or alleged non-compliance with a gaming regulation, ordinance, law or policy involving any person or Licensee on the premises of a Gaming Facility.

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

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

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

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

~~(ee)~~ Tribe means the Oneida Tribe of Indians of Wisconsin.

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

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

501.4. Jurisdiction

501.4-1. Territorial Jurisdiction. This Ordinance extends to all land within the exterior boundaries of the Reservation.

501.4-2. Subject Matter Jurisdiction. This Ordinance applies to all Gaming conducted within the territorial jurisdiction of the Nation as set forth in section 501.4-1.

501.4-3. Personal Jurisdiction. This Ordinance governs:

(a) The Nation;

(b) Members of the Nation; and

(c) Individuals and businesses leasing, occupying, or otherwise using Tribal Fee Land on the Reservation and all Tribal Trust Land.

501.5. Oneida Business Committee: Powers and Duties

501.5-1. The Oneida Business Committee retains the power and duty to enter into agreements or compacts with the State under the Indian Gaming Regulatory Act.

501.5-2. The Oneida Business Committee retains the power and duty to enter into agreements with local governments and other Tribal governments for services or cooperative ventures for the Gaming Operations.

501.5-3. The Oneida Business Committee has the exclusive power and duty to enter into contracts and agreements affecting the assets of the ~~Tribe~~Nation, except for those assets that were placed under the responsibility of the Oneida Land Commission under Chapter 67; of the Real Property ~~Law~~law.

501.5-4. The Oneida Business Committee delegates to the Commission, ~~as set out~~ in section 501.6-14 of this Ordinance, certain authorities and responsibilities for the regulation of Gaming Activities, Gaming Operations, Gaming Operators, Gaming Employees, Gaming Facilities, Gaming Services, and the enforcement of laws and regulations, ~~as identified in this Ordinance~~.

501.5-5. The Oneida Business Committee retains the duty and responsibility to safeguard all funds generated by the Gaming Operations and all other authorities and responsibilities not delegated by a specific provision of this Ordinance.

501.5-6. The Chairperson of the ~~Tribe~~Nation must be the designated and registered agent to receive notice of violations, orders, or determinations which are issued pursuant to the Indian Gaming Regulatory Act and the Compact.

501.6. Oneida Gaming Commission

501.6-1. Establishment and Purpose.— The Oneida Business Committee has established the Oneida Gaming Commission for the purpose of regulating all Gaming Activities. —The Commission is an elected body comprised of four (4) members, provided that, the Oneida Business Committee may, upon request of the Commission, increase the number of Commissioners by resolution ~~without~~with-out requiring amendment of this Ordinance.

501.6-2. Location and Place of Business.— The Commission shall maintain its offices and principal place of business within the Reservation.

501.6-3. Duration and Attributes. —The Commission will have perpetual existence and succession in its own name, unless dissolved by ~~Tribal~~a law— of the Nation. Operations of the Commission must be conducted on behalf of the ~~Tribe~~Nation for the sole benefit of the ~~Tribe~~Nation and its members. -The ~~Tribe~~Nation reserves unto itself the right to bring suit against any person or entity in its own right, on behalf of the ~~Tribe~~Nation, or on behalf of the Commission,

whenever the TribeNation considers it necessary to protect the sovereignty, rights, and interests of the TribeNation or the Commission.

501.6-4. Sovereign Immunity of the ~~Tribe~~

~~(a)~~ Nation. All inherent sovereign rights of the TribeNation with ~~regard~~ respect to the existence and activities of the Commission are hereby expressly reserved.

~~(b)~~ a The TribeNation confers upon the Commission sovereign immunity from suit as set forth in the Tribe'sNation's Sovereign Immunity Ordinance ~~law~~.

~~(e)~~ b Nothing in this Ordinance nor any action of the Commission may be construed to be ~~a~~: (1) A waiver of ~~its~~ the sovereign immunity ~~or that~~ of the Tribe, Commission or ~~consent~~ the Nation;

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

(3) Consent by the TribeNation to any suit, cause of action, case or controversy; or the levy of any judgment, lien, or attachment upon any property of the Commission or the TribeNation.

501.6-5. Requirements of Commission Membership.

(a) Qualifications. Candidates for election or appointment to the Commission must be at least twenty-one (21) years of age on the day of the election or on the day of appointment.

~~In addition, candidates~~

(1) Candidates for election to the Commission shall further meet the following qualifications within five (5) business days after a caucus for elected positions on the Commission. Candidates for appointment to the Commission shall meet the following qualifications on the day of appointment to a vacancy on the Commission under section 501.6-13 of this Ordinance:

~~(1)~~ A Be an enrolled member of the TribeNation;

~~(2)~~ B Have a minimum of three (3) years of education experience, employment experience and/or regulatory experience in Gaming Operations related to Gaming Activity, Gaming law, Gaming control or regulation, or Gaming accounting or of any combination of the foregoing; and

~~(3)~~ C Meet all other qualifications set forth in this Ordinance.

(b) Conflict of Interest. No person may be considered for election or appointment as a Commissioner until the candidate has disclosed all conflicts of interest as defined ~~by~~ in the OneidaNation's Conflict of Interest Policy ~~law~~.

(c) Background Investigation. No person may be considered for election or appointment as a Commissioner until a preliminary Background Investigation has been completed and the person has been found to meet all qualifications.

~~(d)~~ (1) Swearing into office is subject to a Background Investigation regarding the qualifications set forth in sections 501.6-5 and 501.6-6 upon being elected or appointed to office.

501.6-6. Unless pardoned for activities under subsections (a) and/or (d) by the TribeNation, or pardoned for an activity under subsectionsubsections (a) and/or (d) by another Federally-recognized Indian Tribe for an action occurring within the jurisdiction of the Federally-recognized Indian Tribe, or pardoned for an activity under subsectionsubsections (a) and/or (d) by the State or Federal government, no individual may be eligible for election or appointment to, or to continue to serve on, the Commission, who:

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

- (1) Any gambling-related offense;
- (2) Any offense involving Fraud or misrepresentation;
- (3) Any offense involving a violation of any provision of ~~chs. Chapters~~ 562 or 565, ~~Wis. Stats., of the Wisconsin Statutes,~~ any rule promulgated by the State of Wisconsin Department of Administration, Division of Gaming or any rule promulgated by the Wisconsin Racing Board;
- (4) A felony not addressed in paragraphs 1, 2, or 3, during the immediately preceding ten (10) years; or
- (5) Any offense involving the violation of any provision of ~~Tribe~~the Nation's law regulating the conduct of Gaming Activities, or any rule or regulation promulgated pursuant thereto.

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

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

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

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

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

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

(a) Terms of office must be staggered.

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

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

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

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

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

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

¹ This section taken substantially from Section IX of the Tribe-State Gaming Compact.

Oneida Business Committee.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(D) If revised Rules of Play and/or Oneida Gaming Minimum Internal Controls are not adopted by either the Commission or the Oneida Business

Committee within six (6) months from the date the amendments are initiated by the Oneida Business Committee, the Rules of Play and/or the Oneida Gaming Minimum Internal Controls originally adopted by the Commission will remain in effect.

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

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

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

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

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

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

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

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

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

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

(o) To investigate all Regulatory Incidents.

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

(q) To make determinations regarding suitability for licensing.

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

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

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

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

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

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

complaints.

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

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

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

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

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

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

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

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

501.7. Gaming Surveillance: Powers, Duties and Limitations

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

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

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

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

501.7-4. ~~Gaming Surveillance shall:~~

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

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

(c) ~~Work cooperatively with the Gaming Security Department to carry out its official~~

duties and to coordinate its activities in order to effectuate the protection of patrons and the assets of the Gaming Operation.

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

501.8. [Reserved for future use.]

501.9. Gaming Security Department

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

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

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

501.9-3. The Gaming Security Department shall:

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

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

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

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

501.10. Background Investigations

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

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

(a) All Background Investigations must be conducted to ensure that the ~~Tribe~~Nation in its Gaming Operations may not employ or contract with persons whose prior activities, or reputation, habits and associations pose a threat to the public interest or to the effective regulation of Gaming, or create or enhance the dangers of unsuitable, unfair or illegal practices and methods in the conduct of such Gaming.

(1) The identity of any person interviewed in order to conduct a Background

Investigation must be confidential.

501.11. Licenses, Generally

501.11-1. The Commission shall adopt procedures that ensure the efficient and orderly processing of all applications for a License.

(a) All Gaming Employees, Gaming Services vendors, and Gaming Operators shall apply for a License from the Commission prior to their participation in any Gaming Activity.

(b) All Gaming Facilities must be licensed by the Oneida Business Committee.

501.11-2. *Temporary License.* All Applicants, upon receipt by the Commission of a completed application for a License and completion of a preliminary Background Investigation, may receive a temporary license for a ninety (90) day period, unless a Background Investigation of the application demonstrates grounds to disqualify the Applicant. ~~Such~~

(a) A temporary license, ~~as defined in this section,~~ permits the Licensee to engage in such activities ~~and~~ pursuant to any terms and conditions imposed and specified by the Commission. ~~The~~

(b) A temporary license is valid until either replaced by a License, the ninety (90) day temporary license period has concluded, or the temporary license is cancelled by the Commission, whichever occurs first.

501.11-3. *Revocable.* A License is revocable only in accordance with the procedures set forth in this Ordinance.

(a) A Licensee has only those rights and protections regarding a License granted in this Ordinance.

501.11-4. All Applicants:

(a) Consent to the release of any information relevant to the Applicant's Background Investigation by any person or entity in possession of such information.

(b) Consent to the jurisdiction of the ~~Tribe~~Nation and are subject to all applicable ~~Tribal~~Oneida, Federal, and State laws, regulations, ~~and/or~~ policies.

501.11-5. All Licensees are subject to ongoing review at least every two (2) years by the Commission.

501.11-6. *Status of Licenses.* The Commission shall notify the Gaming Operation of the status of all Licenses, whether temporary or permanent, including all Commission action to revoke, suspend, or condition a License.

501.11-7. *Commission Licensing Actions.* The Commission may grant, deny, revoke, condition, suspend or reinstate all Licenses, except for Gaming Facilities Licenses, in accordance with this Ordinance.

(a) Authority to place conditions on a License may be exercised only upon promulgation of regulations.

501.11-8. *Noncompliance.* The Commission may issue a notice of noncompliance when the Commission has developed regulations that identify procedures that notices of noncompliance may be issued to Licensees and permittees which provide an opportunity to correct actions.

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

501.12. Gaming Employee License

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

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

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

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

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

(d) Current business and residence telephone numbers.

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

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

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

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

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

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

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

(l) A photograph.

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

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

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

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

(1) The Privacy Act of 1974;

- §28 (2) Fraud and False Statements Act; and
§29 (3) Fair Credit Reporting Act.
- §30 501.12-3. *License Qualifications.* ~~No License may be granted if the Applicant:~~
- §31 (a) Is under the age of eighteen (18).
- §32 (b) Unless pardoned for activities under this subsection by the ~~Tribe~~Nation, or pardoned
§33 for activities under this subsection by another Federally-recognized Indian Tribe for an
§34 action occurring within the jurisdiction of the Federally-recognized Indian Tribe, or
§35 pardoned for activities under this subsection by the state or Federal government, has been
§36 convicted of, or entered a plea of guilty or no contest to, any of the following:
- §37 (1) Any gambling-related offense;
- §38 (2) Any offense involving Fraud or misrepresentation;
- §39 (3) Any offense involving a violation of any provision of ~~chs. Chapters~~ 562 or
§40 565, ~~Wis. Stats.,~~ of the Wisconsin Statutes, any rule promulgated by the State of
§41 Wisconsin Department of Administration, Division of Gaming, or any rule
§42 promulgated by the Wisconsin Racing Board;
- §43 (4) A felony not addressed in paragraphs (1), (2), or (3), during the immediately
§44 preceding ten (10) years; or
- §45 (5) Any offense involving the violation of any provision of ~~Tribal~~the Nation's
§46 law ~~regulating that regulates~~ the conduct of Gaming Activities, or any rule or
§47 regulation promulgated pursuant thereto.
- §48 (c) Is determined to be a person whose prior activities, criminal record, reputation, habits,
§49 or associations pose a threat to the public interest or to the effective regulation and control
§50 of Gaming or create or enhance the dangers of unsuitable, unfair, or illegal practices,
§51 methods, or activities in the operation of Gaming Activities or the carrying on of the
§52 business and financial arrangements incidental thereto.
- §53 (d) Possesses a financial interest in or management responsibility for any Gaming
§54 Activity or Gaming Services vendor, or he or she has any personal, business, or legal
§55 relationship which places him or her in a conflict of interest as defined in this Ordinance
§56 or the Nation's Conflict of Interest ~~Policy~~law.
- §57 (e) Each person licensed as a Gaming Employee has a continuing obligation to inform
§58 the Commission immediately upon the existence of any circumstance or the occurrence of
§59 any event which may disqualify him or her from being licensed as a Gaming Employee.
- §60 (1) Failure to report any such occurrence may result in suspension or revocation
§61 of the Gaming Employee's License.
- §62 501.12-4. *Initial Eligibility Determination.*
- §63 (a) Based on the results of the preliminary Background Investigation, the Commission
§64 shall make an initial determination regarding an Applicant's eligibility and either:
- §65 (1) Grant a temporary license, with or without conditions, to the Applicant; or
- §66 (2) Deny the License application and provide notice to the Applicant that he or
§67 she may request a hearing regarding the decision consistent with subsection (b)
§68 below.
- §69 (b) If the Commission determines that an Applicant is ineligible for a License, the
§70 Commission shall notify the Applicant.
- §71 (1) The Commission shall set forth regulations for an Applicant to review any
§72 information discovered during the preliminary Background Investigation prior to
§73 scheduling a hearing under section 501.12-10. ~~The suspension or revocation~~

~~hearing provisions set forth at section 501.12-9 do not apply to Initial Eligibility Determinations of this Ordinance.~~

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

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

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

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

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

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

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

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

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

~~(1)-A) The Gaming Employee's name, date of birth, and social security number.~~ Social Security Number;

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

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

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

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

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

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

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

~~(b)-) of this Ordinance.~~

(e) ~~All applications, Background Investigations, investigative reports, suitability determinations, findings and decisions of the Commission must be retained in the Commission's files for a period of at least three (3) years from the date the Gaming Employee's employment is terminated.~~

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

the start of employment must have his or her employment terminated.

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

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

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

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

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

501.12-8. *NIGC Review.*

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(e) Within fifteen (15) business days after a hearing, the Commission shall issue a final written licensing decision and decide whether to suspend, uphold an immediate suspension, revoke, or take other action concerning a License. -

 (1) If the License was suspended, conditioned or revoked based on information from the NIGC or other source under section 501.12-8(d) or 501.12-9(a)(1) of this Ordinance, the Commission shall forward a copy of its decision to the NIGC within forty-five (45) days of receiving the NIGC's or the other source's notification indicating that a Gaming Employee is not eligible for a License.

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

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

501.12-10. ~~Original Hearing Body.~~ Any person aggrieved by a licensing decision of the Commission may appeal the decision by filing a request for an original hearing before the Commission.

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

 (b) The Commission shall certify the record, developed in accordance with section 501.12-4 or 501.12-9(a), of this Ordinance, within thirty (30) days of the date of the filing of the request for an original hearing. ~~The~~

 (c) ~~Those~~ Commissioners serving on the original hearing body may not include the Commissioners who participated in the licensing decision from which the original hearing is scheduled.

 (d) The Commission may ~~determine~~ decide to review the decision solely on the licensing decision record and briefs filed regarding the request for reconsideration. -

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

 (e) The Commission shall issue a written decision determining whether to uphold the Commission's licensing decision, including whether to revoke or reinstate a License, within one hundred twenty (120) days from receipt of the request for the original hearing.

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

501.12-11. ~~Notice to Oneida Business Committee.~~ Prior to any suspension or revocation of a License of the ~~gaming general manager~~ Gaming General Manager, the Commission shall provide notice to the Oneida Business Committee twenty-four (24) hours prior to the issuance of the suspension or revocation.

501.12-12. ~~Record of Proceedings.~~ The Commission shall maintain a complete and accurate record of all licensure proceedings.

501.12-13. ~~Revocation of a License is solely limited to the licensing matter.~~ Employment related processes resulting from revocation of a License are determined solely through the personnel processes and procedures of the ~~Tribe~~ Nation and are not licensing matters governed by this Ordinance.

501.13. Gaming Services Licensing and Non-Gaming Services Permitting

501.13-1. Scope of Section. This section applies to all individuals and entities providing Gaming Services.

 (a) The requirements of this Section are in addition to, and do not alter or amend any requirements imposed by the ~~Oneida~~ Nation's Vendor Licensing ~~Law~~ law.²

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

² See also Appendix 1. Vendor Licensing/Permit.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(j) Whether the Applicant has been denied a License by any gaming jurisdiction and, if so, the identity of the jurisdiction, the date of such decision and the circumstances surrounding that decision;

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

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

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

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

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

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

(1) The Privacy Act of 1974;

(2) False statements; and

(3) The Fair Credit Reporting Act.

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

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

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

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

(c) For a partnership, all partners.

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

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

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

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

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

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

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

(1) An Applicant's failure or refusal to submit supplemental information requested by the Commission may constitute grounds for the denial of the application.

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

to any change in the licensing or permitting status of the Applicant, permittee, or Licensee in any foreign jurisdiction.

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

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

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

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

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

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

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

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

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

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

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

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

501.13-13. *Suspension or Revocation of Gaming Services Licenses or Permits.* ~~Except as provided in section 501.13-13(c), of this Ordinance,~~ no License or permit may be suspended or revoked except after notice and opportunity for hearing.

(a) *Basis for Licensing or Permitting Action.* ~~The Commission may suspend, modify, or revoke any Gaming Services License or Non-Gaming Services permit issued under this Ordinance if, after issuance of the License or permit, the Commission receives reliable~~

information that would justify denial of the issuance or renewal of a License or permit, or if the Commission determines that the Licensee or permittee has:

- (1) Knowingly made a materially false or misleading statement in any application for a License or permit, in any amendment thereto, or in response to a request by the Commission for supplemental information or in connection with any investigation of the Commission;
- (2) Knowingly promoted, played, or participated in any Gaming Activity operated in violation of the Compact, or any Tribal law of the Nation, or other applicable law;
- (3) Bribed or attempted to bribe a Commissioner or any other person in an attempt to avoid or circumvent any applicable law;
- (4) Falsified any books or records relating to any transaction connected with operation of a Gaming Activity;
- (5) Refused to comply with a lawful directive of the TribeNation, the federal government, or any court of competent jurisdiction; or
- (6) Been convicted of, or entered a plea of guilty or no contest to, a crime involving the sale of illegal narcotics or controlled substances.

(b) Suspension Notice.— The Commission shall provide a Licensee or permittee with written notice of suspension, which must, at a minimum, notify the Licensee or permittee of the following:

- (1) The Licensee's or permittee's right to conduct a file review prior to any hearing regarding the notice of suspension, and to make copies of any documents in that file;
- (2) The Licensee's or permittee's right to present documents and witness testimony at the hearing and to be represented by counsel;
- (3) The specific grounds upon which the suspension is based, including citations to relevant sections of this Ordinance, the IGRA, any applicable regulations and/or the Compact; and
- (4) The time and place set by the Commission for the Licensee's or permittee's file review and hearing.

(c) Immediate Suspension. —If, in the judgment of the Commission, the public interest, and effective regulation and control of others require the immediate exclusion of a Licensee or permittee, the Commission may immediately suspend a License or permit prior to a hearing on the matter. ~~Such an immediate suspension takes effect upon service of the notice of immediate suspension.~~

- (1) Such an immediate suspension takes effect upon service of the notice of immediate suspension.

(d) File Review and Hearing.— Any notice of suspension or notice of immediate suspension must set forth the time and date for the Licensee or permittee to conduct a file review and for a hearing.

(e) Final Written Decision.— Within fifteen (15) business days after a hearing, the Commission shall issue a final written decision and decide whether to suspend, uphold an immediate suspension, revoke, or take other action concerning a License or permit.

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

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

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

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

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

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

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

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

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

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

501.14. Gaming Facility License

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

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

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

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

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

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

(1) To show compliance with applicable environmental standards, Gaming Operator shall submit certified copies of an Environmental Assessment of the Gaming Facility which were prepared by the agency responsible for the enforcement of applicable environmental standards.

(2) If the applicable environmental standards are not met, proof must be submitted by Gaming Operator that Remediation of the Gaming Facility is being

actively sought which will place the Gaming Facility in compliance with the applicable standards.

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

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

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

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

501.15. Gaming Operator License

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

501.16. Games

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

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

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

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

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

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

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

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

501.17. Allocation of Gaming Funds

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

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

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

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

(d) *To contribute to charitable organizations;*

(e) *To assist in funding operations of other local governments;*

(f) *To fund programs designed to provide education, referrals, and treatment of Gaming addiction disorders; and*

(g) ~~Any~~ For any other purpose as determined by the Oneida General Tribal Council

or the Oneida Business Committee which is not inconsistent with the Oneida Nation Constitution ~~of the Tribe~~ and IGRA.

501.18. Audits

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

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

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

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

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

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

501.19. Enforcement and Penalties

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

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

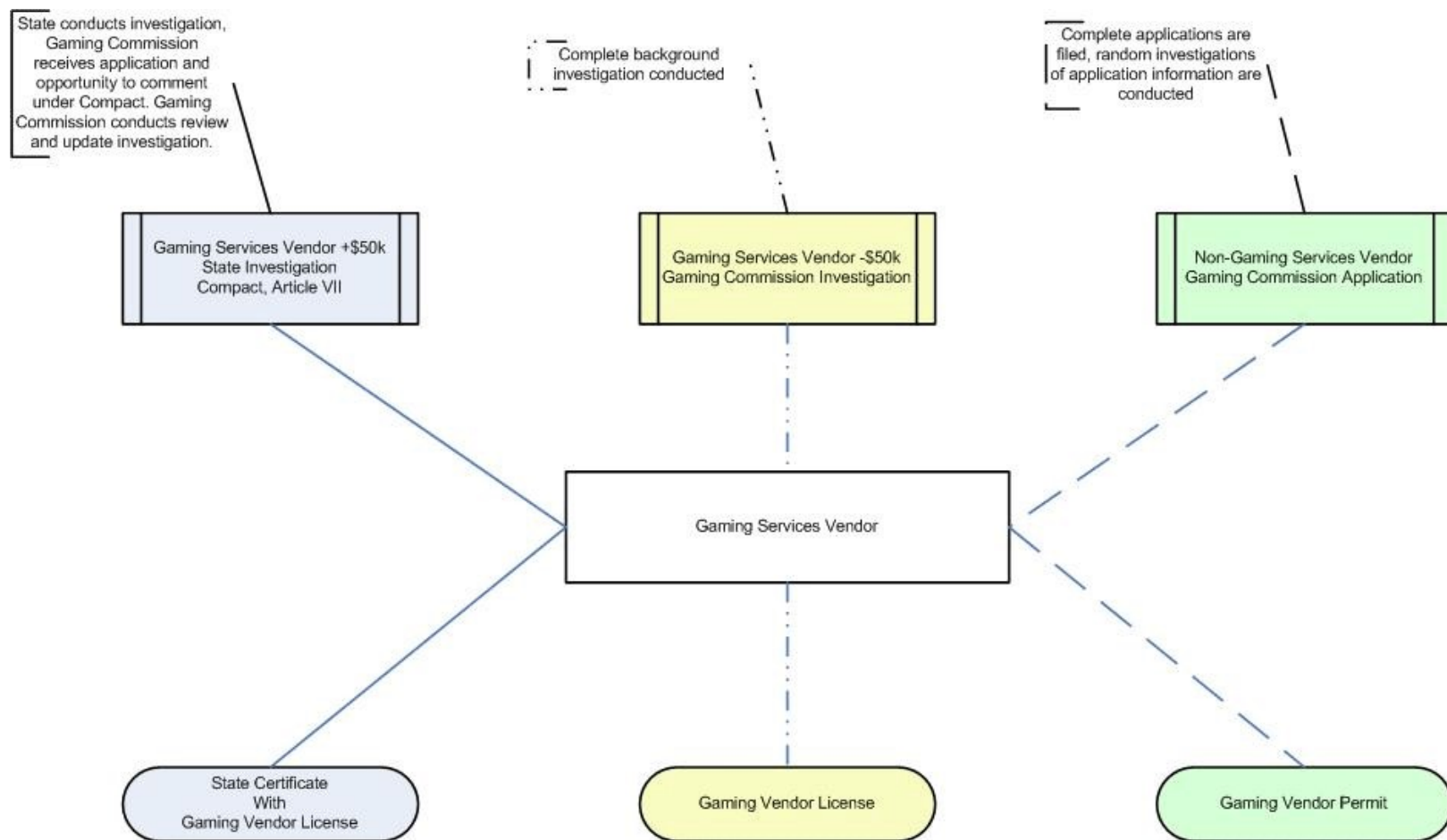
501.19-3. Remedies. - The Oneida Business Committee may authorize commencement of an action in any court of competent jurisdiction to recover losses, restitution, and forfeitures resulting from violations of this Ordinance.

End.

| | |
|---------------------------|--------------------------------------|
| Adopted | GTC-7-05-04-A |
| Emergency Amended | BC-7-14-04-A |
| Amendment | BC-10-06-04-D |
| Emergency Amended | BC-11-03-04-A |
| Permanent Adoption | BC-3-23-05-C |
| Amended | BC-9-23-09-D |
| Amended | BC-06-25-14-C (effective 11 01 2014) |
| Emergency Amended | BC-10-08-14-C (effective 11 01 2014) |
| Amended | BC-09-09-15-A (effective 09 09 2015) |
| <u>Emergency Amended</u> | <u>BC-05-12-21-D</u> |
| <u>Emergency Extended</u> | <u>BC-11-10-21-A</u> |
| <u>Amended</u> | <u>BC- - - -</u> |

Draft 1 (Redline to Last Permanent Law BC-09-09-15-A)
2022 03 16

Appendix 1. Vendor License/Permit



Title 5. Business - Chapter 501
Thatiwi·ʔStunya·tha Olihwa·ke
Matters of interest to where they make the money
ONEIDA NATION GAMING ORDINANCE

| | |
|--|--|
| 501.1. Purpose and Policy | 501.11. Licenses, Generally |
| 501.2. Adoption, Amendment, Repeal | 501.12. Gaming Employee License |
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501.1. Purpose and Policy

501.1-1. *Purpose.* The purpose of this Ordinance is to set forth the laws of the Oneida Nation regarding all Gaming Activities conducted within the jurisdiction set forth in this Ordinance. It is intended to govern the Gaming Activities of all persons, Gaming Employees, consultants, business entities, vendors, boards, committees, commissions and hearing bodies. This Ordinance does not authorize the operation of Gaming by a private person or private entity for gain. This Ordinance shall govern all Gaming Activities occurring on lands under the jurisdiction set forth in this Ordinance and all individuals or entities engaged in Gaming Activities, including those providing goods or services to any person or entity engaged in Gaming Activities.

501.1-2. *Policy.* It is the policy of this Ordinance to ensure that the Oneida Nation is the primary beneficiary of its Gaming Operations and has the sole proprietary interest; that Gaming Activities within the jurisdiction set forth in this Ordinance are conducted fairly and honestly; and that all internal departments, enterprises, officials and employees of the Nation work cooperatively to advance the best interests of the Nation, to protect its gaming resources, to protect the integrity of all Gaming Activities operated under the jurisdiction set forth in this Ordinance, and to ensure fairness of all games offered to the Nation's gaming patrons.

501.2. Adoption, Amendment, Repeal

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

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

501.2-3. Should a provision of this Ordinance or the application thereof to any person or circumstances be held as invalid, such invalidity shall not affect other provisions of this Ordinance which are considered to have legal force without the invalid portions.

501.2-4. In the event of a conflict between a provision of this Ordinance and a provision of another law, the provisions of this Ordinance shall control; provided, that this Ordinance repeals the following:

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

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

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

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

501.3. Definitions

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

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

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

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

(d) “Class II Gaming” means:

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

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

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

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

(2) Card games that:

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

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

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

- (f) “Commission” means the Oneida Gaming Commission as established by this Ordinance.
- (g) “Commissioner” means a duly elected member of the Oneida Gaming Commission.
- (h) “Compact” means the 1991 Tribe-State Gaming Compact between the Nation and the State of Wisconsin, as amended and including any future amendments or successor compact entered into by the Nation and the State of Wisconsin and approved by the Secretary of the United States Department of Interior.
- (i) “Compliance Certificate” means a certificate issued by an agency with the authority and responsibility to enforce applicable environmental, health or safety standards, which states that a Gaming Facility complies with these standards.
- (j) “Environmental Assessment” means a document prepared and issued in compliance with the National Environmental Policy Act of 1969, 42 U.S.C. sec. 4321 *et seq.*, and all related federal regulations.
- (k) “Fraud” means any act of trickery or deceit used to or intended to gain control or possession of the property of another.
- (l) “Games, Gaming or Gaming Activity” means all forms of any activity, operation, or game of chance that is considered Class II or Class III Gaming, provided that this definition does not include Class I Gaming.
- (m) “Gaming Employee” means any person employed by a Gaming Operation.
- (n) “Gaming Facility or Gaming Facilities” means any location or structure, stationary or movable, wherein Gaming is permitted, performed, conducted or operated. Gaming Facility or Gaming Facilities does not include the site of a fair, carnival, exposition or similar occasion.
- (o) “Gaming Operation” means the conduct of Gaming Activities and related business activities in Gaming Facilities and areas where Gaming Employees are employed or assigned.
- (p) “Gaming Operator” means the Nation, an enterprise owned by the Nation, or such other entity of the Nation as the Nation may from time-to-time designate as the wholly-owned entity having full authority and responsibility for the operation and management of Gaming Operations.
- (q) “Gaming Services” means the provision of any goods and services, except legal services and accounting services, to a Gaming Operation, including, but not limited to, equipment, transportation, food, linens, janitorial supplies, maintenance, or security services.
- (r) “Indian Gaming Regulatory Act or IGRA” means Public Law 100-497, 102 Stat. 2426, 25 U.S.C. sec. 2701, *et seq.*, as amended.
- (s) “Judiciary” means the Oneida Nation Judiciary, which is the judicial system that was established by Oneida General Tribal Council resolution GTC-01-07-13-B to administer the judicial authorities and responsibilities of the Nation.
- (t) “License” means a certificate or other document that represents the grant of a revocable authorization to conduct the licensed activity. A License must be supported by a physical document, badge, certification or other physical manifestation of the issuance of the revocable authorization to conduct the licensed activity.
- (u) “Licensee” means a person or entity issued a valid License.
- (v) “Nation” means the Oneida Nation.
- (w) “NIGC” means the National Indian Gaming Commission.

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

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

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

(aa) “Regulatory Incident” means the occurrence of any event giving rise to a potential or alleged non-compliance with a gaming regulation, ordinance, law or policy involving any person or Licensee on the premises of a Gaming Facility.

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

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

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

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

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

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

501.4. Jurisdiction

501.4-1. *Territorial Jurisdiction.* This Ordinance extends to all land within the exterior boundaries of the Reservation.

501.4-2. *Subject Matter Jurisdiction.* This Ordinance applies to all Gaming conducted within the territorial jurisdiction of the Nation as set forth in section 501.4-1.

501.4-3. *Personal Jurisdiction.* This Ordinance governs:

(a) The Nation;

(b) Members of the Nation; and

(c) Individuals and businesses leasing, occupying, or otherwise using Tribal Fee Land on the Reservation and all Tribal Trust Land.

501.5. Oneida Business Committee: Powers and Duties

501.5-1. The Oneida Business Committee retains the power and duty to enter into agreements or compacts with the State under the Indian Gaming Regulatory Act.

501.5-2. The Oneida Business Committee retains the power and duty to enter into agreements with local governments and other Tribal governments for services or cooperative ventures for the Gaming Operations.

501.5-3. The Oneida Business Committee has the exclusive power and duty to enter into contracts and agreements affecting the assets of the Nation, except for those assets that were placed under the responsibility of the Oneida Land Commission under Chapter 67 of the Real Property law.

501.5-4. The Oneida Business Committee delegates to the Commission, in section 501.6-14 of this Ordinance, certain authorities and responsibilities for the regulation of Gaming Activities, Gaming Operations, Gaming Operators, Gaming Employees, Gaming Facilities, Gaming Services, and the enforcement of laws and regulations.

501.5-5. The Oneida Business Committee retains the duty and responsibility to safeguard all funds generated by the Gaming Operations and all other authorities and responsibilities not delegated by a specific provision of this Ordinance.

501.5-6. The Chairperson of the Nation must be the designated and registered agent to receive notice of violations, orders, or determinations which are issued pursuant to the Indian Gaming Regulatory Act and the Compact.

501.6. Oneida Gaming Commission

501.6-1. *Establishment and Purpose.* The Oneida Business Committee has established the Oneida Gaming Commission for the purpose of regulating all Gaming Activities. The Commission is an elected body comprised of four (4) members, provided that, the Oneida Business Committee may, upon request of the Commission, increase the number of Commissioners by resolution without requiring amendment of this Ordinance.

501.6-2. *Location and Place of Business.* The Commission shall maintain its offices and principal place of business within the Reservation.

501.6-3. *Duration and Attributes.* The Commission will have perpetual existence and succession in its own name, unless dissolved by a law of the Nation. Operations of the Commission must be conducted on behalf of the Nation for the sole benefit of the Nation and its members. The Nation reserves unto itself the right to bring suit against any person or entity in its own right, on behalf of the Nation, or on behalf of the Commission, whenever the Nation considers it necessary to protect the sovereignty, rights, and interests of the Nation or the Commission.

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

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

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

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

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

(3) Consent by the Nation to any suit, cause of action, case or controversy; or the levy of any judgment, lien, or attachment upon any property of the Commission or the Nation.

501.6-5. *Requirements of Commission Membership.*

(a) *Qualifications.* Candidates for election or appointment to the Commission must be at least twenty-one (21) years of age on the day of the election or on the day of appointment.

(1) Candidates for election to the Commission shall further meet the following qualifications within five (5) business days after a caucus for elected positions on the Commission. Candidates for appointment to the Commission shall meet the following qualifications on the day of appointment to a vacancy on the Commission under section 501.6-13 of this Ordinance:

(A) Be an enrolled member of the Nation;

(B) Have a minimum of three (3) years of education experience,

employment experience and/or regulatory experience in Gaming Operations related to Gaming Activity, Gaming law, Gaming control or regulation, or Gaming accounting or of any combination of the foregoing; and

(C) Meet all other qualifications set forth in this Ordinance.

(b) *Conflict of Interest.* No person may be considered for election or appointment as a Commissioner until the candidate has disclosed all conflicts of interest as defined in the Nation's Conflict of Interest law.

(c) *Background Investigation.* No person may be considered for election or appointment as a Commissioner until a preliminary Background Investigation has been completed and the person has been found to meet all qualifications.

(1) Swearing into office is subject to a Background Investigation regarding the qualifications set forth in sections 501.6-5 and 501.6-6 upon being elected or appointed to office.

501.6-6. Unless pardoned for activities under subsections (a) and/or (d) by the Nation, or pardoned for an activity under subsections (a) and/or (d) by another Federally-recognized Indian Tribe for an action occurring within the jurisdiction of the Federally-recognized Indian Tribe, or pardoned for an activity under subsections (a) and/or (d) by the State or Federal government, no individual may be eligible for election or appointment to, or to continue to serve on, the Commission, who:

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

(1) Any gambling-related offense;

(2) Any offense involving Fraud or misrepresentation;

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

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

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

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

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

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

(e) Has been removed from any office pursuant to the Nation's Removal Law within the

¹ This section taken substantially from Section IX of the Tribe-State Gaming Compact.

past five (5) years; or

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

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

(a) Terms of office must be staggered.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(o) To investigate all Regulatory Incidents.

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

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

(q) To make determinations regarding suitability for licensing.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

501.7. Gaming Surveillance: Powers, Duties and Limitations

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

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

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

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

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

501.7-4. Gaming Surveillance shall:

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

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

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

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

501.8. [Reserved for future use.]

501.9. Gaming Security Department

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

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

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

501.9-3. The Gaming Security Department shall:

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

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

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

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

501.10. Background Investigations

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

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

under this Ordinance.

(a) All Background Investigations must be conducted to ensure that the Nation in its Gaming Operations may not employ or contract with persons whose prior activities, or reputation, habits and associations pose a threat to the public interest or to the effective regulation of Gaming, or create or enhance the dangers of unsuitable, unfair or illegal practices and methods in the conduct of such Gaming.

(1) The identity of any person interviewed in order to conduct a Background Investigation must be confidential.

501.11. Licenses, Generally

501.11-1. The Commission shall adopt procedures that ensure the efficient and orderly processing of all applications for a License.

(a) All Gaming Employees, Gaming Services vendors and Gaming Operators shall apply for a License from the Commission prior to their participation in any Gaming Activity.

(b) All Gaming Facilities must be licensed by the Oneida Business Committee.

501.11-2. *Temporary License.* All Applicants, upon receipt by the Commission of a completed application for a License and completion of a preliminary Background Investigation, may receive a temporary license for a ninety (90) day period, unless a Background Investigation of the application demonstrates grounds to disqualify the Applicant.

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

(b) A temporary license is valid until either replaced by a License, the ninety (90) day temporary license period has concluded, or the temporary license is cancelled by the Commission, whichever occurs first.

501.11-3. *Revocable.* A License is revocable only in accordance with the procedures set forth in this Ordinance.

(a) A Licensee has only those rights and protections regarding a License granted in this Ordinance.

501.11-4. All Applicants:

(a) Consent to the release of any information relevant to the Applicant's Background Investigation by any person or entity in possession of such information.

(b) Consent to the jurisdiction of the Nation and are subject to all applicable Oneida, Federal, and State laws, regulations and/or policies.

501.11-5. All Licensees are subject to ongoing review at least every two (2) years by the Commission.

501.11-6. *Status of Licenses.* The Commission shall notify the Gaming Operation of the status of all Licenses, whether temporary or permanent, including all Commission action to revoke, suspend or condition a License.

501.11-7. *Commission Licensing Actions.* The Commission may grant, deny, revoke, condition, suspend or reinstate all Licenses, except for Gaming Facilities Licenses, in accordance with this Ordinance.

(a) Authority to place conditions on a License may be exercised only upon promulgation of regulations.

501.11-8. *Noncompliance.* The Commission may issue a notice of noncompliance when the Commission has developed regulations that identify procedures that notices of noncompliance may be issued to Licensees and permittees which provide an opportunity to correct actions.

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

501.12. Gaming Employee License

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

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

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

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

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

(d) Current business and residence telephone numbers.

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

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

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

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

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

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

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

(l) A photograph.

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

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

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

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

- (1) The Privacy Act of 1974;
- (2) Fraud and False Statements Act; and
- (3) Fair Credit Reporting Act.

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

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

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

- (1) Any gambling-related offense;
- (2) Any offense involving Fraud or misrepresentation;
- (3) Any offense involving a violation of any provision of Chapters 562 or 565 of the Wisconsin Statutes, any rule promulgated by the State of Wisconsin Department of Administration, Division of Gaming, or any rule promulgated by the Wisconsin Racing Board;
- (4) A felony not addressed in paragraphs (1), (2), or (3), during the immediately preceding ten (10) years; or
- (5) Any offense involving the violation of any provision of the Nation's law that regulates the conduct of Gaming Activities, or any rule or regulation promulgated pursuant thereto.

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

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

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

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

501.12-4. *Initial Eligibility Determination.*

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

- (1) Grant a temporary license, with or without conditions, to the Applicant; or
- (2) Deny the License application and provide notice to the Applicant that he or she may request a hearing regarding the decision consistent with subsection (b) below.

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

(1) The Commission shall set forth regulations for an Applicant to review any information discovered during the preliminary Background Investigation prior to scheduling a hearing under section 501.12-10 of this Ordinance.

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

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

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

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

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

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

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

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

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

(A) The Gaming Employee's name, date of birth, and Social Security Number;

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

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

(i) License(s) that have previously been denied;

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

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

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

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

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

501.12-6. *License Issuance.* The Commission may issue a License to a Gaming Employee at any time after providing the NIGC with a notice of results as required under section 501.12-5(d) of this

Ordinance; however, a Gaming Employee who does not have a License ninety (90) days after the start of employment must have his or her employment terminated.

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

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

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

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

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

501.12-8. *NIGC Review.*

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

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

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

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

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

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

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

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

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

written notice of suspension.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(e) Within fifteen (15) business days after a hearing, the Commission shall issue a final written licensing decision and decide whether to suspend, uphold an immediate suspension, revoke, or take other action concerning a License.

(1) If the License was suspended, conditioned or revoked based on information from the NIGC or other source under section 501.12-8(d) or 501.12-9(a)(1) of this Ordinance, the Commission shall forward a copy of its decision to the NIGC within forty-five (45) days of receiving the NIGC's or the other source's notification

- 768 indicating that a Gaming Employee is not eligible for a License.
- 769 (f) If a Licensee fails to appear for his or her hearing before the Commission, that right
- 770 is deemed to have been waived and the Commission will proceed on the proposed licensing
- 771 action by default.
- 772 (g) Unless identified in this Ordinance or regulations of the Commission, the hearing
- 773 processes set forth in the Nation's Administrative Procedures Act shall apply.
- 774 501.12-10. *Original Hearing Body*. Any person aggrieved by a licensing decision of the
- 775 Commission may appeal the decision by filing a request for an original hearing before the
- 776 Commission.
- 777 (a) The Licensee may file any such request with the Commission in writing on or before
- 778 the fifteenth (15th) day following receipt of the Commission's decision.
- 779 (b) The Commission shall certify the record, developed in accordance with section
- 780 501.12-4 or 501.12-9(a) of this Ordinance, within thirty (30) days of the date of the filing
- 781 of the request for an original hearing.
- 782 (c) Those Commissioners serving on the original hearing body may not include the
- 783 Commissioners who participated in the licensing decision from which the original hearing
- 784 is scheduled.
- 785 (d) The Commission may decide to review the decision solely on the licensing decision
- 786 record and briefs filed regarding the request for reconsideration.
- 787 (1) The Commission may also, in its sole discretion, grant oral arguments.
- 788 (e) The Commission shall issue a written decision determining whether to uphold the
- 789 Commission's licensing decision, including whether to revoke or reinstate a License,
- 790 within one hundred twenty (120) days from receipt of the request for the original hearing.
- 791 (1) The Commission's decision is considered an original hearing decision and an
- 792 appeal may be made to the Judiciary as an appeal of an original hearing body.
- 793 501.12-11. *Notice to Oneida Business Committee*. Prior to any suspension or revocation of a
- 794 License of the Gaming General Manager, the Commission shall provide notice to the Oneida
- 795 Business Committee twenty-four (24) hours prior to the issuance of the suspension or revocation.
- 796 501.12-12. *Record of Proceedings*. The Commission shall maintain a complete and accurate
- 797 record of all licensure proceedings.
- 798 501.12-13. Revocation of a License is solely limited to the licensing matter. Employment related
- 799 processes resulting from revocation of a License are determined solely through the personnel
- 800 processes and procedures of the Nation and are not licensing matters governed by this Ordinance.
- 801
- 802 **501.13. Gaming Services Licensing and Non-Gaming Services Permitting**
- 803 501.13-1. *Scope of Section*. This section applies to all individuals and entities providing Gaming
- 804 Services.
- 805 (a) The requirements of this Section are in addition to, and do not alter or amend any
- 806 requirements imposed by the Nation's Vendor Licensing law.²
- 807 501.13-2. *Gaming Services License or Non-Gaming Services Permit Required*.
- 808 (a) *Gaming Services License*. Any Gaming Services vendor providing Gaming related
- 809 contract goods or services as defined under Article VII(A) of the Compact to the Gaming
- 810 Operation shall possess a valid Gaming Services License.

² See also Appendix 1. Vendor Licensing/ Permit.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(j) Whether the Applicant has been denied a License by any gaming jurisdiction and, if so, the identity of the jurisdiction, the date of such decision and the circumstances surrounding that decision;

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

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

- 857 (m) Whether the Applicant or any person whose name appears or is required to appear on
858 the application has or has had any business with the Nation or any business or personal
859 relationship with any of the Nation's officers or employees;
- 860 (n) The name and contact information for all Tribes or Tribal organizations with whom
861 the Applicant or any person whose name appears or is required to appear on the application
862 has done business;
- 863 (o) Whether the Applicant or any person whose name appears or is required to appear on
864 the application maintains any involvement in the business of wholesale distribution of
865 alcoholic beverages;
- 866 (p) A statement that the Applicant has read and understands notices and the NIGC
867 requirements relating to:
- 868 (1) The Privacy Act of 1974;
- 869 (2) False statements; and
- 870 (3) The Fair Credit Reporting Act.
- 871 (q) All additional information necessary to allow the Commission to investigate the
872 Applicant and any person whose name appears or is required to appear on the application.
- 873 501.13-5. *Signature on Application.* Applications for Licenses or permits must be signed by the
874 following person:
- 875 (a) For companies and corporations (both for profit and non-profit), the highest ranking
876 official of the corporation or other person to whom the authority to execute the application
877 has been properly delegated.
- 878 (b) For a sole proprietorship, the principal owner.
- 879 (c) For a partnership, all partners.
- 880 (d) For a limited partnership, the general partner or partners.
- 881 501.13-6. *Incomplete Applications.* Applications that do not contain all information requested,
882 including proper signatures, will be considered incomplete.
- 883 (a) Incomplete applications will not be considered by the Commission.
- 884 (b) The Commission shall notify an Applicant if an application is incomplete and what
885 additional information is necessary to complete the application.
- 886 (1) If an Applicant who has submitted an incomplete application, and been
887 notified of the deficiency in that application, fails to provide the information
888 requested by the Commission, the application will be returned to the Applicant and
889 the file closed.
- 890 501.13-7. *Supplemental Information.* The Commission may, in its discretion, request
891 supplemental information from the Applicant.
- 892 (a) Supplemental information requested by the Commission must be promptly submitted
893 by the Applicant.
- 894 (1) An Applicant's failure or refusal to submit supplemental information
895 requested by the Commission may constitute grounds for the denial of the
896 application.
- 897 501.13-8. *Continuing Duty to Provide Information.* Applicants, permittees, and Licensees owe
898 a continuing duty to provide the Commission with information and materials relevant to the
899 Applicant's, permittee's, or Licensee's character or fitness to be licensed, including but not limited
900 to any change in the licensing or permitting status of the Applicant, permittee, or Licensee in any
901 foreign jurisdiction.
- 902 (a) An Applicant's, permittee's, or Licensee's failure to notify the Commission promptly

- of inaccuracies on an application or new information or materials relevant to him or her may constitute grounds to deny, suspend or revoke a License or permit.
- 501.13-9. *Background Investigations.* Background Investigations for Gaming Services vendors must be conducted as follows:
- (a) *Gaming Related Equipment Gaming Services Vendors under Fifty Thousand Dollars (\$50,000.00) in Goods and/or Services Annually.* The Commission shall conduct the Background Investigations that are sufficient to determine the eligibility for licensing of all Gaming Services vendors that provide or anticipate providing under fifty thousand dollars (\$50,000.00) in goods and services annually.
 - (b) *Gaming Related Equipment Gaming Services Vendors over Fifty Thousand Dollars (\$50,000.00) in Goods and/or Services Annually.* The Commission shall review the background investigation conducted by the Wisconsin Office of Indian Gaming Regulation and shall conduct any necessary additional Background Investigation to ensure that the State background investigation is complete and current.
 - (c) *Other Non-Gaming Related Goods and/or Services Gaming Services Vendors.* The Commission shall conduct Background Investigations on a sufficient number of randomly selected applications in order to verify the accuracy of all applications.
 - (1) The random selection process must be identified by regulation of the Commission.
- 501.13-10. *Licensing Action in a Foreign Jurisdiction.* If the States of Wisconsin, New Jersey, Nevada or any other gaming jurisdiction refuse to renew a License or permit, or conditions, suspends or revokes the License or permit of an Applicant, permittee or Licensee, such action may constitute grounds for similar action by the Commission.
- 501.13-11. *Claim of Privilege.* At any time during the licensing or permitting process, the Applicant may claim any privilege afforded by law.
- (a) An Applicant's claim of privilege with respect to the production of requested information or documents or the provision of required testimony or evidence may constitute grounds for the denial, suspension or revocation of a License or permit.
- 501.13-12. *Withdrawal of an Application.* An Applicant may request to withdraw an application by submitting a written request to the Commission.
- (a) The Commission retains the right, in its exclusive discretion, to grant or deny a request for withdrawal.
 - (b) An Applicant who withdraws an application is precluded from re-applying for a Gaming Services License or Non-Gaming Services permit for a period of one (1) year from the date the application was withdrawn.
- 501.13-13. *Suspension or Revocation of Gaming Services Licenses or Permits.* Except as provided in section 501.13-13(c) of this Ordinance, no License or permit may be suspended or revoked except after notice and opportunity for hearing.
- (a) *Basis for Licensing or Permitting Action.* The Commission may suspend, modify, or revoke any Gaming Services License or Non-Gaming Services permit issued under this Ordinance if, after issuance of the License or permit, the Commission receives reliable information that would justify denial of the issuance or renewal of a License or permit, or if the Commission determines that the Licensee or permittee has:
 - (1) Knowingly made a materially false or misleading statement in any application for a License or permit, in any amendment thereto, or in response to a request by the Commission for supplemental information or in connection with any

949 investigation of the Commission;

950 (2) Knowingly promoted, played or participated in any Gaming Activity operated
951 in violation of the Compact, any law of the Nation, or other applicable law;

952 (3) Bribed or attempted to bribe a Commissioner or any other person in an
953 attempt to avoid or circumvent any applicable law;

954 (4) Falsified any books or records relating to any transaction connected with
955 operation of a Gaming Activity;

956 (5) Refused to comply with a lawful directive of the Nation, the federal
957 government, or any court of competent jurisdiction; or

958 (6) Been convicted of or entered a plea of guilty or no contest to a crime involving
959 the sale of illegal narcotics or controlled substances.

960 (b) *Suspension Notice*. The Commission shall provide a Licensee or permittee with
961 written notice of suspension, which must, at a minimum, notify the Licensee or permittee
962 of the following:

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

966 (2) The Licensee's or permittee's right to present documents and witness
967 testimony at the hearing and to be represented by counsel;

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

971 (4) The time and place set by the Commission for the Licensee's or permittee's
972 file review and hearing.

973 (c) *Immediate Suspension*. If, in the judgment of the Commission, the public interest and
974 effective regulation and control of others require the immediate exclusion of a Licensee or
975 permittee, the Commission may immediately suspend a License or permit prior to a hearing
976 on the matter.

977 (1) Such an immediate suspension takes effect upon service of the notice of
978 immediate suspension.

979 (d) *File Review and Hearing*. Any notice of suspension or notice of immediate
980 suspension must set forth the time and date for the Licensee or permittee to conduct a file
981 review and for a hearing.

982 (e) *Final Written Decision*. Within fifteen (15) business days after a hearing, the
983 Commission shall issue a final written decision and decide whether to suspend, uphold an
984 immediate suspension, revoke, or take other action concerning a License or permit.

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

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

990 501.13-14. *Original Hearing Body*. Any person aggrieved by a licensing or permitting decision
991 of the Commission may appeal the decision by filing a request for an original hearing before the
992 Commission.

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

decision.

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

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

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

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

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

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

501.14. Gaming Facility License

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

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

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

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

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

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

(1) To show compliance with applicable environmental standards, Gaming Operator shall submit certified copies of an Environmental Assessment of the Gaming Facility which were prepared by the agency responsible for the enforcement of applicable environmental standards.

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

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

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

501.14-4. If the Oneida Environmental, Health and Safety Department notifies the Oneida

Business Committee that a Gaming Facility will be closed by a governmental agency with proper authority due to environmental, health or safety concerns, the Oneida Business Committee shall suspend the License of the Gaming Facility.

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

501.15. Gaming Operator License

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

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

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

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

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

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

- (a) The Gaming Operation is to be located within the Reservation, or land taken into trust after October 17, 1988, for Gaming purposes;
- (b) The Gaming Activity proposed to be played at the Gaming Operation is Class II or Class III Gaming as defined by this Ordinance and IGRA; and
- (c) The proposed Gaming Operation is authorized by a resolution of the Oneida Business Committee.

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

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

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

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

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

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

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

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

Commission shall immediately notify the Oneida Business Committee.

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

501.16. Games

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

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

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

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

- (b) The Oneida Business Committee may identify by resolution additional positions restrictions on Gaming Activity conducted at Gaming Facilities.

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

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

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

501.17. Allocation of Gaming Funds

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

- (a) To fund government operations, programs, or services of the Nation;
- (b) To provide for the general welfare of the Nation and its members; provided, that per capita payments may only be made pursuant to an approved revenue allocation plan;
- (c) To promote economic development of the Nation;
- (d) To contribute to charitable organizations;
- (e) To assist in funding operations of other local governments;
- (f) To fund programs designed to provide education, referrals, and treatment of Gaming addiction disorders; and
- (g) For any other purpose as determined by the Oneida General Tribal Council or the Oneida Business Committee which is not inconsistent with the Oneida Nation Constitution and IGRA.

501.18. Audits

501.18-1. *Annual Audit.* An annual audit of each Gaming Operation must be conducted by an independent, certified public accounting firm according to generally accepted accounting principles.

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

accounting firm.

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

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

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

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

501.19. Enforcement and Penalties

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

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

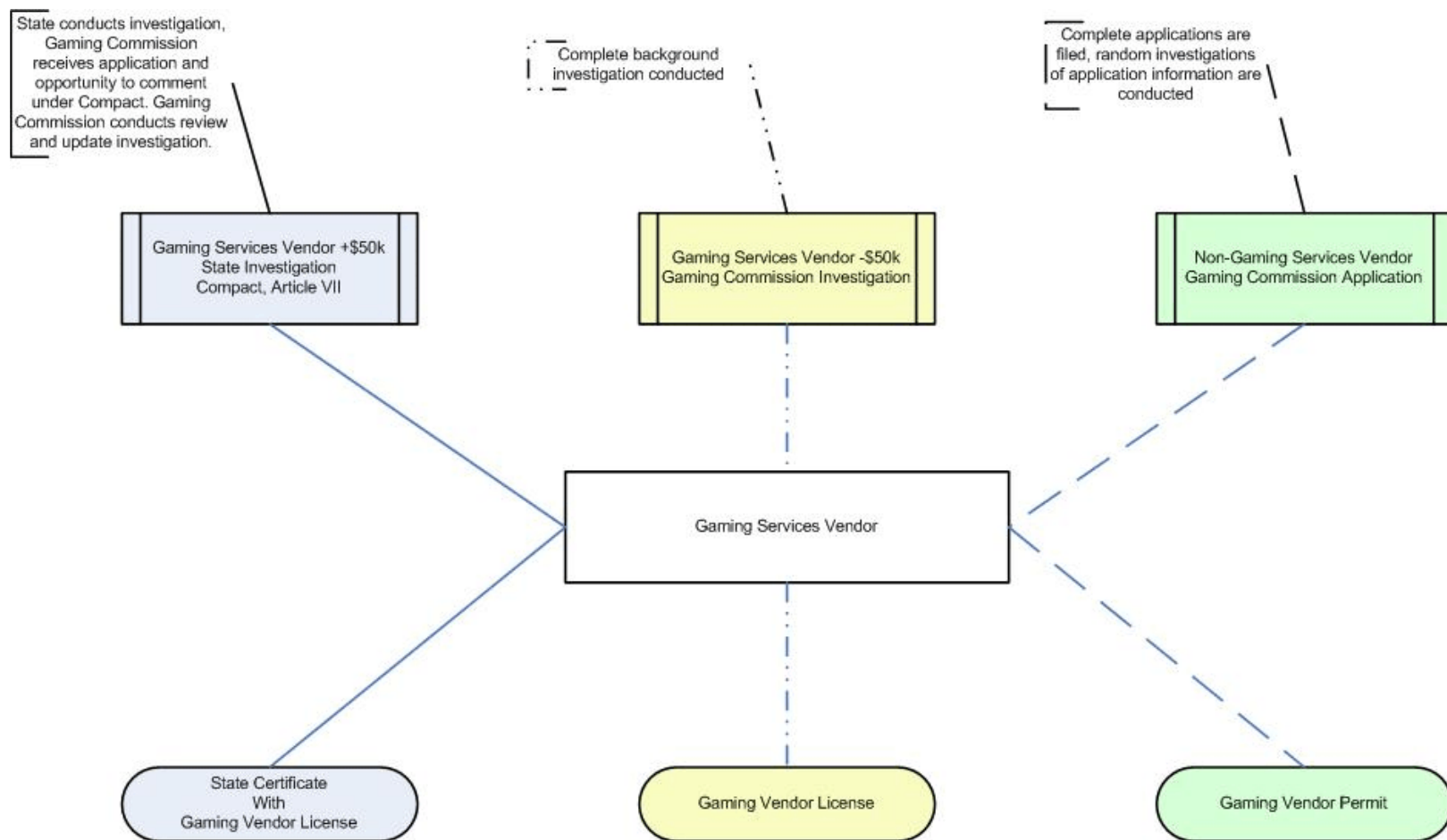
501.19-3. *Remedies.* The Oneida Business Committee may authorize commencement of an action in any court of competent jurisdiction to recover losses, restitution, and forfeitures resulting from violations of this Ordinance.

End.

| | |
|--------------------|--------------------------------------|
| Adopted | GTC-7-05-04-A |
| Emergency Amended | BC-7-14-04-A |
| Amendment | BC-10-06-04-D |
| Emergency Amended | BC-11-03-04-A |
| Permanent Adoption | BC-3-23-05-C |
| Amended | BC-9-23-09-D |
| Amended | BC-06-25-14-C (effective 11 01 2014) |
| Emergency Amended | BC-10-08-14-C (effective 11 01 2014) |
| Amended | BC-09-09-15-A (effective 09 09 2015) |
| Emergency Amended | BC-05-12-21-D |
| Emergency Extended | BC-11-10-21-A |
| Amended | BC-__-__-__-__ |

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Appendix 1. Vendor License/Permit





EMERGENCY AMENDMENTS TO ONEIDA NATION GAMING ORDINANCE LEGISLATIVE ANALYSIS

SECTION 1. EXECUTIVE SUMMARY

| <i>Analysis by the Legislative Reference Office</i> | |
|---|---|
| Intent of the Proposed Amendments | <ul style="list-style-type: none"> ▪ To remove the legal risks associated with the Oneida Nation Gaming Ordinance's placement of the Gaming Security Department ("Security") under the Oneida Police Department within the Nation's organizational structure; and ▪ To make non-material changes to certain language within the Oneida Nation Gaming Ordinance that will bring it up to date with the Nation's current drafting practices. |
| Purpose | <ul style="list-style-type: none"> ▪ The Oneida Nation Gaming Ordinance was established to govern: <ul style="list-style-type: none"> • all Gaming Activities that occur on lands under the jurisdiction of the Nation; • all individuals or entities that engage in said Gaming Activities; and • those who provide goods or services to such individuals or entities engaged in said Gaming Activities [5 O.C. 501.1-1]. |
| Affected Entities | Internal Security Department; Oneida Police Department, Oneida Gaming Commission, Oneida Gaming Management, Oneida Business Committee. |
| Related Legislation | Legislative Procedures Act, Removal Law, Administrative Procedures Act, Internal Audit law, Vendor Licensing law. |
| Public Meeting | A public comment period will be held open until April 13, 2022. A public meeting will not be held in accordance with the Nation's COVID-19 Core Decision Making Team's declaration, <i>Suspension of Public Meetings under the Legislative Procedures Act</i> . |
| Fiscal Impact | A fiscal impact statement has not yet been developed. |
| Expiration of Emergency Amendments | Emergency amendments to ONGO expire on May 12, 2022. [1 O.C. 109.9-5(b)]. |

SECTION 2. LEGISLATIVE DEVELOPMENT

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

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

- B. *Emergency Amendments Adopted through Resolution BC-05-12-21-D.*** On December 2, 2020, the Legislative Operating Committee added ONGO to the Active Files List per a November 10, 2020, directive from the Oneida Business Committee that it be added to address a concern raised by the Oneida Law Office over the placement of the Gaming Security Department (“Security”) within the Nation’s organizational structure under section 501.9-2 of ONGO. More specifically, the concern is that the placement of Security under the Oneida Police Department has given rise to certain legal claims that could expose the Nation to unnecessary litigation costs, regardless of merit or prevailing party, if not disposed of in an expeditious manner. Based on this concern, the Legislative Operating Committee decided to bring forward emergency amendments to section 501.9-2 of ONGO by temporarily re-assigning Security to the Oneida Business Committee, while a more appropriate permanent placement is developed and vetted within the period of time allotted for emergency amendments to be in effect under the Nation’s Legislative Procedures Act. The emergency amendments to ONGO were adopted by the Oneida Business Committee through the adoption of resolution BC-05-12-21-D. These emergency amendments to ONGO were set to expire on November 12, 2021.
- C. *Emergency Amendments Extended through Resolution BC-11-10-21-A.*** On November 10, 2021, the Oneida Business Committee adopted resolution BC-11-10-21-A which extended the emergency amendments to ONGO adopted through resolution BC-05-12-21-D for an additional six (6) month period effective on November 12, 2021. The Legislative Procedures Act allows the Oneida Business Committee to extend emergency amendments for a six (6) month period. [1 O.C. 109.9-5(b)]. A six (6) month extension of the emergency amendments to the ONGO was requested to provide additional time for the Legislative Operating Committee to process the adoption of permanent amendments to the ONGO. The emergency amendments to the ONGO will now expire on May 12, 2022.
- D.** The Legislative Operating Committee is now seeking the permanent adoption of this amendment to the ONGO.

SECTION 3. CONSULTATION AND OUTREACH

- A.** Representatives from the following departments or entities participated in the development of the amendments to ONGO and this legislative analysis:
- Oneida Law Office;
 - Oneida Police Department;
 - Internal Security Department;
 - Oneida Gaming Commission;
 - Gaming Management; and
 - Oneida Police Commission.
- B.** The following laws of the Nation and bylaws were reviewed in the drafting of this analysis:
- Oneida Nation Constitution and Bylaws;
 - Legislative Procedures Act;
 - Oneida Gaming Commission Bylaws; and
 - Internal Audit law.

SECTION 4. PROCESS

A. The amendments to ONGO have followed the process set forth in the Legislative Procedures Act:

- On December 2, 2020, the Legislative Operating Committee added ONGO to its Active Files List.
- On May 12, 2021, the Oneida Business Committee adopted an emergency amendment to ONGO through the adoption of resolution BC-05-12-21-D to address the organization of Security.
- On November 10, 2021, the Oneida Business Committee extended the emergency amendments to the Law for an additional six (6) month period through the adoption of resolution BC-11-10-21-A.
- On March 16, 2022, the Legislative Operating Committee will consider approving the draft of permanent amendments to ONGO and the legislative analysis, and consider directing that a public comment period be held open for the proposed amendments to ONGO until April 13, 2022.

B. The following work meetings were held by the Legislative Reference Office in the development of the emergency amendments to ONGO:

- January 7, 2021: Work meeting with Oneida Law Office.
- January 14, 2021: LOC work meeting.
- February 19, 2021: LOC work meeting with Oneida Gaming Commission, Oneida Police Department, Internal Security Department, Gaming Management, Oneida Law Office, and Oneida Police Commission.
- February 25, 2021: LOC work meeting.
- March 11, 2021: LOC work meeting with Oneida Law Office.
- April 7, 2021: LOC work meeting.
- April 29, 2021: LOC work meeting.
- May 19, 2021: LOC work meeting.
- June 20, 2021: Work meeting with Oneida Gaming Commission, Oneida Police Department, Internal Security Department, Oneida Law Office.
- September 1, 2021: LOC work meeting.
- October 6, 2021: LOC work meeting.
- October 22, 2021: Work meeting with Oneida Gaming Commission, Oneida Police Department, Oneida Police Commission.
- December 9, 2021: LOC work meeting.
- December 15, 2021: LOC work meeting.
- December 21, 2021: LOC work meeting with the Oneida Police Department and Conservation.
- January 28, 2022: Work meeting with Oneida Police Commission
- March 10, 2022: LOC work meeting.

C. ***COVID-19 Pandemic's Effect on the Legislative Process.*** The world is currently facing a pandemic of COVID-19. 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 the proposed amendments to the 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.

▪ *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 March 24, 2022, 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, BC-07-28-21-N, BC-09-22-21-A, BC-11-24-21-F, and BC-01-12-22-B.

- *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.

- *Oneida Business Committee Resolution BC-12-8-21-B, Updating Public Gathering Guidelines During Public Health State of Emergency - COVID-19.*

- On December 8, 2021, the Oneida Business Committee adopted resolution BC-12-08-21-B, *Updating Public Gathering Guidelines During Public Health State of Emergency - COVID-19*, which superseded Oneida Business Committee resolution BC-08-13-21-A, *Setting Public Gathering Guidelines During Public Health State of Emergency - COVID-19*, and provides updated guidelines on holding meetings both indoors and outdoors.

- This resolution provides that when the following levels are met, indoor meetings of the Nation are feasible, provided that all organizers and participants should consider additional health safety measures when attending such as wearing a face mask, washing hands frequently, and social distancing:

- When COVID-19 Case Activity rates are at or below low in Brown and Outagamie Counties, or the county in which the activity is being held, as identified on the Wisconsin Department of Health Services website for the most recent period.
- When COVID-19 Percent Positive rates are at or below low in Brown and Outagamie Counties, or the county in which the activity is being held, as identified on the Wisconsin Department of Health Services website for the most recent period.
- When COVID-19 Community Transmission Rates by ZIP Code Tabulation Area are at or below low in designated ZIP Codes or the ZIP Code in which the activity is being held, as identified on the Wisconsin Department of Health Services website for the most recent period.

- *Conclusion.*

- At this point in time the conditions for holding an indoor public gather provided for in resolution BC-12-08-21-B have not been met. Although a public meeting will not be held

on the proposed amendments to the Law, a public comment period will still be held open until April 13, 2022, in accordance with resolution BC-12-08-21-B and the Legislative Procedures Act as modified by the COVID-19 Core Decision Making Team's "*Suspension of Public Meetings under the Legislative Procedures Act*" declaration.

SECTION 5. CONTENTS OF THE LEGISLATION

- A. Removal of Security from the Oneida Police Department.** Previously, section 501.9-1 of ONGO provided that the Gaming Security Department is a department within the Oneida Police Department. The proposed amendment to section 501.9-1 of ONGO will remove the statement that the Gaming Security Department is a department of the Oneida Police Department. [5 O.C. 501.9-1]. Although ONGO will no longer provide that the Security Department is a department within the Oneida Police Department, with respect to the Oneida Police Department, ONGO will now provide that when investigations involve or uncover a possible criminal or quasi-criminal activity, the Gaming Security Department shall report the activity to the Oneida Police Department for further review and investigation by the Oneida Police Department under its separate departmental authority. [5 O.C. 501.9-2(a)]. The requirement that all reports of the Gaming Security Department must be copied to the Oneida Gaming Commission previously found in section 501.9-1 was removed from ONGO due to concerns raised by the Oneida Police Department regarding confidentiality of on-going investigations. Reference to the Oneida Police Department in section 501.9-2 was also removed and replaced with the Security Director in regard to the responsibility to collaborate with the Gaming General Manager and Oneida Gaming Commission to enter into an agreement, subject to ratification by the Oneida Business Committee, describing their responsibilities and reporting requirements under ONGO. [5 O.C. 501.9-2].
- **Effect.** The proposed amendments will remove the legal risks associated with Security's placement under the Oneida Police Department. The emergency amendments previously made to ONGO through resolutions BC-05-12-21-D and BC-11-10-21A provided that the Oneida Business Committee shall be responsible for the supervision, as well as oversight, of the Gaming Security Department and the Gaming Security Department shall report directly to the Oneida Business Committee per the process and schedule set by the Oneida Business Committee. It is the intent of the Legislative Operating Committee that the adopting resolution for these proposed amendments will include a provision that the Oneida Business Committee remain as the body responsible for supervision and oversight of the Security Department until such a time as the Oneida Nation Law Enforcement Ordinance can be amended to expand and transition the Oneida Police Commission to a Public Safety Commission which will oversee the Security Department along with the Oneida Police Department, Conservation Wardens, and any other safety focused department in the future.
- B. Minor Drafting Changes.** Additional non-material drafting and formatting changes have been made throughout the Law w to update the language and drafting style in ONGO to be consistent with the Nation's current drafting practices.

SECTION 6. EXISTING LEGISLATION

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

- 182 ■ *Oneida Nation Law Enforcement Ordinance.* The purpose of the Oneida Nation Law Enforcement
183 Ordinance is to regulate the conduct of the Nation’s law enforcement personnel according to the
184 highest professional standards . [3 O.C. 301.1-1].
- 185 ■ The Legislative Operating Committee is currently developing amendments to the Oneida
186 Nation Law Enforcement Ordinance to expand and transition the Oneida Police
187 Commission to a broader Oneida Public Safety Commission. It is the intent that the Oneida
188 Public Safety Commission would oversee the Oneida Police Department, the Security
189 Department, the Conservation Wardens and any future safety focused departments of the
190 Nation.

191 192 **SECTION 7. OTHER CONSIDERATIONS**

193 A. **Deadline for Permanent Adoption of Amendments.** The emergency amendments to ONGO will expire
194 on May 12, 2022. There is no more opportunity for an extension of these emergency amendments.

- 195 ■ *Conclusion:* The Legislative Operating Committee will need to consider the development and
196 adoption of permanent amendments to ONGO prior to May 12, 2022.

197 B. **Fiscal Impact.** Under the Legislative Procedures Act, a fiscal impact statement is required for all
198 legislation except emergency legislation [1 O.C. 109.6-1]. Oneida Business Committee resolution BC-
199 10-28-20-A titled, “*Further Interpretation of ‘Fiscal Impact Statement’ in the Legislative Procedures*
200 *Act,*” provides further clarification on who the Legislative Operating Committee may direct complete
201 a fiscal impact statement at various stages of the legislative process, as well as timeframes for
202 completing the fiscal impact statement.

- 203 ■ *Conclusion.* The Legislative Operating Committee has not yet requested that a fiscal impact
204 statement for the amendments to ONGO be developed.

ONEIDA NATION
PUBLIC COMMENT PERIOD NOTICE
Due to the COVID-19 Public Health Emergency
Only Written Comments Will Be Accepted Until:
WEDNESDAY, APRIL 13, 2022



Find Public Meeting Materials at

Oneida-nsn.gov/government/
register/public meetings

Send Public Comments to

LOC@oneidanation.org

ONEIDA NATION GAMING ORDINANCE AMENDMENTS

The purpose of the Oneida Nation Gaming Ordinance (ONGO) is to regulate all gaming activities under the jurisdiction of the Oneida Nation. This law is intended to govern the gaming activities of all persons, gaming employees, consultants, business entities, vendors, boards, committees, commissions and hearing bodies.

The proposed amendments to the Oneida Nation Gaming Ordinance will:

1. Remove the Gaming Security Department from the supervision and oversight of the Oneida Police Department, while still requiring that when investigations involve or uncover a possible criminal or quasi-criminal activity, the Gaming Security Department shall report the activity to the Oneida Police Department for further review and investigation by the Oneida Police Department; and
2. Make additional non-material drafting and formatting changes throughout the law to update the language and drafting style in ONGO to be consistent with the Nation's current drafting practices.

For more information on the proposed amendments to the Oneida Nation Gaming Ordinance please review the public comment packet at [oneida-nsn.gov/government/register/public meetings](http://oneida-nsn.gov/government/register/public-meetings).

PUBLIC COMMENT PERIOD CLOSSES WEDNESDAY, APRIL 13, 2022

The Nation's COVID-19 Team issued a declaration on March 27, 2020, titled "*Suspension of Public Meetings under the Legislative Procedures Act*." This declaration provides that the Legislative Procedures Act's requirement to hold a public meeting during the public comment period is suspended due to the COVID-19 public health emergency. Oneida Business Committee resolution BC-12-08-21-B, *Updating Public Gathering Guidelines During Public Health State of Emergency - COVID-19*, prohibits indoor public meetings from occurring when COVID-19 Case Activity rates are above low in Brown and Outagamie Counties, COVID-19 Percent Positive rates are above low in Brown and Outagamie Counties, and when COVID-19 Community Transmission Rates by ZIP Code Tabulation Area are above low in the designated ZIP Codes or the ZIP Code in which the activity is being held, as identified on the Wisconsin Department of Health Services website for the most recent period. The Nation has not yet met these thresholds for holding an indoor public meeting. Although there will be no in person 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.



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



AGENDA REQUEST FORM

- 1) Request Date: 2-25-2022
- 2) Contact Person(s): Kaylynn Gresham
 Dept: Emergency Management
 Phone Number: 920-869-6650 Email: kgresham@oneidanation.org
- 3) Agenda Title: Amendment to ONEPC Bylaws
- 4) Detailed description of the item and the reason/justification it is being brought before the LOC:
Due to the restructuring that has occurred within the Nation, there are
departments/divisions listed within the Bylaws whose names have
changed. I am requesting an amendment of the Division names that are
currently listed, to the Department names that were changed during the
restructuring

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:
David Jordan, the BC Liaison for the ONEPC.

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

If yes, please indicate why:

EM is in the process of drafting participation request letters for the Divisions/Departments listed as required participants.

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

Signature of Requester:
Kaylynn Gresham

Digitally signed by Kaylynn Gresham
 Date: 2022.02.25 15:51:30 -06'00'

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

ONEIDA NATION EMERGENCY PLANNING COMMITTEE BYLAWS

Article I. Authority

- 1-1. *Name.* The name of this entity shall be the Oneida Nation Emergency Planning Committee and may be referred to as the ONEPC.
- 1-2. *Establishment.* The ONEPC was established under the Emergency Management law (f/k/a the Oneida Emergency Services Ordinance and Emergency Management and Homeland Security law respectively), which was adopted by the Oneida Business Committee through resolution BC-7-15-98-A and subsequently amended by resolutions BC-12-20-06-G and BC-5-13-09-F.
- 1-3. *Authority.* The ONEPC was established to serve as the Nation's emergency planning and oversight committee, responsible for including, but not limited to, the following:
- (a) To assist the Director of the Emergency Management Department ("Director") in drafting and maintaining the Nation's Emergency Response Plan ("Plan");
 - (b) At the request of the Director, to assist with the implementation of the Emergency Management law and/or any Plan issued thereunder; and
 - (c) To carry out any other power and/or duty delegated to the ONEPC through the laws of the Nation, including, but not limited to, the Emergency Management law, as may be amended from time-to-time hereafter.
- 1-4. *Office.* The official mailing address of the ONEPC shall be:
c/o Office of Emergency Management
P.O. Box 365
Oneida, Wisconsin 54155
- 1-5. *Membership.* The ONEPC shall be made up as identified in this section.
- (a) *Number of Members.* Subject to subsection (d) of this section, the ONEPC shall be comprised of between nine (9) and ten (10) members, plus eight (8) alternate members, (collectively "members") to be made up of the following individuals:
 - (1) One (1) member and one (1) alternate member shall be employed within the Oneida Police Department;
 - (2) One (1) member and one (1) alternate member shall be employed within the Nation's Division of Public Works;
 - (3) One (1) member and one (1) alternate member shall be employed within the Nation's Comprehensive Health Division;
 - (4) One (1) member and one (1) alternate member shall be employed within the Nation's Community Economic and Development Division;

- (5) One (1) member and one (1) alternate member shall be employed within the Nation's Environmental, Health, Safety, Land and Agriculture Division;
- (6) One (1) member and one (1) alternate member shall be employed within the Nation's Gaming Division;
- (7) One (1) member and one (1) alternate member shall be employed within the Nation's Governmental Services Division;
- (8) One (1) member and one (1) alternate member shall be employed within the Nation's Comprehensive Housing Division; and
- (9) At least one (1) but no more than two (2) members shall be representatives from the Oneida community.
 - (A) The number of community representative members shall be decided by majority vote of the members present at an ONEPC meeting of an established quorum.
- (b) *Appointment.* Members of the ONEPC shall be appointed by the Oneida Business Committee in accordance with the Boards, Committees and Commissions law.
 - (1) The terms of the ONEPC membership shall be as follows:
 - (A) The term for members listed in section 1-5(a)(1)-(8) of these bylaws shall coincide with the term of their employment within the position that qualifies them for membership.
 - (B) The term for members listed in section 1-5(a)(9) of these bylaws shall be three (3) years.
 - (2) The ONEPC Chairperson shall review all application materials and submit a recommendation for appointment to the Oneida Business Committee in accordance with the Boards, Committees and Commissions law.
 - (A) The recommendation of the ONEPC Chairperson shall be determined by majority vote of the members present at an ONEPC meeting of an established quorum.
- (c) *Vacancies.* Vacancies of the ONEPC shall be filled in accordance with the Boards, Committees and Commissions law.
 - (1) A seat on the ONEPC shall be considered vacant as follows:
 - (A) *End of Term.* A vacancy is effective as of 4:30 p.m. on the last day of the month in which the term ends.
 - (i) Although a member's position is considered vacant once his or her term ends, that member may remain in office until a successor has been sworn in by the Oneida Business Committee.
 - (B) *Termination of Appointment.* An ONEPC member may have his or her appointment terminated by the Oneida Business Committee in accordance with the Boards, Committees and Commissions law.
 - (C) *Resignation.* An ONEPC member may resign at any time

verbally at a meeting or by delivering written notice to the Business Committee Support Office and the ONEPC Chairperson or Chairperson's designee. The resignation is deemed effective upon:

- (i) Deliverance of the written notices to the Business Committee Support Office and the ONEPC Chairperson or Chairperson's designee; or
- (ii) Acceptance by motion of the ONEPC of a member's verbal resignation.

(d) *Qualifications of Members.*

- (1) To qualify for membership on the ONEPC, all applicants must:
 - (A) Except as stated herein, be an enrolled member of the Oneida Nation;
 - (i) One (1) of the entire sixteen (16) area representative members (members + alternative members) listed in section 1-5(a)(1)-(8) of these bylaws may be a non-member of the Oneida Nation.
 - (B) Be at least twenty-one (21) years of age;
 - (C) Be eligible to serve under the conflicts of interest provisions set forth in the Boards, Committees and Commissions law; and
 - (D) Pass a background check.
 - (i) Area representative members listed in section 1-5(a)(1)-(8) who passed a background check to be an employee of the Nation in their representative area shall be considered to have passed the background check required hereunder.
- (2) To qualify for membership under section 1-5(a)(1)-(8) of these bylaws, applicants must further:
 - (A) Be an employee of the respective division, department or office they are applying to represent; and
 - (B) Submit a letter of recommendation from the head of such division, department or office.

1-6. *Termination.* Upon majority vote of the members present at an ONEPC meeting of an established quorum, the ONEPC may recommend that the Oneida Business Committee terminate the appointment of an ONEPC member pursuant to the Boards, Committees and Commissions law.

- (a) The ONEPC may recommend the Oneida Business Committee terminate a member's appointment based on the following:
 - (1) A member accumulates three (3) or more unexcused absences from a scheduled ONEPC meeting within a one (1) year period; or
 - (A) An ONEPC member shall be deemed unexcused if he or she fails to provide written notice of the absence to an ONEPC

Officer at least thirty (30) minutes before the missed meeting.

- (2) A material violation of these bylaws and/or any other laws or policies of the Nation.

1-7. *Trainings and Conferences.* Mandatory trainings/conferences for members of the ONEPC shall be as follows:

- (a) Members are required to obtain a certificate of training for ICS 100 and ICS 200 classes.
- (b) At the Director's request, members shall attend the Wisconsin Emergency Management Governor's Conference and the Wisconsin Emergency Management Association Conference on an annual basis.
- (c) Regardless of the number of trainings/conferences that he or she is required to attend, no ONEPC member shall be eligible to receive stipends for attending more than five (5) full days of mandatory trainings/conferences per year.
 - (1) The Emergency Management Department will provide funding for registration, transportation and per-diem to any ONEPC member who attends either of the conferences listed in subsection (b) of this section.
 - (2) ONEPC members must receive a signed travel authorization from the Director before attending a training or conference hereunder.

Article II. Officers

2-1. *Officers.* The ONEPC shall have three (3) Officer positions, consisting of a Chairperson, a Vice-Chairperson and a Secretary, who shall hold office for three (3) year terms.

2-2. *Responsibilities of the Chairperson.* The responsibilities, duties and limitations of the Chairperson shall be as follows:

- (a) To call all meetings and, with the Secretary's assistance, notify all ONEPC members of meetings in accordance with these bylaws and the Boards, Committees and Commissions law;
- (b) To preside over all meetings of the ONEPC;
- (c) To submit, or have submitted through a designee, annual and semi-annual reports to the Oneida General Tribal Council, as well as quarterly reports to the Oneida Business Committee, consistent with the Boards, Committees and Commissions law; and
- (d) To attend, or designate an ONEPC member to attend, the Oneida Business Committee meeting in which the ONEPC's quarterly report appears on the agenda.

2-3. *Responsibilities of the Vice-Chairperson.* The responsibilities, duties and limitations of the Vice-Chairperson shall be as follows:

- (a) To preside over all meetings of the ONEPC in the absence of the Chairperson and appoint a Vice-Chairperson for that meeting;
- (b) To work with the Chairperson on all matters that concern the ONEPC; and
- (c) In the event of a vacancy of the Chairperson, to fill the Chairperson position until such time as an election can be held in accordance with section 2-6 of these bylaws.

2-4. *Responsibilities of the Secretary.* The responsibilities, duties and limitations of the Secretary shall be as follows:

- (a) To ensure that the minutes of all ONEPC meetings are recorded, reported and maintained in accordance with these bylaws, the Boards, Committees and Commissions law, and the Open Records and Open Meetings law;
- (b) In the event both the Chairperson and Vice-Chairperson positions become vacant before the end of their terms, to call ONEPC meetings to fill the vacancies and to preside over the meetings for the sole purpose of conducting an election of new Officers, at which point the Chairperson, or Vice-Chairperson in the absence of the Chairperson, shall preside; and
- (c) To assist the Chairperson in providing the notice in section 2-2(a) of these bylaws and, at least seventy-two (72) hours before each meeting, to further provide notice of all meetings, meeting agendas, documents and minutes pursuant to these bylaws, the Boards, Committees and Commissions law, and the Open Records and Open Meetings law.

2-5. *Ad Hoc Committees.* The ONEPC may create ad hoc committees when it deems necessary to serve at the pleasure of the ONEPC.

- (a) Ad hoc committees of the ONEPC shall be created, operated and dissolved in accordance with the Boards, Committees and Commissions law.
- (b) Ad hoc committees may contain non-ONEPC members.
- (c) Members of ad hoc committees shall not be eligible for stipends unless a specific exception is made by the Oneida Business Committee or Oneida General Tribal Council.

2-6. *Selection of Officers.* ONEPC Officers shall be elected by a majority vote of the members present at an ONEPC meeting of an established quorum.

- (a) Members may be dismissed from their Officer positions by a majority vote of the members present at an ONEPC meeting of an established quorum.
- (b) In the event of a vacancy before the end of an Officer's term, a successor shall be elected by majority vote of the members present at an ONEPC meeting of an established quorum for the duration of the unexpired term.
- (c) Officers shall hold no more than one (1) Officer position per Officer term.

2-7. *Purchases and Travel.* The ONEPC shall follow the Nation's policies and procedures regarding purchasing and sign-off authority.

- (a) The levels of budgetary sign-off authority for the ONEPC shall be as set

forth in the manual titled, *Oneida Tribe of Indians of Wisconsin Purchasing Policies and Procedures*, for Area Directors/Enterprise Directors.

(1) All ONEPC Officers have sign-off authority and two (2) Officers shall be required to sign-off on all budgetary requests.

(A) Upon formal approval of a purchase by the ONEPC, the Business Committee Support Office shall have official budgetary sign-off authority for the ONEPC.

(b) The ONEPC shall approve a member's request to travel on behalf of the ONEPC by majority vote of the members present at a regular or emergency ONEPC meeting of an established quorum.

2-8. *Personnel.* The ONEPC shall not have the authority to hire personnel for the benefit of the ONEPC.

Article III. Meetings

3-1. *Regular Meetings.* Meetings of the ONEPC shall be held every month during regular business hours at a location within the Reservation boundaries.

(a) The date, time and location of the meetings shall be set at the first ONEPC meeting of an established quorum by majority vote of the members present.

(1) The ONEPC meeting date, time and/or location may change from time-to-time as determined by majority vote of the members present at an ONEPC meeting of an established quorum so long as notice is provided in accordance with the Nation's Open Records and Open Meetings law prior to the implementation of a new date, time and/or location.

(b) The Secretary shall provide written notice of meeting agendas, documents, and minutes to all ONEPC members at least seventy-two (72) hours before each meeting and shall further provide notice of the same in accordance with the Nation's Open Records and Open Meetings law.

(c) ONEPC meetings may be attended in person, by telephone, through video-conferencing or through other telecommunications so long as presence at the meeting occurs and is demonstrated in accordance with the Boards, Committees and Commissions law.

(d) Unless it would conflict with an express provision of these bylaws or the Boards, Committees and Commissions law, Robert's Rules of Order shall be used as a guideline when conducting meetings of the ONEPC.

3-2. *Semi-Annual Meetings.* The ONEPC may hold semi-annual meetings with certain entities of the Nation for the purpose of providing emergency planning, training and education.

(a) Semi-annual meetings of the ONEPC shall not qualify as a meeting for purposes of stipend eligibility.

3-3. *Emergency Meetings.* An emergency meeting of the ONEPC may be called when an issue

arises requiring immediate action by the ONEPC that cannot wait until its next regularly scheduled meeting.

- (a) Emergency meetings of the ONEPC may be called by the Chairperson or Vice-Chairperson.
- (b) The Secretary shall provide notice to all ONEPC members in writing, as well as by telephone call, at least twenty-four (24) hours before the scheduled meeting and shall further provide notice in accordance with the Nation's Open Records and Open Meetings law.
 - (1) Written notice provided via email communication must be sent to the official Oneida Nation email address provided to all members to conduct business electronically on behalf of the ONEPC.
- (c) Emergency ONEPC meetings may be attended in person, by telephone, through video-conferencing or through other telecommunications so long as presence at the meeting occurs and is demonstrated in accordance with the Boards, Committees and Commissions law.
- (d) Within seventy-two (72) hours after an emergency meeting, the ONEPC shall provide the Nation's Secretary with notice of the emergency meeting, the reason for the emergency meeting, and an explanation as to why the matter could not wait until the next regular meeting.

3-4. *Joint Meetings.* Joint meetings between the ONEPC and the Oneida Business Committee shall not be held.

3-5. *Quorum.* A quorum of the ONEPC shall consist of no less than a simple majority of the current membership, one of which shall be the Chairperson or Vice-Chairperson.

- (a) In lieu of the Chairperson or Vice-Chairperson, the Secretary may complete a quorum for any meeting called pursuant to section 2-4(b) of these bylaws.

3-6. *Order of Business.* The regular meetings of the ONEPC shall follow the order of business as set out herein:

- (a) Call to Order
- (b) Adopt the Agenda
- (c) Approval of Minutes
- (d) Old Business
- (e) New Business
- (f) Emergency Management Director Report
- (g) Ad Hoc Committee Reports
- (h) Other Business
- (i) Open Session
- (j) Adjournment

3-7. *Voting.* The ONEPC shall make decisions by majority vote of its members present at any ONEPC meeting of an established quorum.

- (a) The Chairperson, or Vice-Chairperson if presiding in lieu of the Chairperson or Secretary if presiding under section 2-4(b) of these bylaws, shall vote only in the event of a tie.
- (b) E-polls shall not be permissible for voting purposes.

Article IV. Expectations

4-1. *Behavior of Members.*

- (a) Attendance and participation are important contributors to the ONEPC's effectiveness. Members shall prepare for and attend all ONEPC meetings unless excused in accordance with these bylaws.
- (b) Members shall comply with these bylaws and any other governing laws and/or policies of the Nation.
- (c) Community representative members serve as the ONEPC's community liaison and are expected to conduct themselves in a professional manner when acting in said capacity.
- (d) *Enforcement.* Members found in violation of this section may be subject to one or more of the following as determined by majority vote of the members present at an ONEPC meeting of an established quorum:
 - (1) A request for the member's resignation;
 - (2) A recommendation to the Oneida Business Committee to terminate the member's appointment pursuant to the Boards, Committees and Commissions law;
 - (3) A notice of violation to the head of the member's representative area within the Nation; and/or
 - (4) Disciplinary action in accordance with any law of the Nation governing sanctions and penalties for appointed officials.
- (e) Prior to acting under subsection (d) of this section, the Chairperson or Officer designated by the Chairperson shall send a certified letter to the member, inquiring into his or her explanation/intentions regarding the issue.
 - (1) If the member fails to respond to the Chairperson or Officer designee within ten (10) business days of receiving the letter, he or she will be subject to possible action under subsection (d) of this section.
 - (A) The certified letter from the Chairperson or Officer designee shall include the language set forth in subsection (e)(1) of this section.
 - (2) If the member provides a timely response to the Chairperson or Officer designee, the ONEPC will decide by majority vote of the members present at a meeting of an established quorum whether, based on the response, the member should be subject to enforcement under subsection (d) of this section or a lesser form of corrective action.

4-2. *Prohibition of Violence.* Members of the ONEPC are prohibited from committing any intentionally violent act that inflicts, attempts to inflict, or threatens to inflict

emotional or bodily harm on another person or damage to personal property.

- 4-3. *Drug and Alcohol Use.* All members of the ONEPC are prohibited from using alcohol or prohibited drugs while acting in the official capacity as an ONEPC member.
- 4-4. *Social Media.* All members of the ONEPC shall be required to follow the Oneida Nation's Social Media Policy and their oath of office when acting in their official capacity as an ONEPC member.
- 4-5. *Conflict of Interest.* Members of the ONEPC shall abide by all laws of the Nation governing conflicts of interest.
 - (a) Community representative members shall be required to sign a confidentiality agreement before serving in their official capacity on the ONEPC.

Article V. Stipends and Compensation

- 5-1. *Stipends.* Dependent upon available budgeted funds, stipend eligibility shall be as set forth in and subject to these bylaws; the Boards, Committees and Commissions law; resolution BC-08-12-20-C titled, Amended Boards, Committees and Commissions Law Stipends, as may be further amended from time-to-time hereafter; and as follows:
 - (a) *Community Representatives.* The community representative member(s) of the ONEPC shall be eligible to receive:
 - (1) No more than twelve (12) meeting stipends per fiscal year, provided that:
 - (A) A quorum was established;
 - (B) The meeting of the established quorum lasted for a minimum of one (1) hour; and
 - (C) The community representative member collecting the stipend was present for the entire meeting as defined and demonstrated in accordance with the Boards, Committees and Commissions law.
 - (2) A stipend for attending a Judiciary hearing so long as the community representative member's attendance at the hearing was required by official subpoena.
 - (3) A stipend for attending a conference or training, provided that:
 - (A) The amount of stipend the member is eligible to receive for attending a conference or training shall be dependent on whether the member attended up to four (4) hours of the conference/training or more than four (4) hours of the conference/training; and
 - (B) The community representative member's attendance at the conference or training was required by law, bylaws or resolution.

- (b) *Area Representatives.* ONEPC members appointed under section 1-5(a)(1)-(8) of these bylaws shall not collect stipends despite their eligibility under the Boards, Committees and Commissions law.

5-2. *Compensation.* Besides travel, per diem and business expense reimbursement as authorized under the Boards, Committees and Commissions law, ONEPC members shall not be eligible for any other type of compensation for duties/activities they perform on behalf of the ONEPC.

- (a) Proof of attendance at the training or conference, along with all necessary receipts and/or reports in support of a member's allowable expenses, must be provided to the Director of the Emergency Management Department before members may qualify for compensation hereunder.

Article VI. Records and Reporting

6-1. *Agenda Items.* ONEPC agenda items shall follow the format identified in section 3-6 of these bylaws as the *Order of Business*.

6-2. *Minutes.* Minutes shall be typed and in a format that is consistent with the format designed by the Business Committee Support Office to generate the most informative record of the ONEPC meetings.

- (a) Actions taken by the ONEPC are valid once the corresponding minutes are approved by the ONEPC; provided, the minutes are recorded, transcribed, approved and filed/maintained in accordance with these bylaws.
- (b) All minutes shall be submitted to the Business Committee Support Office within thirty (30) days of their approval by the ONEPC.

6-3. *Attachments.* Handouts, reports, memoranda, and the like shall be attached to their corresponding minutes and agenda and maintained in accordance with the Nation's Open Records and Open Meetings law.

6-4. *Oneida Business Committee Liaison.* The ONEPC shall regularly communicate with the member of the Oneida Business Committee who is its designated liaison.

- (a) The frequency and method of communication shall be as agreed upon by the ONEPC and the liaison, but not less than that required in any law or policy on reporting developed by the Oneida Business Committee or the Oneida General Tribal Council.
- (b) The purpose of the liaison relationship is to uphold the ability of the liaison to act as support to the ONEPC.

6-5. *Audio Recordings.* All meetings of the ONEPC shall be audio recorded by the Secretary or Secretary's designee using a device provided or approved by the Business Committee Support Office.

- (a) Audio recordings of ONEPC meetings shall be maintained in accordance with the Nation's Open Records and Open Meetings law.

- (b) *Exception.* Audio recordings of executive session portions of an ONEPC meeting shall not be required.

Article VII. Amendments

- 7-1. *Amendments to Bylaws.* Amendments may be made to these bylaws at a regular ONEPC meeting of an established quorum; provided, written notice of the proposed amendments was made at a prior regular meeting and in accordance with these bylaws, as well as any governing provisions of the Nation's Open Records and Open Meetings law.
- (a) A two-thirds vote of the members present at an ONEPC meeting of an established quorum is required to amend these bylaws and amendments are effective upon adoption by the ONEPC and approval by the Oneida Business Committee, as well as the Oneida General Tribal Council if required.
 - (b) Any amendments to these bylaws shall conform to the requirements of the Boards, Committees and Commissions law, as well as any other policy of the Nation.
 - (c) The ONEPC shall conduct a review of these bylaws no less than on an annual basis.


Article VIII. Dissolution

- 8-1. *Dissolution of the ONEPC.* The ONEPC shall be dissolved only by motion of the Oneida General Tribal Council or the Oneida Business Committee.
- (a) In the event of dissolution of the ONEPC, the Chairperson and Secretary shall be responsible for closing out all open business of the ONEPC and forwarding all materials and records to the Business Committee Support Office for proper storage and disposal.
 - (1) Unless otherwise granted an extension per the Boards, Committees and Commission law, all open business shall be closed out and all materials and records forwarded to the Business Committee Support Office within two (2) weeks of dissolution.

These bylaws, as amended and revised, are hereby attested to as adopted by the Oneida Nation Emergency Planning Committee at a duly called meeting by the Chairperson's signature on this _____ day of _____, 202_.

Chairperson
Emergency Planning Committee

and approved by the Oneida Business Committee at a duly called meeting held on this 27th day of January, 2021 by the Secretary of the Oneida Business Committee's signature.


Lisa Liggins, Secretary
Oneida Business Committee

March 2022

| March 2022 | | | | | | |
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| April 2022 | | | | | | |
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| SUNDAY | MONDAY | TUESDAY | WEDNESDAY | THURSDAY | FRIDAY | SATURDAY |
|--------|--------|---------|--|--|--------|----------|
| Feb 27 | 28 | Mar 1 | 2 8:30am Canceled: LOC Prep (BC_Conf_Roo 9:00am LOC Meeting (BC_Conf_Roo m) - LOC | 3 | 4 | 5 |
| 6 | 7 | 8 | 9 | 10 9:30am LOC Work Session (Microsoft Teams Meeting) - Clorissa N. Santiago | 11 | 12 |
| 13 | 14 | 15 | 16 8:30am LOC Prep (BC_Conf_Roo m) - Clorissa N. Santiago 9:00am LOC Meeting (BC_Conf_Roo m) - LOC | 17 | 18 | 19 |
| 20 | 21 | 22 | 23 | 24 9:30am LOC Work Session (Microsoft Teams Meeting) - Clorissa N. Santiago | 25 | 26 |
| 27 | 28 | 29 | 30 | 31 9:30am LOC Work Session (Microsoft Teams Meeting) - Clorissa N. Santiago | Apr 1 | 2 |