



LEGISLATIVE OPERATING COMMITTEE MEETING AGENDA REVISED

Business Committee Conference Room - 2nd Floor Norbert Hill Center

May 21, 2025

9:00 a.m.

- I. Call to Order and Approval of the Agenda**
- II. Minutes to be Approved**
 - 1. May 7, 2025 LOC Meeting Minutes (pg. 2)
- III. Current Business**
 - 1. Hunting, Fishing, and Trapping Law Amendments (pg. 5)
 - 2. Landlord Tenants Law Amendments (pg. 61)
 - 3. Workplace Violence Law Amendments (pg. 97)
- IV. New Submissions**
 - 1. Election Law Emergency Amendments (pg. 126)
- V. Additions**
 - 1. Rescheduled Summer LOC Community Meeting Notice (pg. 129)
- VI. Administrative Updates**
- VII. Executive Session**
- VIII. Recess/Adjourn**



LEGISLATIVE OPERATING COMMITTEE MEETING MINUTES
Oneida Business Committee Conference Room-2nd Floor Norbert Hill Center
May 7, 2025
9:00 a.m.

Present: Jameson Wilson, Jennifer Webster, Marlon Skenandore, Kirby Metoxen

Excused: Jonas Hill

Others Present: Clorissa N. Leeman, Grace Elliott, Carolyn Salutz, Shad Webster

Others Present on Microsoft Teams: David P. Jordan, Janice Decorah, Rae Skenandore, Eric Boulanger, Katsitsiyo Danforth, Kristal Hill, Fawn Cottrell, Sarah White, Ralinda Ninham-Lamberies, Eric McLester, Kaylynn Gresham, Fawn Billie, Shannon Stone, Michelle Tipple, Nicole Rommel, Hon. Patricia Hoeft, Matthew Denny

I. Call to Order and Approval of the Agenda

Jameson Wilson called the May 7, 2025, Legislative Operating Committee meeting to order at 9:00 a.m.

Motion by Marlon Skenandore to approve the agenda; seconded by Jennifer Webster. Motion carried unanimously.

II. Minutes to be Approved

1. April 16, 2025 LOC Meeting Minutes

Motion by Jennifer Webster to approve the April 16, 2025 LOC meeting minutes and forward to the Oneida Business Committee; seconded by Marlon Skenandore. Kirby Metoxen abstained. Motion carried.

III. Current Business

1. Oneida Nation Law Enforcement Ordinance Amendments

Motion by Kirby Metoxen to approve the adoption packet for the Oneida Nation Law Enforcement Ordinance Amendments and forward to the Oneida Business Committee for consideration; seconded by Jennifer Webster. Motion carried unanimously.

2. Hunting, Fishing, and Trapping Law Amendments

Motion by Jennifer Webster to approve the draft of proposed amendments to the Hunting, Fishing, and Trapping law and direct that a legislative analysis be completed; seconded by Marlon Skenandore. Motion carried unanimously.

3. Landlord Tenant Law Amendments



Motion by Jennifer Webster to accept the public comments and the public comment review memorandum and defer to a work meeting for further consideration; seconded by Kirby Metoxen. Motion carried unanimously.

4. Workplace Violence Law Amendments

Motion by Jennifer Webster to approve the draft of proposed amendments to the Workplace Violence Law and direct that a legislative analysis be completed; seconded by Marlon Skenandore. Motion carried unanimously.

IV. New Submissions

1. Oneida Worker's Compensation Law Amendments

Motion by Jennifer Webster to add the Oneida Worker's Compensation Law to the Active Files List with Marlon Skenandore as the sponsor; seconded by Kirby Metoxen. Motion carried unanimously.

2. Petition: S. Benton – Personnel Policies and Procedures Amendments #2025-01

Motion by Kirby Metoxen to add the Petition: S. Benton – Personnel Policies and Procedures Amendments to the Active Files List with Jameson Wilson as the sponsor; seconded by Jennifer Webster. Motion carried unanimously.

Motion by Jennifer Webster to accept the Petition: S. Benton – Personnel Policies and Procedures Amendments status update memorandum and forward to the Oneida Business Committee; seconded by Kirby Metoxen. Motion carried unanimously.

3. Petition: S. Benton – Trial Court Rules Amendments #2025-02

Motion by Jennifer Webster to add the Petition: S. Benton – Trial Court Rules Amendments with Jameson Wilson as the sponsor; seconded by Kirby Metoxen. Motion carried unanimously.

Motion by Jennifer Webster to accept the Petition: S. Benton – Trial Court Rules Amendments status update memorandum and forward to the Oneida Business Committee; seconded by Kirby Metoxen. Motion carried unanimously.

4. Judiciary Law Amendments

Motion by Jennifer Webster to add the Judiciary Law Amendments to the Active Files List with Jameson Wilson as the sponsor; seconded by Marlon Skenandore. Kirby Metoxen opposed. Motion carried.

5. Data Sovereignty Law

Motion by Jennifer Webster to add the Data Sovereignty Law to the Active Files List with Jameson Wilson as the sponsor; seconded by Marlon Skenandore. Motion carried unanimously.

V. Additions**VI. Administrative Updates****1. E-Poll Results: Approval of the LOC and LRO FY 2025 Semi-Annual Reports for GTC**

Motion by Jennifer Webster to enter into the record the results of the April 21, 2025, e-poll entitled, Approval of the LOC and LRO FY 2025 Semi-Annual Reports for GTC; seconded by Kirby Metoxen. Motion carried unanimously.

2. E-Poll Results: Approval of the Sanctions and Penalties Law Public Meeting Packet and Summer LOC Community Meeting Notice

Motion by Jennifer Webster to enter into the record the results of the May 1, 2025, e-poll entitled, Approval of the Sanctions and Penalties Law Public Meeting Packet and Summer LOC Community Meeting Notice; seconded by Marlon Skenandore. Motion carried unanimously.

3. LOC Fiscal Year 2025 Second Quarter Report

Motion by Jennifer Webster to approve the LOC Fiscal Year 2025 Second Quarter Report and forward to the Oneida Business Committee; seconded by Kirby Metoxen. Motion carried unanimously.

VII. Executive Session**VIII. Adjourn**

Motion by Jennifer Webster to adjourn at 9:44 a.m.; seconded by Marlon Skenandore. Motion carried unanimously.



Legislative Operating Committee
May 21, 2025

Hunting, Fishing, and Trapping Law Amendments

Submission Date: 12/7/22	Public Meeting: N/A
LOC Sponsor: Jonas Hill	Emergency Enacted: N/A

Summary: *This item was carried over from last term. On August 10, 2022, the OBC made a motion “to direct the General Manager to complete the assessment regarding the feasibility of the Environmental, Health, Safety, Land, & Agriculture Division taking on the roles of the Environmental Resources Board and for the assessment to be submitted at the second meeting Business Committee meeting in September”. In short, the GM concluded that although changes were necessary to those Oneida laws that delegated the authority and responsibility to the Environmental Resources Board (ERB), those responsibilities that were jointly executed by the ERB and Environmental, Health, Safety, and Land Division (EHSLA), could be assumed by EHSLA. Additionally, for those duties that delegated ERB the power and duty to carry out the intent and purposes of the law, including enforcement, those responsibilities could be delegated to EHSLA and/or the Land Commission.*

On September 28, 2022, the OBC made a motion to accept the Environmental, Health, Safety, Land, and Agriculture Environmental Resource Board assessment; to recommend the dissolution the Environment Resource Board; and to direct Chief Counsel to bring back a report in 45 days on actions that need to take place in order to complete the dissolution of the Environmental Resource Board including amendments to laws and addressing any background material. The Oneida Law Office provided this report to the Oneida Business Committee on November 29, 2022.

This item was then added to the Active Files List on December 7, 2022, in an effort to make amendments to address the dissolution of the Environmental Resources Board, and transition the Board’s responsibilities to the Environmental, Health, Safety, Land and Agriculture Division and/or the Oneida Land Commission.

12/7/22 LOC: Motion by Jennifer Webster to add the Hunting, Fishing, and Trapping law amendments to the Active Files List with Kirby Metoxen as the sponsor; seconded by Marie Cornelius. Kirby Metoxen abstained. Motion carried.

10/4/23 LOC: Motion by Jennifer Webster to add the Hunting, Fishing, and Trapping Law Amendments to the Active Files List with Jonas Hill as the sponsor; seconded by Marlon Skenandore. Motion carried unanimously.

1/3/24: *Work Meeting.* Present: Jameson Wilson, Marlon Skenandore, Jennifer Webster, Jonas Hill, Kirby Metoxen Clorissa Leeman, Grace Elliott, Kristal Hill, Maureen Perkins, Fawn Cottrell. The purpose of this work meeting was for Jonas Hill to provide an update on a meeting he had with EDSLAD Division Director regarding the division taking on the responsibilities of ERB.

- 4/3/24 LOC:** Motion by Jennifer Webster to approve the Legislative Operating Committee community meeting notice and schedule the community meeting to take place on June 5, 2024; seconded by Jonas Hill. Motion carried unanimously.
- 5/1/24 LOC:** Motion by Jennifer Webster to approve the revised LOC community meeting notice and reschedule the community meeting to take place on June 4, 2024.; seconded by Kirby Metoxen. Motion carried unanimously.
- 5/10/24:** *Work Meeting.* Present: Jameson Wilson, Kirby Metoxen, Jennifer Webster, Jonas Hill, Marlon Skenandore, Clorissa Leeman, Carolyn Salutz, Grace Elliott, Maureen Perkins, Fawn Cottrell, Kristal Hill. The purpose of this meeting was to discuss the fact that the June 4th community meeting and the fact that there is a budget meeting scheduled the same day and determine whether we want to continue with holding this community meeting. The LOC decided to proceed with the community meeting as scheduled.
- 5/30/24:** *Work Meeting.* Present: Jameson Wilson, Kirby Metoxen, Jennifer Webster, Jonas Hill, Clorissa Leeman, Fawn Cottrell, Kristal Hill, Maureen Perkins. The purpose of this work meeting was to prepare for the June 4, 2024, LOC community meeting and come up with potential discussion questions.
- 6/4/24:** *Community Meeting.* Present: Jameson Wilson, Kirby Metoxen, Jennifer Webster, Jonas Hill, Clorissa Leeman, Grace Elliott, Fawn Cottrell, Fawn Billie, Kristal Hill, Maureen Perkins, Marena Bridges, Ike Jordan, Jurt Jordan, Carl Jordan, Bonnie Pigman, Margaret King, Denise Johnson, Jeff Jordan, Francis Cornelius, Duane Skenandore Jr., Sidney White, Louis Clark, Tsyoshaat Delgado, Kristin Skenandore, Shad Webster, Chris Jordan, Lois Strong, Xavier Horkman, Lisa Summers, and others. The Legislative Operating Committee held a community meeting in the NHC's cafeteria from 5:30 p.m. through 7:30 p.m. regarding the Hunting, Fishing, and Trapping law amendments and a new Guardianship law.
- 12/9/24:** *Work Meeting.* Present: Jameson Wilson, Jennifer Webster, Jonas Hill, Marlon Skenandore, Clorissa Leeman, Mark Powless, Eric McLester, Shad Webster, Terry Metoxen, Eric Boulanger, Joel Maxam, Ronald King Jr., Nicole Rommel, Maureen Perkins, Kristal Hill, Fawn Cottrell, Fawn Billie. The purpose of this work meeting was to read through the law and begin discussions on potential amendments to be made to the law.
- 1/14/25:** *Work Meeting.* Present: Jameson Wilson, Jennifer Webster, Jonas Hill, Marlon Skenandore, Clorissa Leeman, Eric McLester, Shad Webster, Terry Metoxen, Joel Maxam, Ronald King Jr., Kelly McAndrews, Maureen Perkins, Kristal Hill, Fawn Cottrell,. The purpose of this work meeting was to read through the proposed amendments to the law discussed during the last work meeting, and continue discussions on potential amendments to be made to the law.
- 2/3/25:** *Work Meeting.* Present: Jameson Wilson, Jennifer Webster, Kirby Metoxen, Jonas Hill, Clorissa Leeman, Kristal Hill, Maureen Perkins, Grace Elliott, Carolyn Salutz, Fawn Billie. The purpose of this work meeting was to select the topics for the March 5th LOC community meeting. The LOC decided the topics to be discussed should include: Elder Protection law, Indian Preference in Contracting law amendments, and Hunting, Fishing, and Trapping law amendments.
- 2/24/25:** *Work Meeting.* Present: Jameson Wilson, Jennifer Webster, Jonas Hill, Marlon Skenandore, Kirby Metoxen, Clorissa Leeman, Mark Powless, Eric McLester, Shad Webster, Terry Metoxen, Eric Boulanger, Joel Maxam, Ronald King Jr., Kristal Hill, Fawn Cottrell. The purpose of this work meeting was to continue reading through the proposed amendments to the law and continue discussions on potential amendments to be made to the law.
- 3/5/25:** *Work Meeting.* Present: Jameson Wilson, Jennifer Webster, Jonas Hill, Metoxen, Clorissa Leeman, Shad Webster, Nicole Rommel, Grace Elliott, Carolyn Salutz, Fawn Cottrell, Fawn Billie. The purpose of this work meeting was to review the PowerPoint presentation for the

March 19th LOC community meeting. Shad also went over some ideas for how the Department can better handle licensing in the future.

4/16/25: *Work Meeting.* Present: Jameson Wilson, Jennifer Webster, Jonas Hill, Marlon Skenandore, Clorissa Leeman, Grace Elliott, Carolyn Salutz, Kristal Hill, Fawn Cottrell, Fawn Billie. The purpose of this work meeting was to review and finalize the draft of the proposed amendments to the Hunting, Fishing, and Trapping law.

5/1/25: *Work Meeting.* Present: Clorissa Leeman, Shad Webster. The purpose of this work meeting was to collect some of Conservation's final comments on the proposed draft of amendments to the law.

5/7/25 LOC: Motion by Jennifer Webster to approve the draft of proposed amendments to the Hunting, Fishing, and Trapping law and direct that a legislative analysis be completed; seconded by Marlon Skenandore. Motion carried unanimously.

Next Steps:

- Approve the updated draft and legislative analysis.

Title 4. Environment and Natural Resources – Chapter 406
Lutolátha?, Latsywáaha? O?khále Atlistáya Tsi? Kayanl'khsla
Our laws concerning hunting, fishing and trapping
HUNTING, FISHING, AND TRAPPING

406.1.	Purpose and Policy	406.6.	Licenses and Permits
406.2.	Adoption, Amendment, Repeal	406.7.	General Regulations
406.3.	Definitions	406.8.	Wildlife Damage and Nuisance Control
406.4.	Jurisdiction	406.9.	Hunting
406.5.	Administration and Supervision	406.10.	Enforcement and Penalties

406.1. Purpose and Policy

406.1-1. *Purpose.* The purpose of this law is to protect and conserve wildlife on the reservation and to promote respect among sportsmen for both the environment and fellow sportsmen.

406.1-2. *Policy.* It is the policy of the Nation to provide:

- (a) An adequate and flexible system for the protection, management, supervision, conservation, and enhancement of all wildlife and natural resources on the reservation; and
- (b) An enforceable system of licensing and permitting which establishes clear rules pursuant to the Administrative Rulemaking law related to hunting, fishing, and trapping, and associated fines and penalties for violations of this law and the said rules.

406.2. Adoption, Amendment, Repeal

406.2-1. This law was adopted by the Oneida Business Committee by resolution BC-~~808~~-31-94-C, and amended by resolutions BC-~~404~~-24-96-A, BC-~~707~~-22-98-A, BC-09-13-00-D, BC-~~606~~-04-03-A, BC-~~606~~-30-04-I, BC-~~707~~-13-05-E, BC-~~808~~-29-07-F, BC-06-24-09-E, BC-08-26-10-I, BC-12-14-11-E, BC-05-22-13-A, BC-01-25-17-D, BC-07-26-17-F, and BC-__-__-__.

406.2-2. 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.

406.2-3. 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.

406.2-4. 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.

406.2-5. This law is adopted under authority of the Constitution of the Oneida Nation.

406.3. Definitions

406.3-1. 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) “Aircraft” means a conveyance that can travel through the air and that is supported either by its own lightness or by the action of the air against its surfaces. The term includes hovercraft and both manned aircraft such as airplanes and helicopters and unmanned aircraft such as drones.

(b) “Barrel length” means the length of a gun’s barrel as measured from the muzzle to the firing pin with the action closed, or from the muzzle to the breech face.

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

(d) “Daily bag limit” means the maximum number of a species of wildlife that a person may take during a twenty-four (24) hour period measured from midnight to midnight.

- (e) “Department” means the Oneida Conservation Department.
- (f) “Dependent” means a person under the age of eighteen (18) who is the child or step-child of a Tribal member or who lives with a Tribal member for more than half of the year.
- (g) “Descendant” means a person who is registered with, and recognized by, the Oneida Trust Enrollment Department as being the descendant of an enrolled member of the Nation.
- (h) “Designated hunter” means the person named by a permittee as authorized to harvest wildlife on behalf of the permittee pursuant to the permit held by the permittee.
- (i) “Elder” means any person fifty-five (55) years of age or older.
- (j) “Endangered or threatened” means any species of wildlife within the reservation in danger of extinction or likely to become in danger of distinction as recognized by the Department and under federal law.
- (k) “Fine” means a monetary punishment issued to a person violating this law and/or the rules created pursuant to this law.
- (l) “Fishing” means the taking, capturing, harvesting, or attempting to take, capture or harvest fish of any variety in any manner.
- (m) “Great bodily harm” means bodily injury which creates a substantial risk of death, or which causes serious permanent disfigurement, or which causes a permanent or protracted loss or impairment of the function of any bodily member or organ or other serious bodily injury.
- (n) “Hunt” or “Hunting” means shooting, shooting at, pursuing, taking, attempting to take, catch, harvest or attempting to harvest any wildlife.
- (o) “License” means a written document issued by the Department granting authority to engage in specific activities covered under this law and the rules created pursuant to this law.
- (p) “Loaded” means any firearm containing a cartridge in the chamber or any firearm containing a cartridge or cartridges in the attached cylinder, magazine, or clip.
- (1) Muzzleloading firearms may not be considered loaded if a percussion cap is not covering the percussion nipple or .209 primers are not in the receiver.
- (2) Flint lock muzzleloading firearms may not be considered loaded if the flash pan is cleaned of powder.
- (q) “Nation” means the Oneida Nation.
- (r) “Non-Indian” means a person who is not a member of any federally recognized Indian tribe, band, or community.
- (s) “Non-Member Indian” means a person who is a member of a federally recognized Indian tribe, band, or community other than this Nation.
- (t) “Nuisance Animal” means any wildlife causing and one (1) or combination of the following:
- (1) Damage to property;
- (2) Damage to or endangered or threatened species of wildlife and/or plants;
- (3) Depredation of crops and/or livestock; or
- (4) Health and/or safety risks posed to persons.
- (u) “Penalty” means a punishment, other than a fine, imposed on a person violating this law and/or the rules created pursuant to this law and may include, but is not limited to, the confiscation of equipment and/or wildlife, the imposition of a wildlife protection assessment (civil recovery value), revocation and/or ineligibility for licenses and/or permits for a specified period of time, and restitution.
- (v) “Permit” means a document, stamp or tag authorizing a specific activity which is

issued by the Department to the holder of a license.

(w) “Protected species” means any species of wildlife that is not endangered or threatened, but for the Department has established seasons, daily bag limits, or otherwise restricted the taking of.

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

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

(z) “Take” or “Taking” means pursuing, shooting, hunting, fishing, netting (including placing or setting any net or other capturing device), capturing, harvesting, snaring or trapping any wildlife, or attempting any of the foregoing.

(aa) “Transport” means to bring or move from one place to another by means of carrying, dragging, pushing, towing, or storing in or on a vehicle, aircraft or boat.

(bb) “Trapping” means the taking of, or attempting to take, any wildlife by means of setting or operating any device or mechanism that is designed, built, or made to close upon, hold fast, snare or otherwise capture wildlife.

(cc) “Tribal land” means any land within the reservation that is held in fee or in trust and is owned by the Nation, a Tribal member, or a non-member Indian.

(dd) “Tribal member” means an enrolled member of the Nation.

(ee) “Vehicle” means any self-propelled conveyance that derives power from a motor and is used to transport persons or objects over land, including but not limited to, an automobile, truck, sport utility vehicle, snowmobile, motorcycle, all-terrain vehicle, moped or similar conveyance.

(ff) “Warden” means an officer of the Oneida Police Department whose duties include the protection of wildlife and natural resources.

(gg) “Wildlife” means any non-domesticated mammal, bird, fish, reptile, or amphibian, or any part or carcass of the same.

406.4. Jurisdiction

406.4-1. This law applies to the following persons:

- (a) All Tribal members,
- (b) All non-member Indians,
- (c) All non-Indians who:
 - (1) apply for and receive a license and/or permit, and/or
 - (2) enter Tribal land,
- (d) All persons as otherwise permitted under federal law.

406.4-2. This law applies:

- (a) within the boundaries of the Reservation, and
- (b) on lands held in trust for the Nation outside the boundaries of the reservation.

406.4-3. *Jurisdiction.* The Nation has jurisdiction over the management and regulation of the Nation’s natural resources. However, this law shall not negate the jurisdiction of the State of Wisconsin in certain instances involving non-member Indians and non-Indians. Thus, to hunt, fish, or trap on tribal land, non-member Indians and non-Indians shall adhere to the Nation’s license, permit, and tag requirements and may also be subject to the requirements of the State of Wisconsin. License and permit holders may not exercise any hunting, fishing, or tapping privileges

within the Reservation boundaries using a State of Wisconsin license that would amount to greater privileges than those afforded pursuant to this Law and associated rules.

406.5. Administration and Supervision

406.5-1. The Department shall protect, manage, supervise, conserve, and enhance all wildlife within the reservation. The Department shall establish and maintain the rules in accordance with the Administrative Rulemaking law that are required to implement this law. The Department shall administer and enforce this law and the rules created pursuant to this law.

406.5-2. *Administrative Rulemaking Authority.* In addition to any other duties delegated to the Department under this law, the Department is hereby delegated rulemaking authority in accordance with the Administrative Rulemaking law to:

(a) Determine the types and number of licenses and permits that may be issued by the Department, including how many licenses and permits that may be issued to non-Indian hunters.

(b) Establish a fee schedule and application requirements and deadlines for obtaining licenses and/or permits.

(c) Establish or amend daily bag limits and possession limits based on the supply of wildlife, the needs of conservation, and the objective of achieving a fair allocation of the harvest. Restrictions in such rules may include, but are not limited to, limits related to gender, species, size, age, and maturity.

(d) Based on the monitoring and supervision of all wildlife, when necessary, declare any species in need of protection a protected species or an endangered or threatened species, and thereafter modify or revoke such declarations as may be appropriate.

(e) Fix, shorten, extend, or close seasons and hunting hours on any wildlife.

(1) The rules shall identify designated seasons and/or hunting hours for elder, disabled, and youth hunts.

(f) Establish and/or modify areas' territorial limits, including bodies of water or parts thereof, for any of the following, as may be necessary:

(1) the taking of wildlife;

(2) other specified areas, pursuant to the rules developed by the Department.

(g) Establish methods for checking persons into and out of areas specified under subsection (f) above.

(h) Regulate the operation of boats upon reservation waters and the operation of vehicles and aircraft used while hunting, fishing, or trapping.

(i) Regulate and prescribe the means and methods by which wildlife may be taken, including, but not limited to, the use of:

(1) bait;

(2) decoys;

(3) hunting dogs;

(4) traps;

(5) firearms;

(6) ammunition;

(7) laser sights; and

(8) night vision.

(j) Regulate the transportation, registration, tagging, and storage of all wildlife within the reservation and the shipment or transportation of wildlife off the reservation.

(k) Prescribe safety and fire control measures and other rules as may be necessary for

range, forest; or wildlife management, and/or for the safety and welfare of outdoor recreationists, landowners, lessees, occupants, and the Nation.

(l) Establish a citation schedule that sets the monetary fines and penalties for violations of this law and/or the rules established pursuant to this law.

(m) Regulate use of recovery and retrieval services and methods.

(n) Regulate the care and husbandry of animals used to hunt or animals used for private game hunting.

(o) Create other rules as specifically directed throughout this law or as may be necessary to implement this law.

406.5-3. *Oneida Police Department Officers and Wardens.* Oneida Police Department officers and/or wardens shall enforce this law and corresponding rules on the reservation, and accordingly shall:

(a) Observe persons engaged in hunting, fishing and/or trapping in order to ensure that the methods and equipment utilized are lawful.

(b) Investigate reports of violations of wildlife and environmental laws, including, but not limited to, this law and corresponding rules.

(c) Work to prevent persons from violating this law and/or the corresponding rules.

(d) Issue warnings and/or citations, which may include fines and/or penalties, for violations of this law and/or the corresponding rules.

406.6. **Licenses and Permits**

406.6-1. *Sportsman License.*

(a) A sportsman license is required for all persons hunting, fishing, or trapping on Tribal land, except:

(1) Fishing is permitted without a sportsman license for Tribal members, dependents, and non-member Indians whom are sixteen (16) years of age or younger.

(2) Landowners, lessees, and designees with the permission of the landowners or lessees, may hunt and trap the following species on the property they own or lease, year-round, without a sportsman license:

(A) coyote;

(B) fox;

(C) raccoon;

(D) woodchuck;

(E) rabbit;

(F) squirrel;

(G) beaver; and

(H) any nuisance animal that is not an endangered or threaten species and is also not a regulated or protected species.

(b) Anyone born on or after January 1, 1973, shall successfully complete a certified hunter safety course to be eligible for a sportsman license, except that:

(1) *Fishing Only Sportsman License.* A sportsman license may be issued which permits fishing only. In such circumstances, successful completion of a certified hunter safety course is not required and the Department shall internally record such licenses as permitting fishing only.

(A) A person issued a “fishing only” sportsman license may not hunt or trap, or be eligible to hunt or trap, until the licensee provides the Department with

- proof of successful completion of a certified hunter safety course.
- 406.6-2. *Ceremonial and/or Feast Permit.* Tribal members may apply for a ceremonial and/or feast permit to group hunt wildlife outside of the regular applicable seasons.
- (a) When the ceremonial and/or feast permit is for deer hunting, it may only be issued for antlerless deer.
- (b) A ceremonial and/or feast permit may be issued to a group and/or organization meeting each of the following requirements:
- (1) The designee of the group/organization is a Tribal member;
- (2) The occasion for the ceremonial and/or feast requiring the hunt out of season is recognized by the Oneida community; and
- (3) The hunt takes place on the reservation.
- (c) All persons participating in the ceremonial and/or feast hunt shall be:
- (1) Named hunters on the ceremonial and/or feast permit; and
- (2) Tribal members, descendants, or a spouse to a Tribal member.
- (d) The designee of the group ceremonial and/or feast hunt shall notify an Oneida Police Department officer or warden of the time and place where the hunt will take place no later than twenty-four (24) hours prior to the hunt. The Oneida Police Department officer or warden may monitor any portion, or the entirety, of the group ceremonial and/or feast hunt.
- 406.6-3. *Other Permits, Tags and Stamps.* In accordance with this law and corresponding rules, the Department may issue permits authorizing a person to engage in specific hunting, fishing and/or trapping activities, including nuisance animal removal permits pursuant to section 406.8-2.
- 406.6-4. It is unlawful for any person to:
- (a) Provide false information or fail to report relevant information as requested by the Department, when applying for a license or permit; or
- (b) Aid another in fraudulently securing a license or permit.
- 406.6-5. Except as provided under sections 406.9-4 and 406.9-6, licenses and/or permits are not transferable and may not be altered, defaced, or lent to or from another person, any may not be used by any person other than the person to whom the license and/or permit is issued.
- 406.6-6. *Disabled Hunter Permits.* The Department may issue a disabled hunter permit to any person who is physically disabled, upon a showing of medical verification of a physical disability that results in mobility issues that makes it necessary for the disabled hunter to hunt from a stationary vehicle. Disabled hunters shall display the disabled hunter permit sticker in a manner and location as required by the Department. A disabled hunter permit authorizes a person to hunt from a stationary vehicle within fifty (50) feet on the center of a road as further detailed in the rules developed pursuant to this law.
- 406.6-7. *Denial of a License or Permit.*
- (a) The Department may decline to issue a license and/or permit to an applicant if:
- (1) The applicant has unpaid fines, civil assessments, other fees, and/or restitution owed because of a violation of this law and/or corresponding rules.
- (2) At any time and for any reason, the Department determines that issuing the license and/or permit poses a risk to the health, safety, and/or welfare of the Nation, to natural resources on the reservation, or to any persons. There is a rebuttable presumption that an applicant poses such a risk under the following circumstances:
- (A) At the time of the request, the applicant's hunting, fishing, or trapping license, permit, or related privileges are suspended or revoked in any jurisdiction.

(B) Within three (3) years of the request, the applicant has repeatedly and/or egregiously done any one (1) or more of the following:

- (i) violated this law and/or corresponding rules and/or the hunting, fishing, or trapping laws and regulations of other jurisdictions;
- (ii) violated other laws or rules of the Nation while engaged in hunting, fishing, or trapping activities; or
- (iii) demonstrated poor judgment, disregard for safety or unsportsmanlike behavior while hunting, fishing, or trapping; including while interacting with other sportsmen or with wardens, of this jurisdiction or any other.

(C) At any time, the applicant has been found guilty of imposing or threatening to impose great bodily harm on another.

(b) Any person who has had a license or permit denied in accordance with section 406.6-7(a) may appeal the Department's decision by requesting a hearing before the Trial Court pursuant to section 406.10-4.

406.7. General Requirements

406.7-1. Persons may not:

- (a) Enter onto private lands and/or waters to take or retrieve wildlife, without permission from the landowner, lessee, or occupant.
- (b) Leave, deposit, place or throw litter, debris, wildlife, or any other waste material, on the reservation's lands and waters.
- (c) Cause damage to land or property belonging to another, including but not limited to, the Department's decoys placed for law enforcement purposes by Oneida Police Department officers or wardens or other law enforcement officers, and signs that give notice of a hunting and/or trespass restriction.
- (d) Carelessly waste wildlife. Persons hunting, trapping, or fishing shall make every reasonable effort to retrieve all wildlife killed or crippled, provided that all persons shall comply with section 406.7-1(a).
- (e) Knowingly disturb any den, nest, lodge, hut, dam, or house that wildlife may build to shelter themselves and their young.
- (f) No person may take, pursue, injure, or harass small game while on or in its nest or den, or remove any eggs or young except as may be approved in advance by the Department for activities which may include, but are not limited to, normal agricultural or horticultural practices or wildlife research practices.
- (g) Harvest wildlife with the aid of an explosive, poison, exploding point or tip, electrical device, or stunning substance or agent.
- (h) Take another person's wildlife or disturb another person's hunting, fishing, or trapping equipment without permission; or otherwise interfere with the lawful hunting, fishing, or trapping of another person.
- (i) Stock or possess any live wildlife on the reservation without a permit.
- (j) Introduce or release wildlife, fish eggs, or receptacles containing bait, on the reservation or into reservation waters without a permit.
- (k) Use in a reckless manner any device typically used for the harvesting of wildlife, including but not limited to, firearms, bows, traps, and knives.
- (l) Shoot firearms, or place or operate any traps, except live traps, within one hundred (100) yards of any building structure, unless the owner-occupant, lessee, or tenant has

given permission.

(m) Use a gas-powered motorboat on the Nation's waters, except for the Department's use for law enforcement and conservation purposes.

(n) Hunt, trap, or possess any hunting, or trapping equipment while on Tribal land where hunting or trapping is expressly prohibited by the Nation's laws or rules.

(o) Sell or purchase wildlife that was harvested on the reservation, except as may be expressly allowed by this law and corresponding rules.

(1) Under no circumstances may trading, gifting, or sharing of wildlife for traditional or ceremonial purposes be considered a violation of this section.

(p) Refuse to obey an Oneida Police Department officer or warden's lawful order.

(q) Inflict or threaten to inflict bodily harm upon an Oneida Police Department officer or warden.

406.7-2. *Possession, Registration, and Transportation of Carcasses.* No person may hunt, trap, possess, or transport any wildlife unless they possess the appropriate license and any required permit, including tags, for harvesting and/or possessing such wildlife.

406.7-3. Any person who accidentally collides with and kills a deer while operating a vehicle on a roadway may retain possession of the said deer, provided that the person shall have the deer tagged by the State of Wisconsin.

406.7-4. *Carcass Tags.* Except as otherwise provided in this law and corresponding rules, any person hunting a species of wildlife which is required to be tagged, shall possess a valid carcass tag, and, upon harvest, shall immediately validate and attach the tag to the carcass in such manner as the Department shall establish in its rules. No person may possess or transport harvested wildlife that is not properly tagged in accordance with this law and corresponding rules.

406.8. Wildlife Damage and Nuisance Control

406.8-1. Landowners and lessees may remove wildlife considered a nuisance animal from land under their control and their associated structures, provided that landowners and lessees shall satisfy all requirements of this law and corresponding rules, including, but not limited to the permitted methods of taking and hunting hours. Further, live-captured nuisance animals may not be relocated to Tribal lands without express written authorization from the Department, and, similarly, may not be relocated to private property without express written authorization from the landowner.

406.8-2. *Nuisance Animal Removal Permit.* A nuisance animal removal permit is required to hunt, trap, or live-capture and relocate any endangered or threatened and protected species.

(a) In order to be eligible for a nuisance animal removal permit, the applicant shall demonstrate that:

(1) They have the authority to control hunting and trapping access to the lands subject to the nuisance or being damaged as well as any contiguous lands. In circumstances where the contiguous lands are not owned or leased by the applicant, the applicant shall demonstrate authority to control hunting and trapping access to the contiguous lands by providing the Department with the property owner's or lessor's written consent;

(2) They are either employing or agree to employ, reasonable alternative abatement methods to removal;

(3) The wildlife sought to be removed is a nuisance animal and reasonable alternative abatement methods either have been or are reasonably likely to be unsuccessful;

(4) They have complied with this law and corresponding rules and the conditions of any previously issued nuisance animal removal permit, at a minimum, for the previous twelve (12) months from the date they apply for the permit;

(5) The nuisance animal removal permit applied for does not conflict with any provisions of the Nation's agreement with the United States Fish and Wildlife Service regarding the taking of birds classified as migratory under 50 CFR 10.13.

(b) Each permittee shall keep a record of all permit activities and shall provide the said permit record to the Department within ten (10) days of the permit's expiration. At a minimum, the permittee shall include in the record any designees assigned under section 406.8-4 and the total number of nuisance animals removed pursuant to the permit, provided that, the Department may name additional items required to be included in the record. All permit records may be inspected by the Department at any time.

(c) The permittee shall return all unused permits, including carcass tags, to the Department within ten (10) days of the permit's expiration.

406.8-3. *Nuisance Animal Removal Permit Not Required.* A nuisance animal removal permit is not required if the nuisance animal would otherwise be exempt from the license and permit requirements under section 406.6-1(a)(2). Also, a nuisance animal removal permit is specifically not required in following circumstances:

(a) *Emergencies.* Nuisance animals for which a nuisance animal removal permit is otherwise required, may be removed without the required permit if such removal is necessary to maintain a person's immediate health and safety.

(1) Persons taking a nuisance animal under emergency circumstances shall report the emergency taking to the Department on the required form available with the Department.

(2) The Department shall conduct an investigation into the validity of the alleged emergency circumstance. If the investigation provides clear and convincing evidence that the taking was not in fact required due to a legitimate threat to a person's immediate health and safety, the Department shall classify the taking an unlawful taking without a permit and shall take the appropriate corrective measures.

406.8-4. *Nuisance Animal Removal Designees.* A landowner may utilize as designee to remove a nuisance animal pursuant to the provisions of this law. If the requirements of this law and corresponding rules are satisfied, the landowner's nuisance animal removal permit and associated carcass tags, if applicable, may be utilized by the landowner's assigned designee.

(a) In order for a designee to be assigned to remove a nuisance animal, the landowner shall ensure that the following conditions are met:

(1) The designee shall have a valid license for hunting or trapping that nuisance animal's species;

(2) The landowner shall grant written permission to the designee specifically identifying the following:

(A) The location of the nuisance animal where the removal activities are sought to occur;

(B) An authorized time period for the removal of the nuisance animal; and

(C) Any other information as may be required by the rules established pursuant to this law.

(b) The Department may limit the number of persons permitted to assist in a removal.

(b) The landowner or lessee permittee may charge any assigned designee any form of fee.

406.8-5. *Annual Migratory Bird Report.* Persons killing crows, cowbirds, grackles, and red-

winged blackbirds shall provide an annual report to the U.S. Fish and Wildlife Service Region 3 Migratory Bird Permit Office by January 31st of each year for all such takings occurring within the previous January to December.

406.8-6. *Officer or Warden's Access.* Any landowner or lessee pursuing the removal of a nuisance animal shall grant the Oneida Police Department officers or wardens free and unrestricted access to the premises on which the said removal is being conducted, is anticipated to be conducted, or has been conducted. Further, the landowner or lessee, and the landowner's designee, if applicable, shall promptly furnish any information requested by a Oneida Police Department officer or warden relating to the said removal.

406.8-7. *Retaining Fur, Carcasses, and other Parts of Nuisance Animals.* The following applies to nuisance animals removed in accordance with this section:

(a) The permittee and each designee assigned under section 406.8-4 may retain no more than one (1) deer removed pursuant to a nuisance animal removal permit. The Department shall distribute or dispose of any deer that are not so retained by offering them to Tribal members in the following order:

(1) Elders;

(2) Disabled persons; and

(3) Any other interested persons.

(b) In order to keep, either for oneself or for sale, the furs of a nuisance animal taken pursuant to a nuisance animal removal permit, the permittee shall be explicitly and separately authorized by the permit to retain the wildlife and to sell the wildlife.

(c) Furs from nuisance animals which did not require a nuisance animal removal permit in order to be removed, may be retained by a landowner, lessee, or assigned designee without a permit. Provided that the landowner, lessee, or assigned designee shall have a valid license and/or permit in order to commercialize in, sell, trade, ship, or transport any wildlife, except that any squirrels' parts retained may be sold during the closed season.

406.9. Hunting

406.9-1. *General Firearm and Archer Restrictions.* Persons may not:

(a) Hunt using any weapon other than a firearm, air rifle, bow, or crossbow that is authorized under this law and corresponding rules for the taking of a particular species.

(b) Discharge a firearm, air rifle, bow, or crossbow:

(1) Into reservation lakes, reservoirs, or any area designated for public use pursuant to the Public Use of Tribal Land law, except for the purpose of hunting migratory birds during established seasons, in accordance with the rules created pursuant to this law;

(2) Across any roadway; or

(3) Within one hundred (100) yards of any structure, unless the owner-occupant, lessee, or tenant has granted express permission.

(c) Transport any loaded firearm, air rifle, or cocked bow or crossbow in a vehicle.

406.9-2. *General Hunting Restrictions.* Persons may not, unless specifically authorized by a permit, if applicable, do any of the following:

(a) Hunt with the use of aircraft;

(b) Hunt within fifty (50) feet of the center of a paved road;

(c) Hunt from a vehicle;

(d) Hunt while under the influence of alcohol or a controlled substance;

(e) Hunt with the aid of artificial light, provided that it is permissible to use artificial light

to find one's way and while hunting on foot, at the point of harvest of coyote, raccoon, fox, or any other authorized unprotected species;

(f) Shine between the hours of 10:00 p.m. and sunrise during the months of September, October, November, and December; during all other months, shining is allowed at any hour;

(g) Hunt in a party of more than ~~ten~~ fifteen (15) persons;

(h) Hunt with, or possess while hunting:

(1) Any firearm for which the possession is unlawful under Wisconsin or Federal law;

(2) Slugs, except that a person may possess slugs during deer firearm season if they also possess the required associated permit;

(3) A handgun with a barrel length of less than five (5) inches;

(4) A concealed handgun without a valid permit from the State of Wisconsin; and/or

(5) Any of the following without a valid federal permit:

(A) A shotgun that has a barrel length of less than eighteen (18) inches or an overall length of less than twenty-six (26) inches;

(B) A rifle that has a barrel length of less than sixteen (16) inches or an overall length of less than twenty-six (26) inches;

(C) A fully-automatic firearm;

(D) Any mechanism designed to muffle, silence, or minimize the report of any firearm.

406.9-3. *Injury Causing Incidents.* Any person, who discharges a firearm, bow, or crossbow while hunting and injures another person, shall render or attempt to obtain necessary medical assistance, provide the injured person with their name and contact information including address, and report the injury causing incident to either the Department or the Oneida Police Department as soon as possible.

406.9-4. *Designated Hunters.* A permittee may name a designated hunter to hunt, fish, or trap on behalf of the permittee in the event that the permittee is physically or legally unable to take pursuant to their own permit, provided that, the designated hunter shall provide their name and contact information to the Department along with a signed statement from the original permittee naming the designated hunter. The designated hunter shall receive the Department's approval of the designation before using the permits of the original permittee.

(a) To be eligible to be named a designated hunter, the named person shall:

(1) Possess a valid hunting license;

(2) Be eligible for the permits for which the person is named the designated hunter; and

(3) Meet any other requirements of the rules created pursuant to this law.

(b) Designated hunters may hunt for an unlimited number of permittees.

(c) Any wildlife taken by a designated hunter remains the property of the original permittee; the designated hunter shall transfer any wildlife taken by designation to the original permittee's possession as soon as practicable following the taking.

406.9-5. *Age Restrictions.*

(a) Persons between the ages of ten (10) and fourteen (14) years old may only hunt if they have obtained the required license and permits and are under the immediate supervision of a parent, legal guardian, or a responsible adult to which a parent or legal guardian has delegated their supervisory responsibilities.

(1) The parent, legal guardian, or responsible adult shall have a valid license and any required permits.

(2) Adults accompanying youth hunters pursuant to this section shall remain within voice and sight contact of the youth hunters at all times.

(b) Tribal members, descendants, non-member Indians and dependents having less than ten (10) years of age may accompany a mentor while hunting, provided that youth under the age of ten (10) may not use a weapon during the hunt.

(1) In order to be eligible to be a mentor, the person shall:

(A) Be at least eighteen (18) years old;

(B) Have a valid license and any required permits; and

(C) Be the youth hunter's parent or legal guardian or have permission from the hunter's parent or legal guardian to be the hunter's mentor

(2) Mentors may mentor a maximum of two (2) youth hunters at the same time; and

(3) The mentor shall remain within an arm's grasp of each youth hunter at all times.

406.9-6. *Deer Hunting Parties.* A deer hunting party consists of a minimum of two (2) people and may be limited in size as provided in the rules developed pursuant to this law. Any member of a deer hunting party may harvest deer on behalf of another member of the deer hunting party under the following circumstances:

(a) At the time and place of the harvest, the member of the hunting party who harvests the deer shall be in contact with the member of the hunting party on whose behalf the deer was harvested. For the purpose of this section, contact means visual or voice contact without the aid of any mechanical or electronic amplifying device other than a hearing aid. Hand radios are permitted, however may not be used as an acceptable means of contact as required in this section.

(b) The member of the hunting party for whom the deer was harvested shall possess a valid, license and carcass tag for the deer.

(c) The member of the hunting party who harvests the deer shall ensure that a valid carcass tag is attached to the deer by a member of the hunting party prior to field dressing and moving the deer; the member of the hunting party that harvests the deer may not leave said deer unattended until it has been properly tagged.

406.10. Enforcement and Penalties

406.10-1. *Reporting Violations.* All persons shall report any violation(s) of this law and/or the corresponding rules to the Department or the Oneida Police Department. The department receiving information regarding violations shall keep the information confidential.

406.10-2. *Licenses/Permits Suspension, Revocation, and/or Ineligibility.* The Department may suspend, revoke, or deem a party ineligible for a license or permit as a penalty for committing any of the following acts or any combination thereof:

(a) Has committed an act causing any of their hunting, fishing, or trapping licenses, permits or privileges to be suspended or revoked by any other jurisdiction, whether it be tribal, state, or federal, where, for the purposes of this section, a person's right to possess firearms is considered a hunting privilege;

(b) Provides false information, or assists other in providing false information, when applying for a license or permit;

(c) Fails to timely pay a fine or abide by a penalty assessed against them as a consequence for violating the provisions of this law and/or the corresponding rules; and/or

(d) Violates this law and/or the corresponding rules and the violation is one for which the citation schedule identifies suspension, revocation, or ineligibility of a license or permit as an available penalty.

406.10-3. *Appeal of License and/or Permit Decision.* Any person wishing to contest a decision of the Department related to a license and/or permit may appeal such action by filing a complaint with the Judiciary Trial Court naming the Department.

406.10-4. *Issuance of a Citation.* An individual who violates a provision of this law or the corresponding rules may be subject to the issuance of a citation by a warden or an Oneida Police Department officer.

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

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

End.

Adopted - BC-~~808~~-31-94-C
Adopted - BC-~~404~~-24-96-A
Adopted - BC-07-22-98-A
Amended - BC-09-13-00-D
Amended - BC-~~606~~-04-03-A
Amended - BC-~~606~~-30-04-I
Amended - BC-~~707~~-13-05-E
Amended - BC-~~808~~-29-07-F
Amended - BC-06-24-09-E
Amended - BC-08-26-10-I
Emergency Amended - BC-06-22-11-H (Expired)
Amended – BC-12-14-11-E
Amended – BC-05-22-13-A
Amended – BC-01-25-17-D
Amended – BC-07-26-17-F
Amended – BC-__-__-__-__

Title 4. Environment and Natural Resources – Chapter 406
HUNTING, FISHING AND TRAPPING
Lutolátha?, Latsywáaha? O?khále Atlistáya Tsi? Kayanláhsla
Our laws concerning hunting, fishing and trapping
HUNTING, FISHING, AND TRAPPING

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406.10. Enforcement and Penalties

406.1. Purpose and Policy

406.1-1. *Purpose.* The purpose of this law is to protect and conserve wildlife on the reservation and to promote respect among sportsmen, respect for both the environment and fellow sportsmen.

406.1-2. *Policy.* It is the policy of ~~this law~~ the Nation to provide:

- (a) An adequate and flexible system for the protection, management, supervision, conservation, and enhancement of all wildlife and natural resources on the reservation; and
- (b) An enforceable system of licensing and permitting which establishes clear rules pursuant to the Administrative Rulemaking law related to hunting, fishing, and trapping, and associated fines and penalties for violations of this law and the said rules.

406.2. Adoption, Amendment, Repeal

406.2-1. This law was adopted by the Oneida Business Committee by resolution BC-08-31-94-C, and amended by resolutions BC-04-24-96-A, BC-07-22-98-A, BC-09-13-00-D, BC-06-04-03-A, BC-06-30-04-I, BC-07-13-05-E, BC-08-29-07-F, BC-06-24-09-E, BC-08-26-10-I, BC-12-14-11-E, BC-05-22-13-A, BC-01-25-17-D-~~and~~, BC-07-26-17-F-, and BC- - - -.

406.2-2. 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.

406.2-3. 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.

406.2-4. 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.

406.2-5. This law is adopted under authority of the Constitution of the Oneida Nation.

406.3. Definitions

406.3-1. 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) “Aircraft” means a conveyance that can travel through the air and that is supported either by its own lightness or by the action of the air against its surfaces. The term includes hovercraft and both manned aircraft such as airplanes and helicopters and unmanned aircraft such as drones.

(b) “Barrel ~~Length~~ length” means the length of a gun’s barrel as measured from the muzzle to the firing pin with the action closed, or from the muzzle to the breech face.

(c) ~~“ERB”~~ “Bodily harm” means physical pain or injury or any impairment of the Environmental Resources Board physical condition.

(d) “Daily ~~Bag Limit~~ bag limit” means the maximum number of a species of wildlife that

a person may take during a twenty-four (24) hour period measured from midnight to midnight.

(e) “Department” means the Oneida Conservation Department.

(f) “Dependent” means a person under the age of eighteen (18) who is the child or step-child of a Tribal member or who lives with a Tribal member for more than half of the year.

~~(g) “Designated Hunter”~~ (g) “Descendant” means a person who is registered with, and recognized by, the Oneida Trust Enrollment Department as being the descendant of an enrolled member of the Nation.

~~(h) “Designated hunter”~~ means the person named by a permittee as authorized to harvest wildlife on behalf of the permittee pursuant to the permit held by the permittee.

~~(h)~~ (i) “Elder” means any person fifty-five (55) years of age or older.

~~(i)~~ (j) “Endangered or ~~Threatened~~threatened” means any species of wildlife within the reservation in danger of extinction or likely to become in danger of distinction as recognized by ~~ERB and~~ the Department and under federal law.

~~(j)~~ (k) “Fine” means a monetary punishment issued to a person violating this law and/or the rules created pursuant to this law, ~~which is payable to ERB or the Department within the amount of time designated by the rules.~~

~~(k)~~ (l) “Fishing” means the taking, capturing, harvesting, or attempting to take, capture or harvest fish of any variety in any manner.

~~(l)~~ (m) “Great bodily harm” means bodily injury which creates a substantial risk of death, or which causes serious permanent disfigurement, or which causes a permanent or protracted loss or impairment of the function of any bodily member or organ or other serious bodily injury.

~~(n)~~ (n) “Hunt” or “Hunting” means shooting, shooting at, pursuing, taking, attempting to take, catch, harvest or attempting to harvest any wildlife.

~~(m)~~ (o) “License” means a written document issued by the Department granting authority to engage in specific activities covered under this law and the rules created pursuant to this law.

~~(p)~~ (p) “Loaded” means any firearm containing a cartridge in the chamber or any firearm containing a cartridge or cartridges in the attached cylinder, magazine, or clip.

(1) Muzzleloading firearms may not be considered loaded if a percussion cap is not covering the percussion nipple or .209 primers are not in the receiver.

(2) Flint lock muzzleloading firearms may not be considered loaded if the flash pan is cleaned of powder.

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

~~(r)~~ (r) “Non-Indian” means a person who is not a member of any federally recognized Indian tribe, band, or community.

~~(s)~~ (s) “Non-Member Indian” means a person who is a member of a federally recognized Indian tribe, band, or community other than this Nation.

~~(t)~~ (t) “Nuisance Animal” means any wildlife causing and one (1) or combination of the following:

(1) Damage to property;

(2) Damage to or endangered or threatened species of wildlife and/or plants;

(3) Depredation of crops and/or livestock; or

(4) Health and/or safety risks posed to persons.

~~(u)~~ (u) “Penalty” means a punishment, other than a fine, imposed on a person violating this law and/or the rules created pursuant to this law and may include, but is not limited to, the

confiscation of equipment and/or wildlife ~~with return of the same at the discretion of ERB~~, the imposition of a wildlife protection assessment (civil recovery value), revocation and/or ineligibility for licenses and/or permits for a specified period of time, and restitution.

(~~tv~~) “Permit” means a document, stamp or tag authorizing a specific activity which is issued by the Department to the holder of a license.

(~~uw~~) “Protected ~~Species~~species” means any species of wildlife that is not endangered or threatened, but for ~~which ERB~~the Department has established seasons, daily bag limits, or otherwise restricted the taking of.

(~~vx~~) “Reservation” means all the property within the exterior boundaries of the reservation of the Nation, as created pursuant to the 1838 Treaty with the Oneida 7 Stat. 566, and any lands added thereto pursuant to federal law.

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

(~~xz~~) “Take” or “Taking” means pursuing, shooting, hunting, fishing, netting (including placing or setting any net or other capturing device), capturing, harvesting, snaring or trapping any wildlife, or attempting any of the foregoing.

(~~yaa~~) “Transport” means to bring or move from one place to another by means of carrying, dragging, pushing, towing, or storing in or on a vehicle, aircraft or boat.

(~~zbb~~) “Trapping” means the taking of, or attempting to take, any wildlife by means of setting or operating any device or mechanism that is designed, built, or made to close upon, hold fast, snare or otherwise capture wildlife.

(~~aacc~~) “Tribal ~~Land~~land” means any land within the reservation that is held in fee or in trust and is owned by the Nation, a Tribal member, or a non-member Indian.

(~~bbdd~~) “Tribal ~~Member~~member” means an enrolled member of the Nation.

(~~eece~~) “Vehicle” means any self-propelled conveyance that derives power from a motor and is used to transport persons or objects over land, including but not limited to, an automobile, truck, sport utility vehicle, snowmobile, motorcycle, all-terrain vehicle, moped or similar conveyance.

(~~ddff~~) “Warden” means an officer of the Oneida Police Department whose duties include the protection of wildlife and natural resources.

(~~gg~~) “Wildlife” means any non-domesticated mammal, bird, fish, reptile, or amphibian, or any part or carcass of the same.⁺

406.4. Jurisdiction

406.4-1. This law applies to the following persons:

- (a) All Tribal members,
- (b) All non-member Indians,
- (c) All non-Indians who:
 - (1) apply for and receive a license and/or permit, and/or
 - (2) enter Tribal land,
- (d) All persons as otherwise permitted under federal law.

⁺For additional information, please reference the definition of “domestic animal” in the Nation’s Domestic Animal law; any animal that does not fall into the “domestic animal” classification is considered “wildlife” for the purpose of this law.

406.4-2. This law applies:

- (a) within the boundaries of the ~~reservation~~Reservation, and
- (b) on lands held in trust for the Nation outside the boundaries of the reservation.

406.4-3. *Jurisdiction.* The Nation has jurisdiction over the management and regulation of the Nation's natural resources. ~~However,~~ this law shall not negate the jurisdiction of the State of Wisconsin in certain instances involving non-member Indians and non-Indians. ~~Thus,~~ to hunt, fish, or trap on tribal land, non-member Indians and non-Indians shall adhere to the Nation's license, permit, and tag requirements and may also be subject to the requirements of the State of Wisconsin. ~~License and permit holders may not exercise any hunting, fishing, or tapping privileges within the Reservation boundaries using a State of Wisconsin license that would amount to greater privileges than those~~ ~~afforded~~afforded pursuant to this Law and associated rules.

406.5. Administration and Supervision

406.5-1. ~~ERB and the~~The Department shall protect, manage, supervise, conserve, and enhance all wildlife within the reservation. ~~ERB and the~~The Department shall ~~jointly~~ establish and maintain the rules in accordance with the Administrative Rulemaking law that are required to implement this law. ~~The Department shall administer and enforce this law and the rules created pursuant to this law.~~

406.5-2. ~~-~~ Administrative Rulemaking Authority. In addition to any other duties delegated to ~~ERB and the~~ Department under this law, ~~jointly, ERB and the~~ Department ~~are~~is hereby ~~jointly~~ delegated ~~the~~ rulemaking authority in accordance with the Administrative Rulemaking law to:

- (a) Determine the types and number of licenses and permits that may be issued by the Department, including how many licenses and permits that may be issued to non-Indian hunters.
- (b) Establish a fee schedule and application requirements and deadlines for obtaining licenses and/or permits.
- (c) Establish or amend daily bag limits and possession limits based on the supply of wildlife, the needs of conservation, and the objective of achieving a fair allocation of the harvest. ~~Restrictions in such rules may include, but are not limited to, limits related to gender, species, size, age, and maturity.~~
- (d) Based on the monitoring and supervision of all wildlife, when necessary, declare any species in need of protection a protected species or an endangered or threatened species, and thereafter modify or revoke such declarations as may be appropriate.
- (e) Fix, shorten, extend, or close seasons and hunting hours on any wildlife. ~~Provided that ERB and the Department~~
 - (1) ~~The rules~~ shall ~~base the open season for the~~identify designated seasons and/or hunting of migratory birds on the Nation's agreement with the U.S. Fish hours for elder, disabled, and Wildlife Service youth hunts.
- (f) Establish and/or modify areas' territorial limits, including bodies of water or parts thereof, for any of the following, as may be necessary:
 - (1) the taking of wildlife;
 - (2) other specified areas, pursuant to the rules ~~jointly~~ developed by ~~ERB and the~~ Department.
- (g) Establish methods for checking persons into and out of areas specified under subsection (f) above.
- (h) Regulate the operation of boats upon reservation waters and the operation of vehicles and aircraft used while hunting, fishing, or trapping.

(i) Regulate and prescribe the means and methods by which wildlife may be taken, including, but not limited to, the use of:

- (1) bait;
- (2) decoys;
- (3) hunting dogs;
- (4) traps;
- (5) firearms;
- (6) ammunition;
- (7) laser sights; and
- (8) night vision.

(j) Regulate the transportation, registration, tagging, and storage of all wildlife within the reservation and the shipment or transportation of wildlife off the reservation.

(k) Prescribe safety and fire control measures and other rules as may be necessary for range, forest, or wildlife management, and/or for the safety and welfare of outdoor recreationists, landowners, lessees, occupants, and the Nation.

~~(l) Establish a process for retention, storage and disposal of items confiscated or turned over to the Department in accordance with this law and the rules established pursuant to this law.~~

~~(m)~~(l) Establish a citation schedule that sets the monetary fines and penalties for violations of this law and/or the rules established pursuant to this law.

~~(n)~~(m) Regulate use of recovery and retrieval services and methods.

~~(o)~~(n) Regulate the care and husbandry of animals used to hunt or animals used for private game hunting.

~~(p)~~(o) Create other rules as specifically directed throughout this law or as may be necessary to implement this law. ~~ERB shall provide notice of said rules on the Nation's website and ERB and/or the Department shall develop a rule booklet, which the Department shall provide to each person receiving a license or permit pursuant to this law.~~

406.5-3. Oneida Police Department Officers and Wardens. Oneida Police Department officers and/or wardens shall enforce this law and corresponding rules on the reservation, and, accordingly shall:

- (a) Observe persons engaged in hunting, fishing and/or trapping in order to ensure that the methods and equipment utilized are lawful.
- (b) Investigate reports of violations of wildlife and environmental laws, including, but not limited to, this law and corresponding rules.
- (c) Work to prevent persons from violating this law and/or the corresponding rules.
- (d) Issue warnings and/or citations, which may include fines and/or penalties, for violations of this law and/or the corresponding rules.

~~406.5-4. Oneida Police Department. Any Oneida Police Department officer, who observes a violation of this law and/or corresponding rules, shall report such violation to the Department and/or a Department warden. However, if immediate action is necessary to prevent imminent danger to life or serious damage to property, the Oneida Police Department officer may issue a warning or citation for the said violation(s) and/or prevent persons from committing the said violation(s).~~

406.6. Licenses and Permits

406.6-1. *Sportsman License.*

- (a) A sportsman license is required for all persons hunting, fishing, or trapping on Tribal

land, except:

(1) Fishing is permitted without a sportsman license for Tribal members, dependents, and non-member Indians whom are sixteen (16) years of age or younger.

(2) Landowners~~and~~, lessees, and guests~~designees~~ with the permission of the landowners or lessees, may hunt and trap the following species on the property they own or lease, year-round, without a sportsman license:

(A) coyote;

(B) fox;

(C) raccoon;

(D) woodchuck;

(E) rabbit;

(F) squirrel;

(F)(G) beaver; and

(G)(H) any nuisance animal that is not an endangered or threaten species and is also not a regulated or protected species.

~~-(b)~~ Anyone born on or after January 1, 1973, shall successfully complete a ~~state~~-certified hunter safety course to be eligible for a sportsman license, except that:

(1) *Fishing Only Sportsman License*. A sportsman license may be issued which permits fishing only. ~~In such circumstances, successful completion of a state-~~certified hunter safety course is not required and the Department shall internally record such licenses as permitting fishing only.

(A) A person issued a “fishing only” sportsman license may not hunt or trap, or be eligible to hunt or trap, until the licensee provides the Department with proof of successful completion of a ~~state~~-certified hunter safety course.

~~(B) Any licensee holding a fishing only sportsman license may name a designated hunter to fill the hunting or trapping permits that regularly accompany a sportsman license based on the rules established pursuant to this Law. For the requirements related to naming a designated hunter, refer to section 406.9-4.~~

406.6-2. *Ceremonial and/or Feast Permit*. Tribal members may apply for a ceremonial and/or feast permit to group hunt wildlife outside of the regular applicable seasons.

(a) When the ceremonial and/or feast permit is for deer hunting, it may only be issued for antlerless deer.

(b) A ceremonial and/or feast permit may be issued to a group and/or organization meeting each of the following requirements:

~~(1) At least eighty five percent (85%) of the group and/or organization members are Tribal members;~~

~~(2)~~ The agent~~designee~~ of the group/organization is a Tribal member;

~~(3)~~ The occasion for the ceremonial and/or feast requiring the hunt out of season is recognized by the Oneida community; and

~~(4)~~ The hunt takes place on the reservation.

(c) All persons participating in the ceremonial and/or feast hunt shall be ~~named hunters on the ceremonial and/or feast permit;~~

(1) Named hunters on the ceremonial and/or feast permit; and

(2) Tribal members, descendants, or a spouse to a Tribal member.

(d) The agent~~designee~~ of the group ceremonial and/or feast hunt shall notify ~~the~~an Oneida

Police Department officer or warden of the time and place where the hunt will take place no later than twenty-four (24) hours prior to the hunt. ~~The Oneida Police Department~~ officer or warden may monitor any portion, or the entirety, of the group ceremonial and/or feast hunt.

406.6-3. *Other Permits, Tags and Stamps.* In accordance with this law and corresponding rules, the Department may issue permits authorizing a person to engage in specific hunting, fishing and/or trapping activities, including nuisance animal removal permits pursuant to section 406.8-2.

406.6-4. ~~It is unlawful for any person to:~~

(a) Provide false information or fail to report relevant information as requested by the Department, when applying for a license or permit; or

(b) Aid another in fraudulently securing a license or permit.

406.6-5. Except as provided under sections 406.6-1(b)(1)(A), ~~406.9-4~~ and 406.9-6, licenses and/or permits are not transferable and may not be altered, defaced, or lent to or from another person, any may not be used by any person other than the person to whom the license and/or permit is issued.

406.6-6. *Disabled Hunter Permits.* The Department may issue a disabled hunter permit to any person who is physically disabled, upon a showing of medical verification of a physical disability that results in mobility issues that makes it necessary for the disabled hunter to hunt from a stationary vehicle. Disabled hunters shall display the disabled hunter permit sticker in a manner and location as required by the Department. ~~A disabled hunter permit authorizes a person to hunt from a stationary vehicle within fifty (50) feet on the center of a road as further detailed in the rules developed pursuant to this law.~~

406.6-7. *Denial of a License or Permit.*

(a) The Department may decline to issue a license and/or permit to an applicant if:

(1) The applicant has unpaid fines, civil assessments, other fees, and/or restitution owed because of a violation of this law and/or corresponding rules.

(2) At any time and for any reason, the Department determines that issuing the license and/or permit poses a risk to the health, safety, and/or welfare of the Nation, to natural resources on the reservation, or to any persons. ~~There is a rebuttable presumption that an applicant poses such a risk under the following circumstances:~~

(A) At the time of the request, the applicant's hunting, fishing, or trapping license, permit, or related privileges are suspended or revoked in any jurisdiction.

(B) Within three (3) years of the request, the applicant has repeatedly and/or egregiously done any one (1) or more of the following:

(i) violated this law and/or corresponding rules and/or the hunting, fishing, or trapping laws and regulations of other jurisdictions;

(ii) violated other laws or rules of the Nation while engaged in hunting, fishing, or trapping activities; or

(iii) demonstrated poor judgment, disregard for safety or unsportsmanlike behavior while hunting, fishing, or trapping; including while interacting with other sportsmen or with wardens, of this jurisdiction or any other.

(C) At any time, the applicant has been found guilty of imposing or threatening to impose great bodily harm on another. ~~For the purposes of this section, great bodily harm means bodily injury which creates a substantial risk of death, or which causes serious permanent disfigurement,~~

~~or which causes a permanent or protracted loss or impairment of the function of any bodily member or organ or other serious bodily injury.~~

(b) Any person who has had a license or permit denied in accordance with section 406.6-7(a) may appeal the Department's decision by requesting a hearing before ~~ERB~~the Trial Court pursuant to section 406.10-4.

406.7. General Requirements

406.7-1. Persons may not:

(a) Enter onto private lands and/or waters to take or retrieve wildlife, without permission from the landowner, lessee, or occupant.

(b) Leave, deposit, place or throw litter, debris, wildlife, or any other waste material, on the reservation's lands and waters.

(c) Cause damage to land or property belonging to another, including but not limited to, the Department's decoys placed for law enforcement purposes by Oneida Police Department ~~officers or~~ wardens or other law enforcement officers, and signs that give notice of a hunting and/or trespass restriction.

(d) Carelessly waste wildlife. ~~Persons~~ hunting, trapping, or fishing shall make every reasonable effort to retrieve all wildlife killed or crippled, provided that all persons shall comply with section 406.7-1(a).

(e) Knowingly disturb any den, nest, lodge, hut, dam, or house that wildlife may build to shelter themselves and their young.

(f) No person may take, pursue, injure, or harass small game while on or in its nest or den, or remove any eggs or young except as may be approved in advance by the ~~Environmental Resource Board~~Department for activities which may include, but are not limited to, normal agricultural or horticultural practices or wildlife research practices.

(g) Harvest wildlife with the aid of an explosive, poison, exploding point or tip, electrical device, or ~~stupefying~~stunning substance or agent.

(h) Take another person's wildlife or disturb another person's hunting, fishing, or trapping equipment without permission; or otherwise interfere with the lawful hunting, fishing, or trapping of another person.

(i) Stock or possess any live wildlife on the reservation without a permit.

(j) Introduce or release wildlife, fish eggs, or receptacles containing bait, on the reservation or into reservation waters without a permit.

(k) Use in a reckless manner any device typically used for the harvesting of wildlife, including but not limited to, firearms, bows, traps, and knives.

(l) Shoot firearms, or place or operate any traps, except live traps, within one hundred (100) yards of any building structure, unless the owner-occupant, lessee, or tenant has given permission.

(m) Use a gas-powered motorboat on the Nation's waters, except for the Department's use for law enforcement and conservation purposes.

(n) Hunt, trap, or possess any hunting, or trapping equipment while on Tribal land where hunting or trapping is expressly prohibited by the Nation's laws or rules.

(o) Sell or purchase wildlife that was harvested on the reservation, except as may be expressly allowed by this law and corresponding rules.

(1) Under no circumstances may trading, gifting, or sharing of wildlife for traditional or ceremonial purposes be considered a violation of this section.

(p) Refuse to obey an Oneida Police Department officer or warden's lawful order.

(q) Inflict or threaten to inflict bodily harm upon ~~an Oneida Police~~ Department ~~officer or~~ warden. ~~For the purposes of this law, “bodily harm” means physical pain or injury or any impairment of the physical condition.~~

406.7-2. *Possession, Registration, and Transportation of Carcasses.* No person may hunt, trap, possess, or transport any wildlife unless ~~he or she possesses~~ they possess the appropriate license and any required permit, including tags, for harvesting and/or possessing such wildlife.

406.7-3. Any person who accidentally collides with and kills a deer while operating a vehicle on a roadway, may retain possession of the said deer, provided that the person shall have the deer tagged by the ~~Department or the Department’s designee~~ State of Wisconsin.

406.7-4. *Carcass Tags.* Except as otherwise provided in this law and corresponding rules, any person hunting a species of wildlife which is required to be tagged, shall possess a valid carcass tag, and, upon harvest, shall immediately validate and attach the tag to the carcass in such manner as ~~ERB and the Department shall jointly~~ establish in its ~~the~~ rules. No person may possess or transport harvested wildlife that is not properly tagged in accordance with this law and corresponding rules.

~~406.7-5. *Health Advisory.* ERB and the Department shall ensure that all hunting and fishing rule booklets contain a warning stating that fish caught in Duck Creek, as well as ducks, geese and other wildlife may contain Polychlorinated Biphenyl (PCBs) which may pose risks of health defects, that such risks are greatest for women and children, and that detailed information about PCBs is available from the Department upon request.~~

406.8. Wildlife Damage and Nuisance Control

406.8-1. Landowners and lessees may remove wildlife considered a nuisance animal from land under their control and their associated structures, provided that landowners and lessees shall satisfy all requirements of this law and corresponding rules, including, but not limited to the permitted methods of taking and hunting hours. Further, live-captured nuisance animals may not be relocated to Tribal lands without express written authorization from the Department, and, similarly, may not be relocated to private property without express written authorization from the landowner.

406.8-2. *Nuisance Animal Removal Permit.* A nuisance animal removal permit is required to hunt, trap, or live-capture and relocate any endangered or threatened and protected species.

(a) In order to be eligible for a nuisance animal removal permit, the applicant shall demonstrate that:

(1) ~~He or she has~~ They have the authority to control hunting and trapping access to the lands subject to the nuisance or being damaged as well as any contiguous lands.

In circumstances where the contiguous lands are not owned or leased by the applicant, the applicant shall demonstrate authority to control hunting and trapping access to the contiguous lands by providing the Department with the property owner’s or lessor’s written consent;

(2) ~~He or she~~ They are either ~~is~~ employing or ~~agrees~~ agree to employ, reasonable alternative abatement methods to removal;

(3) The wildlife sought to be removed is a nuisance animal and reasonable alternative abatement methods either have been or are reasonably likely to be unsuccessful;

(4) ~~He or she has~~ They have complied with this law and corresponding rules and the conditions of any previously- issued nuisance animal removal permit, at a minimum, for the previous twelve (12) months from the date ~~he or she applies~~ they

apply for the permit;

(5) The nuisance animal removal permit applied for does not conflict with any provisions of the Nation's agreement with the United States Fish and Wildlife Service regarding the taking of birds classified as migratory under 50 CFR 10.13.

(b) Each permittee shall keep a record of all permit activities and shall provide the said permit record to the Department within ten (10) days of the permit's expiration. ~~At a minimum, the permittee shall include in the record any agentsdesignees assigned under section 406.8-4 and the total number of nuisance animals removed pursuant to the permit, provided that, the Department may name additional items required to be included in the record.~~ All permit records may be inspected by the Department at any time.

(c) The permittee shall return all unused permits, including carcass tags, to the Department within ten (10) days of the permit's expiration.

406.8-3. *Nuisance Animal Removal Permit Not Required.* A nuisance animal removal permit is not required if the nuisance animal would otherwise be exempt from the license and permit requirements under section 406.6-1(a)(2). Also, a nuisance animal removal permit is specifically not required in following circumstances:

~~(a) *Beaver.* A nuisance animal removal permit is not needed for a landowner, lessee, or an authorized agent to hunt or trap beaver(s) that are nuisance animals, or to remove a beaver dam. However, only the landowner and the Department may set traps on a beaver dam on Tribal land; this privilege may not be transferred to an agent.~~

~~(b)~~(a) *Emergencies.* Nuisance animals for which a nuisance animal removal permit is otherwise required, may be removed without the required permit if such removal is necessary to maintain a person's immediate health and safety.

(1) Persons taking a nuisance animal under emergency circumstances shall report the emergency taking to the Department on the required form available with the Department.

(2) The Department shall conduct an investigation into the validity of the alleged emergency circumstance. ~~If the investigation provides clear and convincing evidence that the taking was not in fact required due to a legitimate threat to a person's immediate health and safety, the Department shall classify the taking an unlawful taking without a permit and shall take the appropriate corrective measures.~~

406.8-4. ~~*Designated Agents.*~~*Nuisance Animal Removal Designees.* A landowner may utilize ~~an agentas designee~~ to remove a nuisance animal pursuant to the provisions of this law. ~~If the requirements of this law and corresponding rules are satisfied, the landowner's nuisance animal removal permit and associated carcass tags, if applicable, may be utilized by the landowner's assigned agentdesignee.~~

(a) In order for ~~an agentas designee~~ to be assigned to remove a nuisance animal, the landowner shall ensure that the following conditions are met:

(1) The agentdesignee shall have a valid license for hunting or trapping that nuisance animal's species;

(2) The landowner shall grant written permission to the agentdesignee specifically identifying the following:

(A) The location of the nuisance animal where the removal activities are sought to occur;

(B) An authorized time period for the removal of the nuisance animal; and

(C) Any other information as may be required by the rules established pursuant to this law.

(b) The Department may limit the number of persons permitted to assist in a removal.

~~(e)(b)~~ The landowner or lessee permittee may ~~not~~ charge any assigned ~~agent~~designee any form of fee.

406.8-5. *Annual Migratory Bird Report.* Persons killing crows, cowbirds, grackles, and red-winged blackbirds shall provide an annual report to the U.S. Fish and Wildlife Service Region 3 Migratory Bird Permit Office by January 31st of each year for all such takings occurring within the previous January to December.

406.8-6. ~~Department~~Officer or *Warden's Access.* Any landowner or lessee pursuing the removal of a nuisance animal shall grant the Oneida Police Department officers or wardens free and unrestricted access to the premises on which the said removal is being conducted, is anticipated to be conducted, or has been conducted. ~~Further,~~ the landowner or lessee, and the landowner's ~~agent~~designee, if applicable, shall promptly furnish any information requested by a Oneida Police Department officer or warden relating to the said removal.

406.8-7. *Retaining Fur, Carcasses, and other Parts of Nuisance Animals.* The following applies to nuisance animals removed in accordance with this section:

(a) The permittee and each ~~agent~~designee assigned under section 406.8-4 may retain no more than one (1) deer removed pursuant to a nuisance animal removal permit. ~~The~~ Department shall distribute or dispose of any deer that are not so retained by offering them to Tribal members in the following order:

(1) Elders;

(2) Disabled persons; and

(3) Any other interested persons.

(b) In order to keep, either for oneself or for sale, the furs of a nuisance animal taken pursuant to a nuisance animal removal permit, the permittee shall be explicitly and separately authorized by the permit to retain the wildlife and to sell the wildlife.

(c) Furs from nuisance animals which did not require a nuisance animal removal permit in order to be removed, may be retained by a landowner, lessee, or assigned ~~agent~~designee without a permit. ~~Provided that~~ the landowner, lessee, or assigned ~~agent~~designee shall have a valid license and/or permit in order to commercialize in, sell, trade, ship, or transport any wildlife, except that any squirrels' parts retained may be sold during the closed season.

406.9. Hunting

406.9-1. *General Firearm and Archer Restrictions.* Persons may not:

(a) Hunt using any weapon other than a firearm, air rifle, bow, or crossbow that is authorized under this law and corresponding rules for the taking of a particular species.

(b) Discharge a firearm, air rifle, bow, or crossbow:

(1) Into reservation lakes, reservoirs, or any area designated for public use pursuant to the Public Use of Tribal Land law, except for the purpose of hunting migratory birds during established seasons, in accordance with the rules created pursuant to this law;

(2) Across any roadway; or

(3) Within one hundred (100) yards of any structure, unless the owner-occupant, lessee, or tenant has granted express permission.

(c) Transport any loaded firearm, air rifle, or cocked bow or crossbow in a vehicle.

406.9-2. *General Hunting Restrictions.* Persons may not, unless specifically authorized by a permit, if applicable, do any of the following:

(a) Hunt with the use of aircraft;

- (b) Hunt within fifty (50) feet of the center of a paved road;
- (c) Hunt from a vehicle;
- (d) Hunt while under the influence of alcohol or a controlled substance;
- (e) Hunt with the aid of artificial light, provided that it is permissible to use artificial light to find one's way and while hunting on foot, at the point of harvest of coyote, raccoon, fox, or any other authorized unprotected species;
- (f) Shine between the hours of 10:00 p.m. and sunrise during the months of September, October, November, and December; during all other months, shining is allowed at any hour;
- (g) Hunt in a party of more than ~~ten~~ fifteen (15) persons;
- (h) Hunt with, or possess while hunting:
 - (1) Any firearm for which the possession is unlawful under Wisconsin or Federal law;
 - (2) Slugs, except that a person may possess slugs during deer firearm season if ~~he or she~~ they also ~~possesses~~ possess the required associated permit;
 - (3) A handgun with a barrel length of less than five (5) inches;
 - (4) A concealed handgun without a valid permit from the State of Wisconsin; and/or
 - (5) Any of the following without a valid federal permit:
 - (A) A shotgun that has a barrel length of less than eighteen (18) inches or an overall length of less than twenty-six (26) inches;
 - (B) A rifle that has a barrel length of less than sixteen (16) inches or an overall length of less than twenty-six (26) inches;
 - (C) A fully-automatic firearm;
 - (D) Any mechanism designed to muffle, silence, or minimize the report of any firearm.

406.9-3. ~~Accidents~~ Injury Causing Incidents. Any person, who discharges a firearm, bow, or crossbow while hunting and injures another person, shall render or attempt to obtain necessary medical assistance, provide the injured person with ~~his or her~~ their name and contact information including address, and report the ~~accident~~ injury causing incident to either the Department or the Oneida Police Department as soon as possible.

406.9-4. *Designated Hunters*. A permittee may name a designated hunter to hunt, fish, or trap on behalf of the permittee in the event that the permittee is physically or legally unable to take pursuant to ~~his or her~~ their own permit, provided that, the designated hunter shall provide ~~his or her~~ their name and contact information to the Department along with a signed statement from the original permittee naming the designated hunter. ~~The designated hunter shall receive the Department's approval of the designation before using the permits of the original permittee.~~

- (a) To be eligible to be named a ~~Designated Hunter~~ designated hunter, the named person shall:

- (1) Possess a valid hunting license;
- (2) Be eligible for the permits for which the person is named the designated hunter; and
- (3) Meet any other requirements of the rules created pursuant to this law.

- (b) Designated hunters may hunt for ~~the~~ an unlimited number of permittees ~~as authorized by the rules developed pursuant to this law.~~

- (c) Any wildlife taken by a designated hunter remains the property of the original permittee; the designated hunter shall transfer any wildlife taken by designation to the

original permittee's possession as soon as practicable following the taking.

406.9-5. *Age Restrictions.*

(a) Persons between the ages of ~~twelve (12)~~ten (10) and fourteen (14) years old may only hunt if they have obtained the required license and permits and are under the immediate supervision of a parent, legal guardian, or a responsible adult to which a parent or legal guardian has delegated ~~his or her~~their supervisory responsibilities.

(1) The parent, legal guardian, or responsible adult shall have a valid license and any required permits.

(2) Adults accompanying youth hunters pursuant to this section shall remain within voice and sight contact of the youth hunters at all times.

(b) Tribal members, descendants², ~~non-member Indians and dependents aged ten (10) or eleven (11) years old may hunt if they have a mentor present while hunting and have obtained any required licenses and permits.~~

~~(c) Tribal members, descendants², non-member Indians and dependents having less than ten (10) years of age may accompany a mentor while hunting, provided that youth under the age of ten (10) may not use a weapon during the hunt.~~

~~(d) The following limitations apply to youth hunters and their mentors hunting pursuant to this section:~~

~~(1) Only one (1) weapon may be possessed jointly between the mentor and his or her mentee(s);~~

(1) In order to be eligible to be a mentor, the person shall:

(A) Be at least eighteen (18) years old;

(B) Have a valid license and any required permits; and

(C) Be the youth hunter's parent or legal guardian or have permission from the hunter's parent or legal guardian to be the hunter's mentor

(2) Mentors may mentor a maximum of two (2) youth hunters at the same time; and

(3) The mentor shall remain within an arm's grasp of each youth hunter at all times.

~~(e) In order to be eligible to be a mentor, the person shall:~~

~~(1) Be at least eighteen (18) years old;~~

~~(2) Have a valid license and any required permits; and~~

~~(3) Be the youth hunter's parent or legal guardian or have permission from the hunter's parent or legal guardian to be the hunter's mentor.~~

406.9-6. *Deer Hunting Parties.* A deer hunting party consists of a minimum of two (2) people and may be limited in size as provided in the rules developed pursuant to this law. ~~Any member of a deer hunting party may harvest deer on behalf of another member of the deer hunting party under the following circumstances:~~

(a) At the time and place of the harvest, the member of the hunting party who harvests the deer shall be in contact with the member of the hunting party on whose behalf the deer was harvested. For the purpose of this section, contact means visual or voice contact without the aid of any mechanical or electronic amplifying device other than a hearing aid. ~~Hand radios are permitted, however may not be used as an acceptable means of contact as required in this section.~~

(b) The member of the hunting party for whom the deer was harvested shall possess a valid,

²~~Requirements for descendancy are determined by the Oneida Trust Enrollment Committee.~~

³~~See footnote 2.~~

license and carcass tag for the deer.

(c) The member of the hunting party who harvests the deer shall ensure that a valid carcass tag is attached to the deer by a member of the hunting party prior to field dressing and moving the deer; the member of the hunting party that harvests the deer may not leave said deer unattended until it has been properly tagged.

406.10. Enforcement and Penalties

406.10-1. *Reporting Violations.* All persons shall report any violation(s) of this law and/or the corresponding rules to the Department or the Oneida Police Department. The department receiving information regarding violations shall keep the information confidential.

406.10-2. *Licenses/Permits Suspension, Revocation, and/or Ineligibility.* The Department may suspend, revoke, or deem a party ineligible for a license or permit as a penalty for committing any ~~one (1)~~ of the following acts or any combination thereof:

(a) Has committed an act causing any of ~~his or hers~~their hunting, fishing, or trapping licenses, permits or privileges to be suspended or revoked by any other jurisdiction, whether it be tribal, state, or federal, where, for the purposes of this section, a person's right to possess firearms is considered a hunting privilege;

(b) Provides false information, or assists other in providing false information, when applying for a license or permit;

(c) Fails to timely pay a fine or abide by a penalty assessed against ~~him or her~~them as a consequence for violating the provisions of this law and/or the corresponding rules; and/or

(d) Violates this law and/or the corresponding rules and the violation is one for which the citation schedule identifies suspension, revocation, or ineligibility of a license or permit as an available penalty.

~~406.10-3. *Warning and Citations.* Department wardens may issue verbal and/or written warnings and/or citations to any person found to be in violation of this law and/or the corresponding rules. The Department shall ensure that all warning and citations identify the relevant violation and, if applicable, the fine and/or penalties imposed as a consequence of the violation.~~

~~406.10-4~~406.10-3. *Appeal of License and/or Permit Decision.* Any person wishing to contest a decision of the Department related to a license and/or permit may appeal such action by filing a complaint with the Judiciary Trial Court naming the Department.

~~406.10-5. *Contested Action Hearings.* All citations, orders and declarations issued pursuant to this law shall include a pre-hearing date with the Judiciary Trial Court which shall be set for the next scheduled monthly prehearing date that is at least thirty (30) days after the citation was issued. Persons wishing to contest a citation shall appear at the prehearing, at which time the Judiciary Trial Court shall accept pleas which either contest or admit committing the act for which the citation was issued. The Judiciary shall schedule a hearing as expeditiously as possible, provided that it shall be scheduled within ninety (90) days of the date of the prehearing, for all persons entering a plea contesting the fact that they committed the act for which a citation was issued. In addition to scheduling requested hearings, the Judiciary may also make conditional orders at the prehearing which are effective until the matter is resolved.~~4. *Issuance of a Citation.* An individual who violates a provision of this law or the corresponding rules may be subject to the issuance of a citation by a warden or an Oneida Police Department officer.

~~(a) *Community Service.* Community service may be substituted~~ A citation ~~for fines at a violation of this law, the Judiciary's discretion, provided that, if so substituted, the Judiciary shall use the rate of one (1) hour per ten dollars (\$10.00) of the fine.~~

~~(b) *Allocation of Citation Revenue.* All~~corresponding rules, or any orders issued pursuant

to this law may include fines and other penalties ~~issued by citations are payable to ERB or its designee, the proceeds of which ERB shall contribute to the Nation's general fund.~~
(e) ~~Appealing the Decision of the Judiciary~~, as well as conditional orders made by the Trial Court. ~~Any person wishing to contest the determination of the Judiciary Trial Court may appeal the applicable determination to the Judiciary's Court of Appeals~~
(b) A citation for a violation of this law shall be processed in accordance with the Rules of Appellate Procedure.
(d) ~~Pursuing Payment of a Citation.~~ ERB may pursue payment from parties who have failed to make the required payments through the garnishment process procedure contained in the Garnishment law and/or by attaching a Tribal member's per capita payment pursuant to the Per Capita law. Nation's laws and policies governing citations.

End.

Adopted - BC-08-31-94-C
Adopted - BC-04-24-96-A
Adopted - BC-07-22-98-A
Amended - BC-09-13-00-D
Amended - BC-06-04-03-A
Amended - BC-06-30-04-I
Amended - BC-07-13-05-E
Amended - BC-08-29-07-F
Amended - BC-06-24-09-E
Amended - BC-08-26-10-I
Emergency Amended - BC-06-22-11-H (Expired)
Amended - BC-12-14-11-E
Amended - BC-05-22-13-A
Amended - BC-01-25-17-D
Amended - BC-07-26-17-F
Amended - BC- - - -

Title 4. Environment and Natural Resources – Chapter 406
Lutolátha?, Latsywáaha? O?khále Atlistáya Tsi? Kayanl?hsla
Our laws concerning hunting, fishing and trapping
HUNTING, FISHING, AND TRAPPING

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406.1. Purpose and Policy

406.1-1. *Purpose.* The purpose of this law is to protect and conserve wildlife on the reservation and to promote respect among sportsmen for both the environment and fellow sportsmen.

406.1-2. *Policy.* It is the policy of the Nation to provide:

- (a) An adequate and flexible system for the protection, management, supervision, conservation, and enhancement of all wildlife and natural resources on the reservation; and
- (b) An enforceable system of licensing and permitting which establishes clear rules pursuant to the Administrative Rulemaking law related to hunting, fishing, and trapping, and associated fines and penalties for violations of this law and the said rules.

406.2. Adoption, Amendment, Repeal

406.2-1. This law was adopted by the Oneida Business Committee by resolution BC-08-31-94-C, and amended by resolutions BC-04-24-96-A, BC-07-22-98-A, BC-09-13-00-D, BC-06-04-03-A, BC-06-30-04-I, BC-07-13-05-E, BC-08-29-07-F, BC-06-24-09-E, BC-08-26-10-I, BC-12-14-11-E, BC-05-22-13-A, BC-01-25-17-D, BC-07-26-17-F, and BC-__-__-__.

406.2-2. 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.

406.2-3. 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.

406.2-4. 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.

406.2-5. This law is adopted under authority of the Constitution of the Oneida Nation.

406.3. Definitions

406.3-1. 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) “Aircraft” means a conveyance that can travel through the air and that is supported either by its own lightness or by the action of the air against its surfaces. The term includes hovercraft and both manned aircraft such as airplanes and helicopters and unmanned aircraft such as drones.

(b) “Barrel length” means the length of a gun’s barrel as measured from the muzzle to the firing pin with the action closed, or from the muzzle to the breech face.

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

(d) “Daily bag limit” means the maximum number of a species of wildlife that a person may take during a twenty-four (24) hour period measured from midnight to midnight.

- (e) “Department” means the Oneida Conservation Department.
- (f) “Dependent” means a person under the age of eighteen (18) who is the child or step-child of a Tribal member or who lives with a Tribal member for more than half of the year.
- (g) “Descendant” means a person who is registered with, and recognized by, the Oneida Trust Enrollment Department as being the descendant of an enrolled member of the Nation.
- (h) “Designated hunter” means the person named by a permittee as authorized to harvest wildlife on behalf of the permittee pursuant to the permit held by the permittee.
- (i) “Elder” means any person fifty-five (55) years of age or older.
- (j) “Endangered or threatened” means any species of wildlife within the reservation in danger of extinction or likely to become in danger of distinction as recognized by the Department and under federal law.
- (k) “Fine” means a monetary punishment issued to a person violating this law and/or the rules created pursuant to this law.
- (l) “Fishing” means the taking, capturing, harvesting, or attempting to take, capture or harvest fish of any variety in any manner.
- (m) “Great bodily harm” means bodily injury which creates a substantial risk of death, or which causes serious permanent disfigurement, or which causes a permanent or protracted loss or impairment of the function of any bodily member or organ or other serious bodily injury.
- (n) “Hunt” or “Hunting” means shooting, shooting at, pursuing, taking, attempting to take, catch, harvest or attempting to harvest any wildlife.
- (o) “License” means a written document issued by the Department granting authority to engage in specific activities covered under this law and the rules created pursuant to this law.
- (p) “Loaded” means any firearm containing a cartridge in the chamber or any firearm containing a cartridge or cartridges in the attached cylinder, magazine, or clip.
- (1) Muzzleloading firearms may not be considered loaded if a percussion cap is not covering the percussion nipple or .209 primers are not in the receiver.
- (2) Flint lock muzzleloading firearms may not be considered loaded if the flash pan is cleaned of powder.
- (q) “Nation” means the Oneida Nation.
- (r) “Non-Indian” means a person who is not a member of any federally recognized Indian tribe, band, or community.
- (s) “Non-Member Indian” means a person who is a member of a federally recognized Indian tribe, band, or community other than this Nation.
- (t) “Nuisance Animal” means any wildlife causing and one (1) or combination of the following:
- (1) Damage to property;
- (2) Damage to or endangered or threatened species of wildlife and/or plants;
- (3) Depredation of crops and/or livestock; or
- (4) Health and/or safety risks posed to persons.
- (u) “Penalty” means a punishment, other than a fine, imposed on a person violating this law and/or the rules created pursuant to this law and may include, but is not limited to, the confiscation of equipment and/or wildlife, the imposition of a wildlife protection assessment (civil recovery value), revocation and/or ineligibility for licenses and/or permits for a specified period of time, and restitution.
- (v) “Permit” means a document, stamp or tag authorizing a specific activity which is

issued by the Department to the holder of a license.

(w) “Protected species” means any species of wildlife that is not endangered or threatened, but for the Department has established seasons, daily bag limits, or otherwise restricted the taking of.

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

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

(z) “Take” or “Taking” means pursuing, shooting, hunting, fishing, netting (including placing or setting any net or other capturing device), capturing, harvesting, snaring or trapping any wildlife, or attempting any of the foregoing.

(aa) “Transport” means to bring or move from one place to another by means of carrying, dragging, pushing, towing, or storing in or on a vehicle, aircraft or boat.

(bb) “Trapping” means the taking of, or attempting to take, any wildlife by means of setting or operating any device or mechanism that is designed, built, or made to close upon, hold fast, snare or otherwise capture wildlife.

(cc) “Tribal land” means any land within the reservation that is held in fee or in trust and is owned by the Nation, a Tribal member, or a non-member Indian.

(dd) “Tribal member” means an enrolled member of the Nation.

(ee) “Vehicle” means any self-propelled conveyance that derives power from a motor and is used to transport persons or objects over land, including but not limited to, an automobile, truck, sport utility vehicle, snowmobile, motorcycle, all-terrain vehicle, moped or similar conveyance.

(ff) “Warden” means an officer of the Oneida Police Department whose duties include the protection of wildlife and natural resources.

(gg) “Wildlife” means any non-domesticated mammal, bird, fish, reptile, or amphibian, or any part or carcass of the same.

406.4. Jurisdiction

406.4-1. This law applies to the following persons:

- (a) All Tribal members,
- (b) All non-member Indians,
- (c) All non-Indians who:
 - (1) apply for and receive a license and/or permit, and/or
 - (2) enter Tribal land,
- (d) All persons as otherwise permitted under federal law.

406.4-2. This law applies:

- (a) within the boundaries of the Reservation, and
- (b) on lands held in trust for the Nation outside the boundaries of the reservation.

406.4-3. *Jurisdiction.* The Nation has jurisdiction over the management and regulation of the Nation’s natural resources. However, this law shall not negate the jurisdiction of the State of Wisconsin in certain instances involving non-member Indians and non-Indians. Thus, to hunt, fish, or trap on tribal land, non-member Indians and non-Indians shall adhere to the Nation’s license, permit, and tag requirements and may also be subject to the requirements of the State of Wisconsin. License and permit holders may not exercise any hunting, fishing, or tapping privileges

within the Reservation boundaries using a State of Wisconsin license that would amount to greater privileges than those afforded pursuant to this Law and associated rules.

406.5. Administration and Supervision

406.5-1. The Department shall protect, manage, supervise, conserve, and enhance all wildlife within the reservation. The Department shall establish and maintain the rules in accordance with the Administrative Rulemaking law that are required to implement this law. The Department shall administer and enforce this law and the rules created pursuant to this law.

406.5-2. *Administrative Rulemaking Authority.* In addition to any other duties delegated to the Department under this law, the Department is hereby delegated rulemaking authority in accordance with the Administrative Rulemaking law to:

(a) Determine the types and number of licenses and permits that may be issued by the Department, including how many licenses and permits that may be issued to non-Indian hunters.

(b) Establish a fee schedule and application requirements and deadlines for obtaining licenses and/or permits.

(c) Establish or amend daily bag limits and possession limits based on the supply of wildlife, the needs of conservation, and the objective of achieving a fair allocation of the harvest. Restrictions in such rules may include, but are not limited to, limits related to gender, species, size, age, and maturity.

(d) Based on the monitoring and supervision of all wildlife, when necessary, declare any species in need of protection a protected species or an endangered or threatened species, and thereafter modify or revoke such declarations as may be appropriate.

(e) Fix, shorten, extend, or close seasons and hunting hours on any wildlife.

(1) The rules shall identify designated seasons and/or hunting hours for elder, disabled, and youth hunts.

(f) Establish and/or modify areas' territorial limits, including bodies of water or parts thereof, for any of the following, as may be necessary:

(1) the taking of wildlife;

(2) other specified areas, pursuant to the rules developed by the Department.

(g) Establish methods for checking persons into and out of areas specified under subsection (f) above.

(h) Regulate the operation of boats upon reservation waters and the operation of vehicles and aircraft used while hunting, fishing, or trapping.

(i) Regulate and prescribe the means and methods by which wildlife may be taken, including, but not limited to, the use of:

(1) bait;

(2) decoys;

(3) hunting dogs;

(4) traps;

(5) firearms;

(6) ammunition;

(7) laser sights; and

(8) night vision.

(j) Regulate the transportation, registration, tagging, and storage of all wildlife within the reservation and the shipment or transportation of wildlife off the reservation.

(k) Prescribe safety and fire control measures and other rules as may be necessary for

range, forest; or wildlife management, and/or for the safety and welfare of outdoor recreationists, landowners, lessees, occupants, and the Nation.

(l) Establish a citation schedule that sets the monetary fines and penalties for violations of this law and/or the rules established pursuant to this law.

(m) Regulate use of recovery and retrieval services and methods.

(n) Regulate the care and husbandry of animals used to hunt or animals used for private game hunting.

(o) Create other rules as specifically directed throughout this law or as may be necessary to implement this law.

406.5-3. *Oneida Police Department Officers and Wardens.* Oneida Police Department officers and/or wardens shall enforce this law and corresponding rules on the reservation, and accordingly shall:

(a) Observe persons engaged in hunting, fishing and/or trapping in order to ensure that the methods and equipment utilized are lawful.

(b) Investigate reports of violations of wildlife and environmental laws, including, but not limited to, this law and corresponding rules.

(c) Work to prevent persons from violating this law and/or the corresponding rules.

(d) Issue warnings and/or citations, which may include fines and/or penalties, for violations of this law and/or the corresponding rules.

406.6. Licenses and Permits

406.6-1. *Sportsman License.*

(a) A sportsman license is required for all persons hunting, fishing, or trapping on Tribal land, except:

(1) Fishing is permitted without a sportsman license for Tribal members, dependents, and non-member Indians whom are sixteen (16) years of age or younger.

(2) Landowners, lessees, and designees with the permission of the landowners or lessees, may hunt and trap the following species on the property they own or lease, year-round, without a sportsman license:

(A) coyote;

(B) fox;

(C) raccoon;

(D) woodchuck;

(E) rabbit;

(F) squirrel;

(G) beaver; and

(H) any nuisance animal that is not an endangered or threaten species and is also not a regulated or protected species.

(b) Anyone born on or after January 1, 1973, shall successfully complete a certified hunter safety course to be eligible for a sportsman license, except that:

(1) *Fishing Only Sportsman License.* A sportsman license may be issued which permits fishing only. In such circumstances, successful completion of a certified hunter safety course is not required and the Department shall internally record such licenses as permitting fishing only.

(A) A person issued a “fishing only” sportsman license may not hunt or trap, or be eligible to hunt or trap, until the licensee provides the Department with

- proof of successful completion of a certified hunter safety course.
- 406.6-2. *Ceremonial and/or Feast Permit.* Tribal members may apply for a ceremonial and/or feast permit to group hunt wildlife outside of the regular applicable seasons.
- (a) When the ceremonial and/or feast permit is for deer hunting, it may only be issued for antlerless deer.
 - (b) A ceremonial and/or feast permit may be issued to a group and/or organization meeting each of the following requirements:
 - (1) The designee of the group/organization is a Tribal member;
 - (2) The occasion for the ceremonial and/or feast requiring the hunt out of season is recognized by the Oneida community; and
 - (3) The hunt takes place on the reservation.
 - (c) All persons participating in the ceremonial and/or feast hunt shall be:
 - (1) Named hunters on the ceremonial and/or feast permit; and
 - (2) Tribal members, descendants, or a spouse to a Tribal member.
 - (d) The designee of the group ceremonial and/or feast hunt shall notify an Oneida Police Department officer or warden of the time and place where the hunt will take place no later than twenty-four (24) hours prior to the hunt. The Oneida Police Department officer or warden may monitor any portion, or the entirety, of the group ceremonial and/or feast hunt.
- 406.6-3. *Other Permits, Tags and Stamps.* In accordance with this law and corresponding rules, the Department may issue permits authorizing a person to engage in specific hunting, fishing and/or trapping activities, including nuisance animal removal permits pursuant to section 406.8-2.
- 406.6-4. It is unlawful for any person to:
- (a) Provide false information or fail to report relevant information as requested by the Department, when applying for a license or permit; or
 - (b) Aid another in fraudulently securing a license or permit.
- 406.6-5. Except as provided under sections 406.9-4 and 406.9-6, licenses and/or permits are not transferable and may not be altered, defaced, or lent to or from another person, any may not be used by any person other than the person to whom the license and/or permit is issued.
- 406.6-6. *Disabled Hunter Permits.* The Department may issue a disabled hunter permit to any person who is physically disabled, upon a showing of medical verification of a physical disability that results in mobility issues that makes it necessary for the disabled hunter to hunt from a stationary vehicle. Disabled hunters shall display the disabled hunter permit sticker in a manner and location as required by the Department. A disabled hunter permit authorizes a person to hunt from a stationary vehicle within fifty (50) feet on the center of a road as further detailed in the rules developed pursuant to this law.
- 406.6-7. *Denial of a License or Permit.*
- (a) The Department may decline to issue a license and/or permit to an applicant if:
 - (1) The applicant has unpaid fines, civil assessments, other fees, and/or restitution owed because of a violation of this law and/or corresponding rules.
 - (2) At any time and for any reason, the Department determines that issuing the license and/or permit poses a risk to the health, safety, and/or welfare of the Nation, to natural resources on the reservation, or to any persons. There is a rebuttable presumption that an applicant poses such a risk under the following circumstances:
 - (A) At the time of the request, the applicant's hunting, fishing, or trapping license, permit, or related privileges are suspended or revoked in any jurisdiction.

(B) Within three (3) years of the request, the applicant has repeatedly and/or egregiously done any one (1) or more of the following:

- (i) violated this law and/or corresponding rules and/or the hunting, fishing, or trapping laws and regulations of other jurisdictions;
- (ii) violated other laws or rules of the Nation while engaged in hunting, fishing, or trapping activities; or
- (iii) demonstrated poor judgment, disregard for safety or unsportsmanlike behavior while hunting, fishing, or trapping; including while interacting with other sportsmen or with wardens, of this jurisdiction or any other.

(C) At any time, the applicant has been found guilty of imposing or threatening to impose great bodily harm on another.

(b) Any person who has had a license or permit denied in accordance with section 406.6-7(a) may appeal the Department's decision by requesting a hearing before the Trial Court pursuant to section 406.10-4.

406.7. General Requirements

406.7-1. Persons may not:

- (a) Enter onto private lands and/or waters to take or retrieve wildlife, without permission from the landowner, lessee, or occupant.
- (b) Leave, deposit, place or throw litter, debris, wildlife, or any other waste material, on the reservation's lands and waters.
- (c) Cause damage to land or property belonging to another, including but not limited to, the Department's decoys placed for law enforcement purposes by Oneida Police Department officers or wardens or other law enforcement officers, and signs that give notice of a hunting and/or trespass restriction.
- (d) Carelessly waste wildlife. Persons hunting, trapping, or fishing shall make every reasonable effort to retrieve all wildlife killed or crippled, provided that all persons shall comply with section 406.7-1(a).
- (e) Knowingly disturb any den, nest, lodge, hut, dam, or house that wildlife may build to shelter themselves and their young.
- (f) No person may take, pursue, injure, or harass small game while on or in its nest or den, or remove any eggs or young except as may be approved in advance by the Department for activities which may include, but are not limited to, normal agricultural or horticultural practices or wildlife research practices.
- (g) Harvest wildlife with the aid of an explosive, poison, exploding point or tip, electrical device, or stunning substance or agent.
- (h) Take another person's wildlife or disturb another person's hunting, fishing, or trapping equipment without permission; or otherwise interfere with the lawful hunting, fishing, or trapping of another person.
- (i) Stock or possess any live wildlife on the reservation without a permit.
- (j) Introduce or release wildlife, fish eggs, or receptacles containing bait, on the reservation or into reservation waters without a permit.
- (k) Use in a reckless manner any device typically used for the harvesting of wildlife, including but not limited to, firearms, bows, traps, and knives.
- (l) Shoot firearms, or place or operate any traps, except live traps, within one hundred (100) yards of any building structure, unless the owner-occupant, lessee, or tenant has

given permission.

(m) Use a gas-powered motorboat on the Nation's waters, except for the Department's use for law enforcement and conservation purposes.

(n) Hunt, trap, or possess any hunting, or trapping equipment while on Tribal land where hunting or trapping is expressly prohibited by the Nation's laws or rules.

(o) Sell or purchase wildlife that was harvested on the reservation, except as may be expressly allowed by this law and corresponding rules.

(1) Under no circumstances may trading, gifting, or sharing of wildlife for traditional or ceremonial purposes be considered a violation of this section.

(p) Refuse to obey an Oneida Police Department officer or warden's lawful order.

(q) Inflict or threaten to inflict bodily harm upon an Oneida Police Department officer or warden.

406.7-2. *Possession, Registration, and Transportation of Carcasses.* No person may hunt, trap, possess, or transport any wildlife unless they possess the appropriate license and any required permit, including tags, for harvesting and/or possessing such wildlife.

406.7-3. Any person who accidentally collides with and kills a deer while operating a vehicle on a roadway may retain possession of the said deer, provided that the person shall have the deer tagged by the State of Wisconsin.

406.7-4. *Carcass Tags.* Except as otherwise provided in this law and corresponding rules, any person hunting a species of wildlife which is required to be tagged, shall possess a valid carcass tag, and, upon harvest, shall immediately validate and attach the tag to the carcass in such manner as the Department shall establish in its rules. No person may possess or transport harvested wildlife that is not properly tagged in accordance with this law and corresponding rules.

406.8. Wildlife Damage and Nuisance Control

406.8-1. Landowners and lessees may remove wildlife considered a nuisance animal from land under their control and their associated structures, provided that landowners and lessees shall satisfy all requirements of this law and corresponding rules, including, but not limited to the permitted methods of taking and hunting hours. Further, live-captured nuisance animals may not be relocated to Tribal lands without express written authorization from the Department, and, similarly, may not be relocated to private property without express written authorization from the landowner.

406.8-2. *Nuisance Animal Removal Permit.* A nuisance animal removal permit is required to hunt, trap, or live-capture and relocate any endangered or threatened and protected species.

(a) In order to be eligible for a nuisance animal removal permit, the applicant shall demonstrate that:

(1) They have the authority to control hunting and trapping access to the lands subject to the nuisance or being damaged as well as any contiguous lands. In circumstances where the contiguous lands are not owned or leased by the applicant, the applicant shall demonstrate authority to control hunting and trapping access to the contiguous lands by providing the Department with the property owner's or lessor's written consent;

(2) They are either employing or agree to employ, reasonable alternative abatement methods to removal;

(3) The wildlife sought to be removed is a nuisance animal and reasonable alternative abatement methods either have been or are reasonably likely to be unsuccessful;

(4) They have complied with this law and corresponding rules and the conditions of any previously issued nuisance animal removal permit, at a minimum, for the previous twelve (12) months from the date they apply for the permit;

(5) The nuisance animal removal permit applied for does not conflict with any provisions of the Nation's agreement with the United States Fish and Wildlife Service regarding the taking of birds classified as migratory under 50 CFR 10.13.

(b) Each permittee shall keep a record of all permit activities and shall provide the said permit record to the Department within ten (10) days of the permit's expiration. At a minimum, the permittee shall include in the record any designees assigned under section 406.8-4 and the total number of nuisance animals removed pursuant to the permit, provided that, the Department may name additional items required to be included in the record. All permit records may be inspected by the Department at any time.

(c) The permittee shall return all unused permits, including carcass tags, to the Department within ten (10) days of the permit's expiration.

406.8-3. *Nuisance Animal Removal Permit Not Required.* A nuisance animal removal permit is not required if the nuisance animal would otherwise be exempt from the license and permit requirements under section 406.6-1(a)(2). Also, a nuisance animal removal permit is specifically not required in following circumstances:

(a) *Emergencies.* Nuisance animals for which a nuisance animal removal permit is otherwise required, may be removed without the required permit if such removal is necessary to maintain a person's immediate health and safety.

(1) Persons taking a nuisance animal under emergency circumstances shall report the emergency taking to the Department on the required form available with the Department.

(2) The Department shall conduct an investigation into the validity of the alleged emergency circumstance. If the investigation provides clear and convincing evidence that the taking was not in fact required due to a legitimate threat to a person's immediate health and safety, the Department shall classify the taking an unlawful taking without a permit and shall take the appropriate corrective measures.

406.8-4. *Nuisance Animal Removal Designees.* A landowner may utilize as designee to remove a nuisance animal pursuant to the provisions of this law. If the requirements of this law and corresponding rules are satisfied, the landowner's nuisance animal removal permit and associated carcass tags, if applicable, may be utilized by the landowner's assigned designee.

(a) In order for a designee to be assigned to remove a nuisance animal, the landowner shall ensure that the following conditions are met:

(1) The designee shall have a valid license for hunting or trapping that nuisance animal's species;

(2) The landowner shall grant written permission to the designee specifically identifying the following:

(A) The location of the nuisance animal where the removal activities are sought to occur;

(B) An authorized time period for the removal of the nuisance animal; and

(C) Any other information as may be required by the rules established pursuant to this law.

(b) The Department may limit the number of persons permitted to assist in a removal.

(b) The landowner or lessee permittee may charge any assigned designee any form of fee.

406.8-5. *Annual Migratory Bird Report.* Persons killing crows, cowbirds, grackles, and red-

winged blackbirds shall provide an annual report to the U.S. Fish and Wildlife Service Region 3 Migratory Bird Permit Office by January 31st of each year for all such takings occurring within the previous January to December.

406.8-6. Officer or Warden's Access. Any landowner or lessee pursuing the removal of a nuisance animal shall grant the Oneida Police Department officers or wardens free and unrestricted access to the premises on which the said removal is being conducted, is anticipated to be conducted, or has been conducted. Further, the landowner or lessee, and the landowner's designee, if applicable, shall promptly furnish any information requested by a Oneida Police Department officer or warden relating to the said removal.

406.8-7. Retaining Fur, Carcasses, and other Parts of Nuisance Animals. The following applies to nuisance animals removed in accordance with this section:

(a) The permittee and each designee assigned under section 406.8-4 may retain no more than one (1) deer removed pursuant to a nuisance animal removal permit. The Department shall distribute or dispose of any deer that are not so retained by offering them to Tribal members in the following order:

(1) Elders;

(2) Disabled persons; and

(3) Any other interested persons.

(b) In order to keep, either for oneself or for sale, the furs of a nuisance animal taken pursuant to a nuisance animal removal permit, the permittee shall be explicitly and separately authorized by the permit to retain the wildlife and to sell the wildlife.

(c) Furs from nuisance animals which did not require a nuisance animal removal permit in order to be removed, may be retained by a landowner, lessee, or assigned designee without a permit. Provided that the landowner, lessee, or assigned designee shall have a valid license and/or permit in order to commercialize in, sell, trade, ship, or transport any wildlife, except that any squirrels' parts retained may be sold during the closed season.

406.9. Hunting

406.9-1. General Firearm and Archer Restrictions. Persons may not:

(a) Hunt using any weapon other than a firearm, air rifle, bow, or crossbow that is authorized under this law and corresponding rules for the taking of a particular species.

(b) Discharge a firearm, air rifle, bow, or crossbow:

(1) Into reservation lakes, reservoirs, or any area designated for public use pursuant to the Public Use of Tribal Land law, except for the purpose of hunting migratory birds during established seasons, in accordance with the rules created pursuant to this law;

(2) Across any roadway; or

(3) Within one hundred (100) yards of any structure, unless the owner-occupant, lessee, or tenant has granted express permission.

(c) Transport any loaded firearm, air rifle, or cocked bow or crossbow in a vehicle.

406.9-2. General Hunting Restrictions. Persons may not, unless specifically authorized by a permit, if applicable, do any of the following:

(a) Hunt with the use of aircraft;

(b) Hunt within fifty (50) feet of the center of a paved road;

(c) Hunt from a vehicle;

(d) Hunt while under the influence of alcohol or a controlled substance;

(e) Hunt with the aid of artificial light, provided that it is permissible to use artificial light

to find one's way and while hunting on foot, at the point of harvest of coyote, raccoon, fox, or any other authorized unprotected species;

(f) Shine between the hours of 10:00 p.m. and sunrise during the months of September, October, November, and December; during all other months, shining is allowed at any hour;

(g) Hunt in a party of more than fifteen (15) persons;

(h) Hunt with, or possess while hunting:

(1) Any firearm for which the possession is unlawful under Wisconsin or Federal law;

(2) Slugs, except that a person may possess slugs during deer firearm season if they also possess the required associated permit;

(3) A handgun with a barrel length of less than five (5) inches;

(4) A concealed handgun without a valid permit from the State of Wisconsin; and/or

(5) Any of the following without a valid federal permit:

(A) A shotgun that has a barrel length of less than eighteen (18) inches or an overall length of less than twenty-six (26) inches;

(B) A rifle that has a barrel length of less than sixteen (16) inches or an overall length of less than twenty-six (26) inches;

(C) A fully-automatic firearm;

(D) Any mechanism designed to muffle, silence, or minimize the report of any firearm.

406.9-3. *Injury Causing Incidents.* Any person, who discharges a firearm, bow, or crossbow while hunting and injures another person, shall render or attempt to obtain necessary medical assistance, provide the injured person with their name and contact information including address, and report the injury causing incident to either the Department or the Oneida Police Department as soon as possible.

406.9-4. *Designated Hunters.* A permittee may name a designated hunter to hunt, fish, or trap on behalf of the permittee in the event that the permittee is physically or legally unable to take pursuant to their own permit, provided that, the designated hunter shall provide their name and contact information to the Department along with a signed statement from the original permittee naming the designated hunter. The designated hunter shall receive the Department's approval of the designation before using the permits of the original permittee.

(a) To be eligible to be named a designated hunter, the named person shall:

(1) Possess a valid hunting license;

(2) Be eligible for the permits for which the person is named the designated hunter; and

(3) Meet any other requirements of the rules created pursuant to this law.

(b) Designated hunters may hunt for an unlimited number of permittees.

(c) Any wildlife taken by a designated hunter remains the property of the original permittee; the designated hunter shall transfer any wildlife taken by designation to the original permittee's possession as soon as practicable following the taking.

406.9-5. *Age Restrictions.*

(a) Persons between the ages of ten (10) and fourteen (14) years old may only hunt if they have obtained the required license and permits and are under the immediate supervision of a parent, legal guardian, or a responsible adult to which a parent or legal guardian has delegated their supervisory responsibilities.

(1) The parent, legal guardian, or responsible adult shall have a valid license and any required permits.

(2) Adults accompanying youth hunters pursuant to this section shall remain within voice and sight contact of the youth hunters at all times.

(b) Tribal members, descendants, non-member Indians and dependents having less than ten (10) years of age may accompany a mentor while hunting, provided that youth under the age of ten (10) may not use a weapon during the hunt.

(1) In order to be eligible to be a mentor, the person shall:

(A) Be at least eighteen (18) years old;

(B) Have a valid license and any required permits; and

(C) Be the youth hunter's parent or legal guardian or have permission from the hunter's parent or legal guardian to be the hunter's mentor

(2) Mentors may mentor a maximum of two (2) youth hunters at the same time; and

(3) The mentor shall remain within an arm's grasp of each youth hunter at all times.

406.9-6. *Deer Hunting Parties.* A deer hunting party consists of a minimum of two (2) people and may be limited in size as provided in the rules developed pursuant to this law. Any member of a deer hunting party may harvest deer on behalf of another member of the deer hunting party under the following circumstances:

(a) At the time and place of the harvest, the member of the hunting party who harvests the deer shall be in contact with the member of the hunting party on whose behalf the deer was harvested. For the purpose of this section, contact means visual or voice contact without the aid of any mechanical or electronic amplifying device other than a hearing aid. Hand radios are permitted, however may not be used as an acceptable means of contact as required in this section.

(b) The member of the hunting party for whom the deer was harvested shall possess a valid, license and carcass tag for the deer.

(c) The member of the hunting party who harvests the deer shall ensure that a valid carcass tag is attached to the deer by a member of the hunting party prior to field dressing and moving the deer; the member of the hunting party that harvests the deer may not leave said deer unattended until it has been properly tagged.

406.10. Enforcement and Penalties

406.10-1. *Reporting Violations.* All persons shall report any violation(s) of this law and/or the corresponding rules to the Department or the Oneida Police Department. The department receiving information regarding violations shall keep the information confidential.

406.10-2. *Licenses/Permits Suspension, Revocation, and/or Ineligibility.* The Department may suspend, revoke, or deem a party ineligible for a license or permit as a penalty for committing any of the following acts or any combination thereof:

(a) Has committed an act causing any of their hunting, fishing, or trapping licenses, permits or privileges to be suspended or revoked by any other jurisdiction, whether it be tribal, state, or federal, where, for the purposes of this section, a person's right to possess firearms is considered a hunting privilege;

(b) Provides false information, or assists other in providing false information, when applying for a license or permit;

(c) Fails to timely pay a fine or abide by a penalty assessed against them as a consequence for violating the provisions of this law and/or the corresponding rules; and/or

(d) Violates this law and/or the corresponding rules and the violation is one for which the citation schedule identifies suspension, revocation, or ineligibility of a license or permit as an available penalty.

406.10-3. *Appeal of License and/or Permit Decision.* Any person wishing to contest a decision of the Department related to a license and/or permit may appeal such action by filing a complaint with the Judiciary Trial Court naming the Department.

406.10-4. *Issuance of a Citation.* An individual who violates a provision of this law or the corresponding rules may be subject to the issuance of a citation by a warden or an Oneida Police Department officer.

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

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

End.

Adopted - BC-08-31-94-C
Adopted - BC-04-24-96-A
Adopted - BC-07-22-98-A
Amended - BC-09-13-00-D
Amended - BC-06-04-03-A
Amended - BC-06-30-04-I
Amended - BC-07-13-05-E
Amended - BC-08-29-07-F
Amended - BC-06-24-09-E
Amended - BC-08-26-10-I
Emergency Amended - BC-06-22-11-H (Expired)
Amended – BC-12-14-11-E
Amended – BC-05-22-13-A
Amended – BC-01-25-17-D
Amended – BC-07-26-17-F
Amended – BC-__-__-__-__



HUNTING, FISHING, AND TRAPPING LAW AMENDMENTS LEGISLATIVE ANALYSIS

SECTION 1. EXECUTIVE SUMMARY

<i>Analysis by the Legislative Reference Office</i>	
Intent of the Proposed Amendments	▪ Add a definition for descendant, great bodily harm, and warden. <i>[4 O.C. 406.3-1(g), 406.3-14(m), 406.3-1(ff)];</i> ▪ Eliminate the Environmental Resource Board (ERB) from the law and delegate all responsibilities of ERB provided in the law, except hearing authority, to the Conservation Department throughout the entire law.; ▪ Require the Conservation Department draft rules that identify designated seasons and/or hunting hours for elder, disabled, and youth hunts. <i>[4 O.C. 406.5-2(e)(1)];</i> ▪ Eliminate the requirement that the Conservation Department draft rules establishing a process for retention, storage and disposal of items confiscated or turned over to the Department in accordance with this law. <i>[4 O.C. 406.5-2];</i> ▪ Require the Conservation Department draft rules that regulate the use of recovery and retrieval services and methods. <i>[4 O.C. 406.5-2(m)];</i> ▪ Require the Conservation Department draft rules that regulate the care and husbandry of animals used to hunt or animals used for private game hunting. <i>[4 O.C. 406.5-2(n)];</i> ▪ Eliminate the requirement that a rule booklet be provided to each person receiving a license permit. <i>[4 O.C. 406.5-2];</i> ▪ Recognize that wardens fall within the organization of the Oneida Police Department and not the Conservation Department, and therefore prescribe all responsibilities/duties of the wardens to the Oneida Police Department officers; and eliminate the requirement that an Oneida Police Department office who observes a violation of this law report it to a warden. <i>[4 O.C. 406.5-3, eliminate 406.5-4];</i> ▪ Adds beaver to list of animals a landowner, lessee, or designee is allowed to hunt or trap on property they own or lease year round without a sportsman license, removing beavers from the list of nuisance animals that a person is not required to get a nuisance animal removal permit to hunt or trap <i>[4 O.C. 406.6-1(a)(2)(G), eliminated 406.8-3(a)];</i> ▪ Eliminate the provision that allowed any licensee holding a fishing only sportsman license to name a designated hunter to fill the hunting or trapping permits that regularly accompany a sportsman license. <i>[Eliminated 4 O.C. 406.6-1(b)(1)(B)];</i>

	▪ Eliminate the requirement that at least eighty-five percent (85%) of the group and/or organization members be Tribal members for groups/organizations that seek a ceremonial and/or feast permit. <i>[4 O.C. 406.6-2(b)]</i>; ▪ Require that all persons participating in the ceremonial and/or feast hunt be tribal members, descendants, or a spouse of a tribal member in addition to the requirement that they be named hunters on the permit. <i>[4 O.C. 406.6-2(c)]</i>; ▪ Require that medical verification for a disabled hunter permit show that the physical disability results in mobility issues that makes it necessary for the disabled hunter to hunt from a stationary vehicle. <i>[4 O.C. 406.6-6]</i>; ▪ Provide that any person who has had a license or permit denied in accordance with section 406.6-7(a) may appeal the Department's decision by requesting a hearing before the Trial Court instead of ERB. <i>[4 O.C. 406.6-7(b)]</i>; ▪ Provide that any person who accidentally collides with and kills a deer while operating a vehicle on a roadway, may retain possession of the said deer, provided that the person shall have the deer tagged by the State of Wisconsin, instead of the Department. <i>[4 O.C. 406.7-3]</i>; ▪ Remove the requirement that the Department shall ensure that all hunting and fishing rule booklets contain a warning stating that fish caught in Duck Creek, as well as ducks, geese and other wildlife may contain Polychlorinated Biphenyl (PCBs) which may pose risks of health defects, that such risks are greatest for women and children, and that detailed information about PCBs is available from the Department upon request. <i>[eliminated 4 O.C. 406.7-5]</i>; ▪ Increase the allowable size of a hunting party from ten (10) to fifteen (15) persons. <i>[4 O.C. 406.9-2(g)]</i>; ▪ Allow designated hunters to hunt for an unlimited number of permittees, instead of being limited to the number authorized by the rules. <i>[4 O.C. 406.9-4(b)]</i>; ▪ Adjust the age restrictions for minors, now allowing all persons between the ages of ten (10) and fourteen (14) years old the ability to hunt if they have obtained the required license and permits and are under the immediate supervision of a parent, legal guardian, or a responsible adult to which a parent or legal guardian has delegated their supervisory responsibilities. <i>[4 O.C. 406.9-5]</i>; ▪ Remove much of the provisions regarding citations, and simply providing that an individual who violates a provision of this law or the corresponding rules may be subject to the issuance of a citation by a warden or an Oneida Police Department officer in accordance with the Nation's laws and policies governing citations. <i>[4 O.C. 406.10-4]</i>; and ▪ Make other minor drafting revisions.
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Purpose	The purpose of this law is to protect and conserve wildlife on the reservation and to promote respect among sportsmen, for both the environment and fellow sportsmen. [4 O.C. 406.1-1].
Affected Entities	Conservation Department, Oneida Police Department, Oneida Judiciary, all individuals who possess a sportsman license from the Nation
Public Meeting	A public meeting has not yet been held.
Fiscal Impact	A fiscal impact statement has not yet been requested.

SECTION 2. LEGISLATIVE DEVELOPMENT

- A. Background.** The Hunting, Fishing, and Trapping law (“the Law”) was originally adopted by the Oneida Business Committee in 1994 through resolution BC-08-31-94-C, and then amended by resolutions BC-04-24-96-A, BC-07-22-98-A, BC-09-13-00-D, BC-06-04-03-A, BC-06-30-04-I, BC-07-13-05-E, BC-08-29-07-F, BC-06-24-09-E, BC-08-26-10-I, BC-12-14-11-E, BC-05-22-13-A, BC-01-25-17-D and BC-07-26-17-F. The purpose of the Law is to protect and conserve wildlife on the reservation and to promote respect among sportsmen, for both the environment and fellow sportsmen. [4 O.C. 406.1-1]. It is the policy of the Nation provide: an adequate and flexible system for the protection, management, supervision, conservation, and enhancement of all wildlife and natural resources on the reservation; and an enforceable system of licensing and permitting which establishes clear rules pursuant to the Administrative Rulemaking law related to hunting, fishing, and trapping, and associated fines and penalties for violations of this law and the said rules. [4 O.C. 406.1-2].
- B. Request for Amendments.** A request to amend this Law originally came before the Legislative Operating Committee in December 2022. On August 10, 2022, the OBC made a motion “to direct the General Manager to complete the assessment regarding the feasibility of the Environmental, Health, Safety, Land, & Agriculture Division taking on the roles of the Environmental Resources Board and for the assessment to be submitted at the second meeting Business Committee meeting in September.” In short, the General Manager concluded that although changes were necessary to those Oneida laws that delegated the authority and responsibility to the Environmental Resources Board (ERB), those responsibilities that were jointly executed by the ERB and Environmental, Land, sand Agriculture Division (ELA), could be assumed by ELA. Additionally, for those duties that delegated ERB the power and duty to carry out the intent and purposes of the law, including enforcement, those responsibilities could be delegated to ELA and/or the Oneida Land Commission. On September 28, 2022, the Oneida Business Committee made a motion to accept the Environmental, Land, and Agriculture Division and Environmental Resource Board assessment; to recommend the dissolution the Environment Resource Board; and to direct Chief Counsel to bring back a report in forty-five (45) days on actions that need to take place in order to complete the dissolution of the Environmental Resource Board including amendments to laws and addressing any background material. The Oneida Law Office provided this report to the Oneida Business Committee on November 29, 2022. This item was then added to the Active Files List on December 7, 2022, in an effort to make amendments to address the dissolution of the Environmental Resources Board, and transition the Board’s responsibilities to the Environmental, Land and Agriculture Division and/or the Oneida Land Commission.

SECTION 3. CONSULTATION AND OUTREACH

- A. Representatives from the following departments or entities participated in the development of the amendments to the Law and this legislative analysis:
- Oneida Police Department;
 - Oneida Law Office;
 - Conservation Department;
 - Environmental, Land, Agriculture Division; and
 - General Manager.
- B. The following laws were reviewed in the drafting of this analysis:
- Administrative Rulemaking law;
 - Legislative Procedures Act;
 - Citations law;
 - Judiciary law; and
 - Paper Reduction Policy.

SECTION 4. PROCESS

- A. The development of the proposed amendments to the Law complies with the process set forth in the Legislative Procedures Act (LPA).
- On October 4, 2023, the Legislative Operating Committee added the Hunting, Fishing, and Trapping law amendments to its Active Files List for this legislative term.
 - On May 7, 2025, the Legislative Operating Committee approved the draft of the proposed amendments to the Law and directed that a legislative analysis be developed.
- B. At the time this legislative analysis was developed the following work meetings had been held regarding the development of the amendments to the Law this legislative term:
- January 3, 2024: LOC work session.
 - May 10, 2024: LOC work session.
 - May 30, 2024: LOC work session.
 - December 9, 2024: LOC work session with the General Manager, Environmental, Land, and Agriculture Division, Conservation Department, and Oneida Police Department.
 - January 14, 2025: LOC work session with General Manager, Environmental, Land, and Agriculture Division, Conservation Department, Oneida Law Office, and Oneida Police Department.
 - February 3, 2025: LOC work session.
 - February 24, 2025: LOC work session with the General Manager, Environmental, Land, and Agriculture Division, Conservation Department, and Oneida Police Department.
 - March 5, 2025: LOC work session with the Environmental, Land, and Agriculture Division and Conservation Department.
 - April 16, 2025: LOC work session.
 - May 1, 2025: LRO work session with Conservation Department.
- C. *Community Outreach Events.* In addition to the public meeting required by the Legislative Procedures Act, the LOC held the following community outreach events on this legislation:
- June 4, 2024: Legislative Operating Committee Community Meeting held in the Norbert Hill Center's cafeteria.
 - March 19, 2025: Legislative Operating Committee Community Meeting held in the Norbert Hill Center's cafeteria.

SECTION 5. CONTENTS OF THE LEGISLATION

A. **Definitions.** The proposed amendments to the Law add definitions for the terms: descendant, great bodily harm, and warden. [4 O.C. 406.3-1(g), 406.3-1(m), 406.3-1(ff)]. Descendant is defined in the proposed amendments to the Law as a person who is registered with, and recognized by, the Oneida Trust Enrollment Department as being the descendant of an enrolled member of the Nation. [4 O.C. 406.3-1(g)]. The term descendent is not currently defined in the Law, instead a footnote was included that said, “Requirements for descendancy are determined by the Oneida Trust Enrollment Committee.” Great bodily harm is defined in the proposed amendments to the Law as a bodily injury which creates a substantial risk of death, or which causes serious permanent disfigurement, or which causes a permanent or protracted loss or impairment of the function of any bodily member or organ or other serious bodily injury. [4 O.C. 406.3-1(m)]. In the current Law, this term is defined within section 406.6-7(a)(2)(C). The definition for great bodily harm was moved from section 406.6-7(a)(2)(C) in an effort to be consistent with the placement of definitions under the definition section of the Law found at section 406.3-14. Warden is defined in the proposed amendments to the Law as an officer of the Oneida Police Department whose duties include the protection of wildlife and natural resources. [4 O.C. 406.3-1(ff)].

- **Effect.** The proposed amendments to the Law ensure that proper definitions are included for terms utilized within the Law, and that all definitions are organized in a consistent manner. The Legislative Procedures Act provides that all laws published in the Oneida Code of Laws shall be in a consistent format and that every law should have “Section 3 – Definitions” which contains definitions of all words used in a technical sense throughout the law. All words not defined within this section are to be used in their ordinary sense. [1 O.C.11-1(c)].

B. **Elimination of the Environmental Resource Board.** The current Law provides that the Environmental Resource Board and the Department are responsible to protect, manage, supervise, conserve, and enhance all wildlife within the reservation. [4 O.C. 406.5-1]. Throughout the Law the Environmental Resource Board is given a variety of different responsibilities and authorities. The proposed amendments remove all mentions of the the Environmental Resource Board from the Law, and instead delegates all responsibilities of the Environmental Resource Board provided in the law to the Conservation Department, except for hearing authority which is delegated to the Judiciary Trial Court.

- **Effect.** The removal of the Environmental Resource Board through the proposed amendments to the Law aligns with the September 28, 2022, Oneida Business Committee directive to dissolve the Environment Resource Board. The Environmental Resource Board has to be eliminated from all laws of the Nation, and their responsibilities delegated to another entity before the board can be officially dissolved.

C. **Administrative Rulemaking.** The current Law delegates joint administrative rulemaking authority to the Environmental Resource Board and the Conservation Department and provides various topics that must be addressed through rules. [4 O.C. 406.5-1, 406.5-2]. The proposed amendments to the Law eliminate the Environmental Resource Board and provide that it is a responsibility of the Conservation Department to establish and maintain rules in accordance with the Administrative Rulemaking law, and the Law still provides specific topics the Conservation Department is responsible for drafting rules about. [4 O.C. 406.5-1, 406.5-2]. The current law requires that administrative rules be drafted to fix, shorten, extend, or close seasons and hunting hours on any wildlife. [4 O.C. 406.5-2(e)]. The proposed amendments extend this requirement for administrative rules and also require that the rules identify

designated seasons and/or hunting hours for elder, disabled, and youth hunts. [4 O.C. 406.5-2(e)(1)]. The requirement that there be a rule to establish a process for retention, storage, and disposal of items confiscated or turned over to the Department in accordance with this law was eliminated in the proposed amendments to the Law since the Department does not confiscate or retain any items, that would now be a responsibility of the Oneida Police Department. [4 O.C. 406.5-2]. The proposed amendments to the Law also delegate authority to the Conservation Department to develop rules to regulate the use of recovery and retrieval services and methods, and to regulate the care and husbandry of animals used to hunt or animals used for private game hunting. [4 O.C. 406.5-2(m), 406.5-2(n)]. The requirement that the Environmental Resource Board provide notice of rules on the Nation's website and ERB and/or the Department develop a rule booklet which the Department shall provide to each person receiving a license or permit was removed from the Law. [4 O.C. 406.5-2(o)]. The Administrative Rulemaking already requires that all rules are published under the corresponding law on the Code of Laws within the Oneida Register on the Nation's website. [1 O.C. 106.8-2(a)(1)]. A physical booklet is not being provided anymore due to the fact that the rules are available for review online on the Oneida Register, and to fall in line with the Nation's Paper Reduction Policy. The Paper Reduction Policy provides that it is the policy of the Nation to reduce the amount of paper being used to benefit the next seven (7) generations through recycling, reduction, and environmental awareness, and that all programs of the Nation are encouraged to reduce paper usage and waste. [2 O.C. 220.1-1, 220.4-1].

- *Effect.* The proposed amendments to the Law update the requirements for the administrative rules developed by the Conservation Department – eliminating rules for responsibilities the Conservation Department no longer handles, and adding the development of rules for topics the Conservation determined need to be addressed.

D. *Organization of the Wardens.* Currently the Law provides that Conservation Department wardens shall enforce this Law and corresponding rules on the reservation and provides a variety of responsibilities of the wardens such as observe persons engaged in hunting, fishing, and trapping in order to ensure that the methods and equipment used are lawful, investigate reports of violations of this law and corresponding rules, and issues warnings and citations for violations. [4 O.C. 406.5-3]. The current Law then provides that any Oneida Police Department officer who observes a violation of this law or the rule shall report the violation to the Conservation Department or the Conservation Department warden, unless immediate action is necessary to prevent imminent danger to life or serious damage to property in which they can then issue a warning or citation. [4 O.C. 406.5-4]. Since this Law was last amended, the organization of the warden positions has changed. The warden position is no longer found within the Conservation Department and instead is found within the Oneida Police Department. The proposed amendments to the Law therefore prescribe all responsibilities and duties of the warden to Oneida Police Department officers – treating wardens and Oneida Police Department officers the same throughout the Law. [4 O.C. 406.5-3]. The section requiring that Oneida Police Department officers notify the Conservation Department or the wardens of any violations, unless in emergency situations, was also eliminated from the Law since Oneida Police Department officers and the warden are within the same department and have the same authorities and responsibilities. [eliminated 4 O.C. 406.5-4].

- *Effect.* The proposed amendments to the Law recognize the reorganization of the warden position within the Oneida Police Department and prescribe all responsibilities and duties of the warden to Oneida Police Department officers throughout the Law.

- 167 **E. *Hunting and Trapping of Beavers.*** The current Law provides that landowners, lessees, and designees
168 with the permission of the landowners or lessees, may hunt and trap the following species on the
169 property they own or lease, year-round without a sportsman license: coyote, fox, raccoon, woodchuck,
170 rabbit, squirrel, and any nuisance animal that is not an endangered or threatened species and is also not
171 a regulated or protected species. [4 O.C. 406.6-1(a)(2)]. The current Law provides that landowners and
172 lessees may remove wildlife considered a nuisance animal from land under their control and their
173 associated structures, provided that they obtain a nuisance animal removal permit. [4 O.C. 406.8-1,
174 406.8-2]. The current Law also provides that a nuisance animal permit is not needed for landowners,
175 lessees, or designee to hunt or trap beavers that are nuisance animals or to remove a beaver dam. [4
176 O.C. 406.8-3(a)]. The current Law then clarifies that only the landowner or the Department may set
177 traps on a beaver dam on Tribal land, and this privilege may not be transferred to a designee. *Id.* The
178 proposed amendments to the Law simply add beavers to the list of animals that landowners, lessees,
179 and designees may hunt or trap on the property they own or lease, year-round, without a sportsman
180 license. [4 O.C. 406.6-1(a)(2)].
- 181 ■ *Effect.* The proposed amendments allow for beavers to be hunted or trapped by landowner, lessee,
182 or designee on the property they own or lease, year-round, without a sportsman license. The
183 proposed amendments also eliminate the prohibition against designees setting traps on beaver dams
184 on Tribal land.
- 185 **F. *Fishing Only Sportsman License.*** The current Law provides that a sportsman license may be issued
186 which permits fishing only. [4 O.C. 406.6-1(b)(1)]. In those circumstances, successful completion of a
187 certified hunter safety course is not required and the Department shall internally record such licenses as
188 permitting fishing only. *Id.* A person issued a fishing only sportsman license is not allowed to hunt or
189 trap until the licensee provides the Department with proof of successful completion of a hunter safety
190 course. [4 O.C. 406.6-1(b)(1)(A)]. The current Law then allows any licensee holding a fishing only
191 sportsman license to name a designated hunter to fill the hunting or trapping permits that regularly
192 accompany a sportsman license. [4 O.C. 406.6-1(b)(1)(B)]. The proposed amendments to the Law
193 eliminate the provision that allowed for any licensee holding a fishing only sportsman license to name
194 a designated hunter to fill the hunting or trapping permits that regularly accompany a sportsman license.
195 *Id.*
- 196 ■ *Effect.* The proposed amendments no longer allow a licensee holding a fishing only sportsman
197 license to name a designated hunter to fill the hunting or trapping permits that regularly accompany
198 a sportsman license.
- 199 **G. *Ceremonial and/or Feast Permit.*** The current Law allows for Tribal members to apply for a
200 ceremonial and/or feast permit to group hunt wildlife outside of the regular applicable seasons. [4 O.C.
201 406.6-2]. The current Law allows a ceremonial and/or feast permit to be issued to a group or
202 organization that meets each of the following requirements: at least eighty-five percent (85%) of the
203 group or organization members are Tribal members, the designee of the group is a Tribal member, and
204 the hunt takes place on the reservation. [4 O.C. 406.6-2(b)]. The proposed amendments to the Law
205 eliminate the requirement that at least eighty-five percent (85%) of the group or organization members
206 be Tribal members. The current Law provides that all persons participating in the ceremonial or feast
207 hunt shall be named hunters on the ceremonial or feast permit. [4 O.C. 406.6-2(c)]. The proposed
208 amendments to the Law maintain that requirement, which also adding the requirement that those
209 participating in the hunt be tribal members, descendants, or a spouse to a Tribal member. [4 O.C. 406.6-
210 2(c)(2)].

- *Effect.* The proposed amendments to the Law eliminate the requirement that at least eighty-five percent (85%) of the group or organization members be Tribal members for ceremonial or feast permits in recognition that this requirement would be hard to monitor and enforce, and in recognition that there may be ceremonial or feast occasions recognized by the Oneida community in which it would be common to have a mixture of Tribal members and non-Tribal members, such as a funeral feast. Descendants and spouses of Tribal members are added to Tribal members that are allowed to hunt for ceremonial or feast permits in recognition of mixed Tribal status family structures.

H. *Disabled Hunter Permit.* The current Law provides that the Conservation Department may issue a disabled hunter permit to any person who is physically disabled, upon a showing of medical verification of a physical disability. [4 O.C. 406.6-6]. A disabled hunter permit allows a person to hunt from a stationary vehicle within fifty (50) feet on the center of the road. *Id.* The proposed amendments to the Law clarify that the medical verification has to show that the physical disability results in mobility issues that makes it necessary for the disabled hunter to hunt from a stationary vehicle. *Id.*

- *Effect.* The proposed amendments to the Law draw a greater connection between the verification of a physical disability and the need to hunt from a stationary vehicle. The Conservation Department requested additional clarification be added to this section of the Law to make it easier to determine when a disabled hunter permit should be issued.

I. *Appeal of License or Permit Decision.* The current Law provides that any person who has had a license or permit denied in accordance with section 406.6-7(a) of the Law may appeal the Department's decision by requesting a hearing before the Environmental Resource Board. [4 O.C. 406.6-7(b)]. Then later the current Law provides that any person wishing to contest a decision of the Department related to a license and/or permit may appeal such action by filing a complaint with the Judiciary Trial Court naming the Department. [4 O.C. 406.10-4]. The proposed amendments to the Law provide in all places throughout the Law that any person who has had a license or permit denied in accordance with section 406.6-7(a) of the Law or wish to contest any other decision of the Conservation Department in regard to permits or licenses may appeal the Department's decision by requesting a hearing before the Trial Court.

- *Effect.* Currently, sections 406.6-7(b) and 406.10-4 of the Law appear to be conflicting and are not clear on where someone should contest a decision of the Department in regard to permits or licenses. The proposed amendments recognize the removal of the Environmental Resource Board from this Law, and transfer the Environmental Resource Board's hearing authority to the Trial Court in all instances throughout the Law.

J. *Accidental Collision and Killing of Deer.* The current Law provides that any person who accidentally collides with and kills a deer while operating a vehicle on a roadway, may retain possession of the said deer, provided that the person shall have the deer tagged by the Conservation Department or the Department's designee. [4 O.C. 406.7-3]. The proposed amendments to the Law eliminate the requirement to have the deer tagged by the Conservation Department or its designee, and instead requires that you have the deer tagged by the State of Wisconsin. *Id.*

- *Effect.* The proposed amendments to the Law change the responsibility of tagging a deer accidentally collided with from the Conservation Department to the State of Wisconsin to reflect current practice.

K. *PCB Warning in Rulebook.* The current Laws provides that the Environmental Resource Board and the Conservation Department ensure that all hunting and fishing rule booklets contain a warning stating

that fish caught in Duck Creek, as well as ducks, geese, and other wildlife may contain Polychlorinated Biphenyl (PCBs) which may pose risks of health defects, that such risks are greatest for women and children, and that detailed information about PCBs is available from the Department upon request. [4 O.C. 406.7-5]. The proposed amendments to the Law eliminate this provision.

- *Effect.* The proposed amendments to the Law eliminate the requirement that the Conservation Department include in its rule booklet a warning about potential PCBs in Duck Creek based upon a request from the Conservation Department. Rule booklets are updated at most once a year – and therefore the Conservation Department believes there are better ways to share safety concerns and warnings with the community to ensure that the best and most accurate information is shared.

L. Allowable Hunting Party Size. The current Law provides that persons may not hunt in a party of more than ten (10) persons. [4 O.C. 406.9-2(g)]. The proposed amendments to the Law increase the allowable hunting party size from ten (10) to fifteen (15) persons.

- *Effect.* The proposed amendments to the Law increase the allowable hunting party size to allow greater flexibility to hunters.

M. Designated Hunters. The current Law provides that a permittee may name a designated hunter to hunt, fish, or trap on behalf of the permittee in the event the permittee is physically or legally unable to take their own permit. [4 O.C. 406.9-4]. A designated hunter is only allowed to hunt for the number of permittees as authorized by the rules developed pursuant to this Law. [4 O.C. 406.9-4(b)]. The Hunting, Fishing, and Trapping Law Rule Handbook provides that designated hunters may only take antlerless deer and, regardless of the number of tags issued to the original permittee, may fill a maximum of two (2) deer carcass tags on behalf of the original permittee; and may fill a maximum of two (2) turkey tags for the original permittee, regardless of the number of tags issued to the original permittee. [Rule 4-7(a)(7), 4-9]. The proposed amendments to the Law allow a designated hunter to hunt for an unlimited number of permittees. [4 O.C. 406.9-4(b)].

- *Effect.* The proposed amendments to the Law remove any limitations on how many permittees a designated hunter may hunt for, in an effort to increase the number of physically or legally disabled permittees that ultimately end up with hunted animals that can then provide food for themselves and family.

N. Age Restriction of Youth Hunters. The current Law breaks up age restrictions for hunters into different categories. Persons between the age of twelve (12) and fourteen (14) years old may only hunt if they have obtained the required license and permits and are under the immediate supervision of a parent, legal guardian, or a responsible adult to which a parent or legal guardian has delegated their supervisory responsibilities to. [4 O.C. 406.9-5(a)]. The parent, legal guardian, or responsible adult is required to have a valid license and permits, and must remain within voice and sight contact of the youth hunters at all times. Tribal members, descendants, non-member Indians, and dependents age ten (10) or eleven (11) years old may hunt if they have a mentor present while hunting and have obtained any required licenses and permits. [4 O.C. 406.9-5(b)]. Tribal members, descendants, non-member Indians, and dependents less than ten (10) years old may accompany a mentor while hunting, provided that youth under the age of ten (10) may not use a weapon during the hunt. The proposed amendments to the Law combine the categories for those youth hunters age ten (10) through eleven (11) and twelve (12) through fourteen (14) years of age, and provides that persons between the age of ten (10) and fourteen (14) years old may only hunt if they have obtained the required license and permits and are under the immediate supervision of a parent, legal guardian, or a responsible adult to which a parent or legal guardian has delegated their supervisory responsibilities to. [4 O.C. 406.9-5(a)].

- *Effect.* The proposed amendments to the Law allow youth hunters age ten (10) and eleven (11) to be treated the same as youth hunters age twelve (12) through fourteen (14) in an effort to get more youth interested in and involved in hunting at an earlier age.

O. **Citations.** The current contains a lot of provisions regarding the citation process. The current Law provides that Department wardens may issue verbal or written warnings or citations to any person found to be in violation of this law or the rules. The current Law then goes on to provide that all citations, orders and declarations issued pursuant to this law include a pre-hearing date with the Judiciary Trial Court which shall be set for the next scheduled monthly prehearing date that is at least thirty (30) days after the citation was issued. [4 O.C. 406.10-5]. Persons wishing to contest a citation are required to appear at the prehearing, at which time the Judiciary Trial Court shall accept pleas which either contest or admit committing the act for which the citation was issued. *Id.* The Judiciary is then responsible for scheduling a hearing as expeditiously as possible, provided that it shall be scheduled within ninety (90) days of the date of the prehearing, for all persons entering a plea contesting the fact that they committed the act for which a citation was issued. *Id.* In addition to scheduling requested hearings, the Judiciary may also make conditional orders at the prehearing which are effective until the matter is resolved. The current Law then addresses community service, allocation of citation revenue, appealing a decision of the Judiciary Trial Court, and pursuing payment of a citation. [4 O.C. 406.10-5(a)-(d)]. The proposed amendments to the Law much of the provisions regarding citations, and simply providing that an individual who violates a provision of this law or the corresponding rules may be subject to the issuance of a citation by a warden or an Oneida Police Department officer in accordance with the Nation's laws and policies governing citations. [4 O.C. 406.10-4].

- *Effect.* The proposed amendments remove bulk of the language regarding citations, because since this Law was last amended a Citations law which provides a process that governs all citations that fall under the jurisdiction of the Oneida Nation was adopted. [8 O.C. 807.1-1]. Referencing the Citations law instead of including specific provisions within this Law ensures that all citations of the Nation are handled in a consistent manner.

SECTION 6. EXISTING LEGISLATION

A. **Other Related Laws of the Nation.** The following laws of the Nation are related to the proposed amendments to this Law.

- **Legislative Procedures Act.** The Legislative Procedures Act provides a standard process for the development and adoption of laws of the Nation which includes taking into account comments from members of the Nation and input from agencies within the organization of the Nation. [1 O.C. 109.1-1, 109.1-2].
 - The development of amendments to the Hunting, Fishing, and Trapping law complies with the process and procedures of the Legislative Procedures Act.
- **Administrative Rulemaking Law.** The Administrative Rulemaking law provides a process for the adoption and amendment of administrative rules. [1 O.C. 106.1-1]. 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. [1 O.C. 109.1-2].
 - The Hunting, Fishing, and Trapping law provides that it is a responsibility of the Conservation Department to establish and maintain rules in accordance with the Administrative Rulemaking

law, and the Law provides specific topics the Conservation Department is responsible for drafting rules about. [4 O.C. 406.5-1, 406.5-2].

- Any rules developed in accordance with this Hunting, Fishing, and Trapping law must comply with all processes and procedures of the Administrative Rulemaking law.
- **Citations Law.** The Citations law provides a process that governs all citations that fall under the jurisdiction of the Oneida Nation. [8 O.C. 807.1-1]. It is the policy of the Nation to provide a consistent process for handling citations of the Nation in order to ensure equal and fair treatment to all persons who come before the Judiciary to have their citations resolved. [8 O.C. 807.1-2].
 - The Hunting, Fishing, and Trapping law provides that an individual who violates a provision of this law or the corresponding rules may be subject to the issuance of a citation by a warden or an Oneida Police Department officer in accordance with the Nation's laws and policies governing citations. [4 O.C. 406.10-4].
 - Any citations issues under the Hunting, Fishing, and Trapping law must comply with the process for handling citations as provided for in the Citations law.
- **Paper Reduction Policy.** The Paper Reduction Policy provides that it is the policy of the Nation to reduce the amount of paper being used to benefit the next seven generations through recycling, reduction, and environmental awareness. [2 O.C. 220.1-1]. All enterprises and programs of the Nation are encouraged to reduce paper usage and waste as quickly as possible. [2 O.C. 220.4-1].
 - The proposed amendments to the Hunting, Fishing, and Trapping law remove the requirement that the Conservation Department shall a rule booklet to each person receiving a license or permit. [4 O.C. 406.5-2(o)]. The Administrative Rulemaking law already requires that all rules are published under the corresponding law on the Code of Laws within the Oneida Register on the Nation's website. [1 O.C. 106.8-2(a)(1)]. The elimination of a physical booklet falls in line with the Nation's Paper Reduction Policy.
- **Judiciary Law.** The Judiciary law establishes a Judiciary, 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]. It is the policy of the Nation to provide a fair and impartial forum for the resolution of all matters that come before it pursuant to a grant of authorization by law. The Judiciary law provides that the Trial Court shall have subject mater jurisdiction over cases and controversies arising under laws of the Nation that specifically authorize the Trial Court to exercise jurisdiction. [8 O.C. 801.5-2(a)].
 - The Hunting, Fishing, and Trapping law authorizes the Trial Court to exercise jurisdiction over permit and license issues. [4 O.C. 406.6-7(b), 406.10-4].

SECTION 7. OTHER CONSIDERATIONS

A. **Hunting, Fishing, and Trapping Law Rules.** Currently, a Hunting, Fishing, and Trapping law rule handbook exists and was last adopted in May of 2017.

- **Conclusion.** The Hunting, Fishing, and Trapping law rules will need to be reviewed upon adoption of amendments to the Hunting, Fishing, and Trapping law to bring the rules into compliance with any amendments made to the Hunting, Fishing, and Trapping law.

B. **Fiscal Impact.** Under the Legislative Procedures Act, a fiscal impact statement is required for all legislation except emergency legislation [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

386 *Act,*” provides further clarification on who the Legislative Operating Committee may direct complete
387 a fiscal impact statement at various stages of the legislative process, as well as timeframes for
388 completing the fiscal impact statement.

- 389 ▪ *Conclusion.* The Legislative Operating Committee has not yet requested a fiscal impact statement
390 from the Finance Department.

391



Legislative Operating Committee
May 21, 2025

Landlord-Tenant Law Amendments

Submission Date: 2/21/24	Public Meeting: 3/14/25
LOC Sponsor: Jonas Hill	Emergency Enacted: n/a Expires: n/a

Summary: *This item was added to the Active Files List on February 21, 2024, per the request of the Oneida Law Office, for the purpose of making the Landlord Tenant law generally applicable to all landlords, not just the Nation as a landlord, and fully assert the Nation's jurisdiction within the Reservation boundaries.*

2/21/24 LOC: Motion by Kirby Metoxen to add the Landlord Tenant law amendments to the Active Files List with Jonas Hill as the sponsor; seconded by Jonas Hill. Motion carried unanimously.

3/20/24: *Work Meeting.* Present: Jameson Wilson, Jennifer Webster, Jonas Hill, Marlon Skenandore, Clorissa Leeman, Grace Elliott, Fawn Cottrell, Kristal Hill, Maureen Perkins. The purpose of this work session was for the LOC to discuss and determine a priority for this legislative item.

5/28/24: *Work Meeting.* Present: Krystal John, Grace Elliott. The purpose of this meeting was to outline the main amendments being sought.

7/11/24: *Work Meeting.* Present: Jameson Wilson, Jonas Hill, Kirby Metoxen, Krystal John, Lisa Rauschenbach, Michelle Hill, Fawn Billie, Fawn Cottrell, Kristal Hill, Maureen Perkins, Clorissa Leeman, Carolyn Salutz, Grace Elliott. The purpose of this meeting was to identify any areas of the Landlord Tenant law that may benefit from amendments.

8/1/24: *Work Meeting.* Present: Jameson Wilson, Jennifer Webster, Jonas Hill, Kirby Metoxen, Fawn Billie, Fawn Cottrell, Kristal Hill, Maureen Perkins, Mark Powless, Derick Denny, Krystal John, Scott Denny, Grace Elliott. The purpose of this meeting was to continue reviewing the Landlord Tenant law for any recommended amendments.

8/23/24: *Work Meeting.* Present: Jameson Wilson, Jonas Hill, Jennifer Webster, Clorissa Leeman, Carolyn Salutz, Maureen Perkins, Fawn Billie. The purpose of this meeting was to address a final question about the proposed amendments to the Law.

2/5/25 LOC: Motion by Jonas Hill to accept the Landlord Tenant law Amendments Legislative Analysis and approve the public meeting packet for amendments to the Landlord Tenant law and forward to a public meeting to be held on March 14, 2025; seconded by Jennifer Webster. Motion carried unanimously.

3/14/25: *Public Meeting Held.* Present: Marlon Skenadore, Clorissa Leeman, Grace Elliott, Carolyn Salutz, Jason King, Katsitsiyo Danforth, Kimberly Skenandore Goodrich, Kristal Hill, Hon. Patricia Hoeft, Shannon Stone, Stephanie Smith, Brittany Smith, Sky Gonzalez, Mary Ann Peters. No individuals provided oral comments during this public meeting.

3/21/25: *Public Comment Period Closed.* One (1) person provided written comments during this public comment period.

5/7/25 LOC: Motion by Jennifer Webster to accept the public comments and the public comment review memorandum and defer to a work meeting for further consideration; seconded by Kirby Metoxen. Motion carried unanimously.

5/7/25: *Work Meeting.* Present: Jameson Wilson, Jennifer Webster, Kirby Metoxen, Marlon Skenandore, Clorissa Leeman, Carolyn Salutz, Grace Elliott, Fawn Billie, Fawn Cottrell, Fawn Billie. The purpose of this meeting was for the LOC to fully consider the comments received on the proposed Landlord Tenant law amendments.

Next Steps:

- Approve the updated public comment review memorandum, draft, and legislative analysis for the proposed amendments to the Landlord Tenant Law.
- Approve the fiscal impact statement request memorandum and forward the materials to the Finance Department directing that a fiscal impact statement be prepared and submitted to the LOC by June 6, 2025.

TO: Legislative Operating Committee (LOC)
 FROM: Grace L. Elliott, Legislative Reference Office, Staff Attorney *Grace Elliott*
 DATE: May 21, 2025
 RE: Landlord Tenant Law Amendments: Public Comment Review

On March 14, 2025, a public meeting was held regarding the proposed amendments to the Oneida Landlord Tenant law. No comments were made during the public meeting. The public comment period was then held open until March 21, 2025. One (1) person submitted comments during the comment period. This memorandum is submitted as a review of the comments received during the public comment period. The public meeting draft, public meeting transcript, and written comments received are attached to this memorandum for review.

Comment 1 – Purpose Statement Clarification:

611.1. Purpose and Policy

611.1-1. Purpose. The purpose of this law is to provide mechanisms for protecting the rights of landlords and tenants on all land owned by the Nation or members of the Nation within the Reservation boundaries.

Patricia Hoeft (written): The purpose statement could be more clearly stated to show it is a law that does one or both of the following:

1. Applies to residential dwellings or premises located within the Oneida Reservation boundaries on land that is owned by the Oneida Nation or individuals who are enrolled members of the Nation.
2. Governs or regulates the rental relationship between the landlord and tenant.
3. Identifies the rights and duties/responsibilities of the landlord and tenant.

Response

Overall, the commenter suggests that the purpose statement lacks clarity and lists three critiques.

Commenter's first critique is that the purpose statement does not clearly state that the Law "[a]pplies to residential dwellings or premises located within the Oneida Reservation boundaries on land that is owned by the Oneida Nation or individuals who are enrolled members of the Nation."

Commenter's first critique adds three details to the purpose statement as drafted in the proposed amendments. These three details include applying the Law to (1) "residential dwellings", located within the (2) "Oneida Nation" reservation boundaries, owned by the Oneida Nation or (3) "enrolled members" of the Nation. The following discussion addresses each detail added by commenter.

Commenter's first detail, "residential dwelling" limits the application of the Law to residential dwellings or premises. Currently, the Law's application is limited to the Nation's rental programs. [6 O.C. 611.1-1.]. The Law was added to the Active Files List on February 21, 2024, at the request of the Oneida Law Office (OLO) for the purpose of making the Landlord Tenant law generally applicable to all landlords, not just the Nation as landlord, and to assert the Nation's jurisdiction within Reservation boundaries not just to the Nation's rental programs.

The proposed amendments to the Law do not limit its application to residential rentals and instead leave it open to include commercial as well as residential rental agreements. It is unlikely that a commercial application would be utilized very often because commercial 'rental' agreements are almost always contracted through lease agreements, not rental agreements, and so would fall under the Leasing law and not the Landlord Tenant law. However, it is not impossible that a commercial use could be contracted through a rental agreement and so foreclosing that option by incorporating limiting "residential" language should be a considered decision.

The second detail identifies the "Nation" as the Oneida Nation in the purpose statement. Currently, the Law defines "Nation" as the Oneida Nation. [6 O.C. 611.3-1(c)].

The third detail identifies "members of the Nation" as "enrolled members of the Nation". Currently, the Law defines "Tribal Member" as an enrolled member of the Nation. [6 O.C. 611.3-1(i)].

Commenter's second critique is that the purpose statement should more clearly show that the law "governs or regulates the rental relationship between the landlord and tenant". Laws implicitly govern and/or regulate relationships addressed in the law. The Landlord Tenant law does govern the landlord tenant relationship but also applies more broadly in that it governs their separate duties and responsibilities as well. Currently, the Law's purpose statement does not mention "governs or regulates the rental relationship between the landlord and tenant".

Commenters third critique is that the purpose statement should be enhanced to say that it "[i]dentifies the rights and duties/responsibilities of the landlord and tenant". Currently, the Law consists of ten sections, one of which is titled Rights and Duties of Landlords and Tenants. [6 O.C. 611.6].

The Legislative Operating Committee may make one of the following determinations regarding these comments:

1. The Legislative Operating Committee may determine that the proposed amendments to the Law should remain as currently drafted.
2. The Legislative Committee may determine that the purpose statement should refer to "Tribal members" instead of "members of the Nation". This change is recommended to achieve consistency in drafting throughout the Law.
3. The Legislative Operating Committee may determine that the purpose statement should be clarified to limit the application of the Law to residential premises.
4. The Legislative Operating Committee may determine that the purpose statement should be expanded to read: The purpose of this law is to provide mechanisms for *identifying the*

duties and protecting the rights of landlords and tenants on all land owned by the Nation or (Tribal) members ~~of the Nation~~ within the Reservation boundaries.

LOC Consideration

The Legislative Operating Committee determined that that proposed amendments to the purpose statement clearly and accurately express the Landlord Tenant Law’s intended purpose, however, the purpose statement should refer to “tribal members” so that there is consistency throughout the law.

Comment 2 – Policy Statement Nation’s residents:

611.1. Purpose and Policy

611.1-2. Policy. It is the Nation’s policy to provide a fair and just process to landlords and tenants to preserve the peace, harmony, safety, health, and general welfare of the Nation’s residents.

Patricia Hoeft (written): What is the definition of “the Nation’s residents”? Are residents of the Nation only enrolled Nation members residing on the Nation’s land or within the Nation’s reservation boundaries regardless of the status of the parcel of land that the enrolled member resides on?

Or, is this process to govern the relationship of the landlord-tenant to preserve the peace, harmony, safety, health and general welfare of people who reside in rental premises within the Nation’s reservation boundaries?

Response

The commenter requests that the definition of the “Nation’s residents” be clarified; questioning whether it consists of enrolled members of the Nation residing within the boundaries of the Nation’s reservation, or “people who reside in rental premises within the Nation’s reservation boundaries.”

The Law states that “[a]ll words not defined herein shall be used in their ordinary and everyday sense.” [6 O.C. 611.3-1.]. The Law defines “Nation” as the Oneida Nation and “resident” is not defined. [6 O.C. 611.3-1(c).]. Webster’s dictionary defines “resident” in noun form as “a person who lives somewhere permanently or on a long-term basis” and as a verb as “living somewhere on a long-term basis.” As used in the ordinary and everyday sense a “resident of the Nation” includes any person living within the Nation’s boundaries on a long-term basis and is not limited by how the land is owned, who owns the land, what the resident’s property rights are, or their citizenship.

As understood in the ordinary course of language a Nation’s resident is not limited to enrolled members or people who live in rental premises within the Nation’s reservation boundaries.

Although the Law’s application is limited to landlords and tenants operating on land owned by the Nation, or members of the Nation, its exercise represents an expression of the Nation’s policy to preserve the peace, harmony, safety, health, and general welfare for all residents of the Nation.

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

LOC Consideration

The Legislative Operating Committee agreed that no revision was needed to the proposed draft of amendments to the Law based on this comment.

Comment 3: Definition of Landlord

611.3. Definitions

611.3-1(b). “Landlord” means any person or entity within the Nation’s jurisdiction in their capacity to rent real property subject to a rental agreement.

Patricia Hoeft (written): Improve the definition of landlord to make it more clear. Or add a definition for “owner”.

Must the landlord be a person or entity that is the owner of the premises?

Response

The commenter recommends that the definition of landlord be improved by addressing whether a landlord must be the owner of the premises.

Landlords usually own the premises they rent out subject to a rental agreement but that is not always the case. A landlord may also be a lessor, or sublessor of a dwelling unit intended for the use of tenants; or an agent acting on behalf of an owner. One may be a landlord without also being the owner.

If the definition of “landlord” were to be refined to include ownership as a necessary condition it would narrow the application of the Law to landlords who own the premises subject to rental agreement and will exclude agents, lessors and sublessors.

The Legislative Operating Committee may make one of the following determinations regarding these comments:

1. The Legislative Operating Committee may determine that the proposed amendments to the Law should remain as currently drafted.
2. The Legislative Operating Committee may determine that the definition of “landlord” should be amended to limit who can be a landlord to the owner of the premise subject to the rental agreement.

- A. Option A: Landlord means the owner or lessor of a dwelling unit under any rental agreement, and any agent acting on the owner's or lessor's behalf. The term includes sublessors, other than persons subleasing individual units occupied by them.
 - B. Option B: "Landlord" means any entity or organization which is the owner, lessor or sublessor of a dwelling unit intended for the use of tenants.
 - C. Option C: "Landlord" means the Tribe, Housing Authority, a person, entity or federal government agency which is the owner, lessor or sublessor of a dwelling unit intended for the use of tenants.
2. If the LOC chooses to limit the definition of landlord, then they may also want to add a definition for owner.
- A. Option A: "Owner" means one or more persons, jointly or severally, vested with all or part of the legal title to the premises or all or part of the beneficial ownership and right to present use and enjoyment of the premises. The term includes a mortgagee in possession.
 - B. Option B: "Owner" means any person or entity jointly or individually having legal title to all or part of land or a dwelling, including the legal right to own, manage, use or control a dwelling unit under a mortgage, long-term lease, or any other security arrangement.

LOC Consideration

The Legislative Operating Committee determined that the proposed amendments to the Law accurately define the term "Landlord". There is no revision to the proposed amendments to the Law based on this comment.

Comment 4 – Definition of Reservation:

611.3. Definitions

611.3-1(f). "Reservation" means all property 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.

Patricia Hoeft (written): Are the terms of "property" and "land" to have the same meaning? Should this be land? Or a geographically defined area of land? The definition uses the word "land" in the last part of the sentence so does that mean the word land should be used and not property?

Response

The commenter asks if the terms "property" and "land" are meant to have the same meaning and then points out that the definition of "Reservation" includes "all property" within the exterior

boundaries of the reservation, but then at the end of the sentence refers to any “*lands* added thereto”. This means ‘lands’ added to ‘property’.

“Property” and “land” are not defined terms and so are to be understood as used in ordinary and everyday language. [6 O.C. 611.3-1]. Websters dictionary defines Property (noun) as: 1. a thing or things belonging to someone; possession collectively. A building or buildings *and the land* belonging to it or them. Websters dictionary defines Land (noun) as: 1. the part of the earth’s surface that is not covered by water, as opposed to the sea or the air.

Currently, the Nation’s laws under, Title 6. Property and Land, define reservation in the following ways:

- **Landlord Tenant, Real Property, and Mortgage and Foreclosure laws define “Reservation” as:**
 - “Reservation” means all property 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. [6 O.C. 611.3-1(f)], [6 O.C. 601.3-1(r)], and [6 O.C. 612.3-1(r)].
- **Building Code and Public Use of Tribal Land define “Reservation” as:**
 - “Reservation” means all the lands and waters within the exterior boundaries of the Reservation of the Oneida Tribe of Indians of Wisconsin, as created pursuant to the 1838 Treaty with the Oneida 7 Stat. 566, and any lands added thereto pursuant to federal law. [6 O.C. 603.3-1(g)], and [6 O.C. 609.3-1(g)].
- **Zoning and Shoreland defines “Reservation” as:**
 - “Reservation” means all land within the exterior boundaries of the Reservation of the Oneida Tribe of Indians of Wisconsin, as created pursuant to the 1838 Treaty with the Oneida, 7 Stat. 566, and any lands added thereto pursuant to federal law. [6 O.C. 605.3-1(III)].
- **Local Land Use Regulation Reimbursement defines “Reservation” as:**
 - “Reservation” means all lands within the exterior boundaries of the Reservation of the Oneida Tribe of Indians of Wisconsin, as created pursuant to the 1838 Treaty with the Oneida, 7 Stat. 566, and any lands added thereto pursuant to federal law. [6 O.C. 607.3-1(f)].

The Legislative Operating Committee may make one of the following determinations regarding these comments:

1. The Legislative Operating Committee may determine that the Law should remain as currently drafted.
2. The Legislative Operating Committee may determine that the definition of Reservation should be amended to align with one of the definitions listed above.

LOC Consideration

The Legislative Operating Committee determined that the definition of “Reservation” is clear based on both the meanings of “property” and “land” as used in their ordinary and everyday sense,

and this definition is currently utilized in three (3) of the Nation's laws under Title 6. Property and Land, including the Landlord Tenant Law, and no issues with interpreting its meaning have been raised. There is no revision to the Law based on this comment.

Comment 5 – Disposition of personal property:

611.5. Rights and Duties of Landlords and Tenants

611.5-2. *Disposition of Personal Property Left by the Tenant.* If the tenant moves from or is evicted from the premises and leaves personal property, the landlord may presume that the tenant has abandoned the personal property and may dispose of said property in any manner that the landlord, in their sole discretion, determines is appropriate, provided that:

(c). The Comprehensive Housing Division shall create rules further governing the disposition of personal property on Tribal land.

Patricia Hoeft (written): Abandoned in the premises.

Response

The commenter suggests that “abandoned in the premises” should replace “on Tribal land.” [6 O.C. 611.5-2(c)]. However, the language “abandoned in the premises” limits the Comprehensive Housing Division’s ability to address personal property abandoned outside of what is commonly understood as being “in the premises” including but not limited to a yard, driveway, parking lot, or common area.

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

LOC Consideration

The Legislative Operating Committee agreed that no revision was needed to the proposed draft of amendments to the Law based on this comment.

Comment 6 – Minimum Rental Eligibility Requirements:

611.10. Comprehensive Housing Division Rental Programs

611.10-3(b). Have no felony or drug convictions within the past two (2) years from the date of application, provided that a pardon or forgiveness received pursuant to the Pardon and Forgiveness law may provide an exception to this condition;

Patricia Hoeft (written): Clarify: is this 2 years prior to applying or 2 years after applying?

Response

The commenter requests clarification on whether the Comprehensive Housing Division will measure eligibility criteria based on the two year time period prior to filing an application for housing, or, the two years after filing the application for housing to determine if an applicant qualifies for housing through one of their rental programs.

Currently, the Law states that the relevant time period is “within the ***past*** two (2) years from the date of application”. [611.10-3(c).]. The two (2) year period prior to filing an application is the relevant time period. It is not practical to read “within the past two (2) years from the date of the application” to mean two years in the future from the submission of the application as an applicant would have to wait for two years, after submitting their application, to find out if they meet the eligibility requirements to be eligible for housing. Eligibility requirements are generally, and understandably, determined at the time an application is filed and not based on what might happen years after the application is filed.

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

LOC Consideration

The Legislative Operating Committee agreed that no revision was needed to the proposed draft of amendments to the Law based on this comment.

Title 6. Property and Land- Chapter 611
LANDLORD-TENANT
Tsi' Yuhwatsyawá'ku Aolihwá'ke
where it bound to the earth - issues

611.1. Purpose and Policy
611.2. Adoption, Amendment, Repeal
611.3. Definitions
~~611.4. Rental Programs~~
611.45. Rental Agreement Documents
611.56. Rights and Duties of Landlords and Tenants

611.67. Domestic Abuse Protections
611.78. Sex Offender Registry
611.89. Termination of Tenancy at Death of Tenant
611.949. Landlord or Tenant Actions
[611.10 Comprehensive Housing Division Rental Programs](#)

611.1. Purpose and Policy

611.1-1. *Purpose.* The purpose of this law is to provide mechanisms for protecting the rights of the landlords and tenants on all land owned by the Nation or Tribal members within the Reservation boundaries ~~of the Nation's rental programs.~~

611.1-2. *Policy.* It is the Nation's policy to provide a fair process to all landlords and tenants ~~of the Nation's rental programs~~ that preserves the peace, harmony, safety, health, and general welfare ~~of and~~ the Nation's residents ~~resources.~~

611.2. Adoption, Amendment, Repeal

611.2-1. This law was adopted by the Oneida Business Committee by resolution BC-10-12-16-C and thereafter amended by resolution BC-12-13-17-D.

611.2-2. This law 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.

611.2-3. 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.

611.2-4. 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.

611.2-5. This law is adopted under the authority of the Constitution of the Oneida Nation.

611.3. Definitions

611.3-1. This section shall govern the definitions of words and phrases as used herein. All words not defined herein shall be used in their ordinary and everyday sense.

(a) "Comprehensive Housing Division" ~~is~~ the division within the Oneida Nation under the direction of the Comprehensive Housing Division Director which consists of all residential services offered by the Nation, including but not limited to, all rental programs, the rent-to-own program, and the residential sales and mortgages programs.

(b) "Landlord" means any person or entity within the Nation's jurisdiction in their ~~its~~ capacity to rent real property subject to a rental agreement.

(c) "Nation" means the Oneida Nation.

(d) "Premises" means the property covered by a rental agreement, including not only the real property and fixtures, but also any personal property furnished by the landlord pursuant to a rental agreement.

(e) “Rental Agreement” means a written contract between a landlord and a tenant, whereby the tenant is granted the right to use or occupy the premises for a residential purpose for one (1) year or less, provided that the term may be longer than one (1) year in circumstances where the contract is on a rent-to-own basis.

(f) “Reservation” means all property 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.

(g) “Rule” means a set of requirements, including citation fees and penalty schedules, enacted ~~jointly by the Land Commission and~~ by the Comprehensive Housing Division in accordance with the Administrative Rulemaking law based on authority delegated in this law in order to implement, interpret and/or enforce this law, ~~provided that where such requirements relate solely to premises administered pursuant to federal funding, the Comprehensive Housing Division has sole authority.~~

(h) “Tenant” means the person granted the right to use or occupy a premises pursuant to a rental agreement.

(i) “Tribal member” means an individual who is an enrolled member of the Nation.

(j) “Security Deposit” means a payment made to the landlord by the tenant to ensure that rent will be paid and other responsibilities of the rental agreement performed.

611.4. — Rental Programs

~~611.4 1. Available Rental Programs. Consistent with available funds, the Comprehensive Housing Division shall provide residential rental programs for providing housing to the following types of tenants and the Oneida Land Commission and the Comprehensive Housing Division shall jointly establish rules naming said programs and providing the specific requirements and regulations that apply to each program:~~

~~(a) Elder tribal members;~~

~~(b) Low income Oneida tribal members and families; and~~

~~(c) Tribal members in general.~~

~~611.4 2. Minimum Rental Eligibility Requirements. In order to be eligible for a rental agreement, applicants shall meet the following conditions:~~

~~(a) Be eighteen (18) years of age at the time of the application;~~

~~(b) Have no felony or drug convictions within the past two (2) years from the date of application, provided that a pardon or forgiveness received pursuant to the Pardon and Forgiveness law may provide an exception to this condition;~~

~~(c) Meet the local governments’ laws’ requirements regarding residency restrictions for convicted sex offenders;~~

~~(d) Meet the income requirements for entering the rental agreement as determined by the rental program’s governing rules;~~

~~(e) Not hold a residential lease with the Nation; and~~

~~(f) Meet any other eligibility requirements set by the rental program’s rules, which may not be less strict than this law, but may be stricter than this law, provided that rules developed for low income Tribal members and families:~~

~~(1) May not contain eligibility requirements that consider debt owed or evictions from entities other than the Comprehensive Housing Division; but~~

~~(2) May contain eligibility requirements that consider debt owed to utility providers, provided that eligibility may not be denied for any debt owed to a utility provider with a past due balance of less than two hundred dollars (\$200).~~

~~611.4 3. *Tenant Selection.* The Land Commission and the Comprehensive Housing Division shall jointly develop rules governing the selection of applicants for the issuance of rental agreements.~~

611.45. Rental Agreement Documents

611.45-1. *Severability of Rental Agreement Provisions.* The provisions of a rental agreement are severable. If any provision of a rental agreement is void or unenforceable by reason of any law, rule, regulation, or judicial order, the invalidity or unenforceability of that provision does not affect other provisions of the rental agreement that can be given effect without the invalid or unenforceable provision.

611.45-2. *Requirements of Rental Agreements and Terminations.* A rental agreement or termination of a rental agreement is not enforceable unless it meets the requirements of this law and is in writing.

(a) All rental agreements shall:

(1) Set forth the amount of rent or other consideration provided in exchange for the ability to use/occupy the premises;

(2) Set forth the required amount of security deposit and require payment of the security deposit prior to the tenant(s) taking use/occupancy of the premises, if applicable;

(3) Set the time of commencement and expiration of the rental agreement;

(4) Provide a reasonably definite description of the premises;

(5) If the Nation is the landlord, ~~s~~State that nothing in the agreement may be considered a waiver of the Nation's sovereign immunity, provided that tenants may seek enforcement of a rental agreement or dispute an action taken pursuant to a rental agreement with the Oneida Judiciary; and

(6) Be signed by both the landlord and the tenant(s) prior to the tenant(s) taking use/occupancy of the premises;

(A) The rental agreement is not required to be signed by all adults using/occupying the premises, provided that the rights and responsibilities contained in the rental agreement do not extend to persons that are not named as tenants in the rental agreement.

(B) Unless legally separated, if a tenant(s) is married, the landlord shall require that each spouse sign the rental agreement.

(b) Any provision of a rental agreement that does any of the following is void and unenforceable.

(1) Allows a landlord to do or threaten to do any of the following because a tenant has contacted an entity for law enforcement services, health services or safety services:

(A) Increase rent;

(B) Decrease services;

(C) Bring an action for eviction unless authorized by ~~pursuant to~~ the Eviction and Termination law; and/or

(D) Refuse to renew a rental agreement.

(2) Except as otherwise provided in this law in regards to domestic abuse, authorizes the eviction or exclusion of a tenant from the premises other than through the process described in the Eviction and Termination law.

(3) Requires the tenant to pay attorney's fees or costs incurred by the landlord in any legal action or dispute arising under the rental agreement except as supported by a court order.

(4) States that the landlord is not liable for property damage or personal injury caused by negligent acts or omissions of the landlord. This subsection does not affect ordinary maintenance obligations of a tenant under 611.56-3(b) or assumed by a tenant under a rental agreement or other written agreement between the landlord and the tenant.

(5) Imposes liability on the tenant for any of the following:

(A) Personal injury arising from causes clearly beyond the tenant's control.

(B) Property damage caused by natural disasters or by persons other than the tenant or the tenant's guests or invitees. This subsection does not affect ordinary maintenance obligations of a tenant under 611.56-3(b) or assumed by a tenant under a rental agreement or other written agreement between the landlord and the tenant.

(6) Waives any obligation on the part of the landlord to deliver the premises in a fit and habitable condition or to maintain the premises during the tenant's tenancy.

(7) Allows for periodic tenancy, which for the purposes of this section means when a tenant uses/occupies a premises without an effective and valid rental agreement by paying rent on a periodic basis including, but not limited to, day-to-day, week-to-week and month-to-month.

611.45-3. *Assignment of Rental Agreements Not Permitted.* Assignments of rental agreements are not permitted under any circumstances.

611.56. Rights and Duties of Landlords and Tenants

611.56-1. This section governs the rights and duties of the landlord and tenant in the absence of any inconsistent provision found in a valid rental agreement.

611.56-2. *Disposition of Personal Property Left by the Tenant.* If the tenant moves from or is evicted from the premises and leaves personal property, the landlord may presume that the tenant has abandoned the personal property and may dispose of said property in any manner that the landlord, in ~~their~~^{his or her} sole discretion, determines is appropriate, provided that:

(a) The landlord shall hold personal property for a minimum of five (5) business days and the tenant may retrieve said personal property by contacting the landlord.

(b) The landlord shall keep a written log of the date and the work time that the ~~Nation's~~^{landlord or the landlord's} staff expends storing and/or removing personal property and/or removing/disposing of debris left at the property after the expiration of the timeframe provided in the order to vacate.

(c) The ~~Land Commission and the~~ Comprehensive Housing Division shall ~~jointly~~ create rules further governing the disposition of personal property on Tribal land.

611.56-3. *Repairs; Untenability.* This section applies to all ~~leases~~^{rental agreements} if there is no contrary provision in writing signed by both parties.

(a) *Duties of the Landlord.*

(1) Except for repairs made necessary by the negligence of, or improper use of the premises by the tenant, the landlord has a duty to do all of the following:

(A) Keep in a reasonable state of repair portions of the premises over which the landlord maintains control.

(B) Keep in a reasonable state of repair all equipment under the landlord's control necessary to supply services that the landlord has expressly or impliedly agreed to furnish to the tenant, such as heat, water, elevator, or air conditioning.

(C) Make all necessary structural repairs.

(D) Except as provided in section 611.56-3(b)(2), repair or replace any plumbing, electrical wiring, machinery, or equipment furnished with the premises and no longer in reasonable working condition.

(E) Comply with any laws or rules of the Nation that are applicable to the premises.

(2) If the premises are part of a building where other parts are occupied by one (1) or more other tenants, negligence or improper use by one (1) tenant does not relieve the landlord from the landlord's duty to make repairs as provided in 611.56-3(a)(1), provided that the landlord may require the responsible tenant to pay for such repairs.

(3) A landlord shall disclose to a prospective tenant, before entering into a rental agreement with or accepting any earnest money or security deposit from the prospective tenant, any violation of either the Building Code of the Oneida Nation or the Zoning and Shoreland Protection Ordinance if all of the following apply:

(A) The landlord has actual knowledge of the violation;

(B) The violation affects the dwelling unit that is the subject of the prospective rental agreement or a common area of the premises;

(C) The violation presents a significant threat to the prospective tenant's health or safety; and

(D) The violation has not yet been corrected but the landlord shall correct the violation prior to the tenant taking occupancy of the premises.

(4) If the premises are damaged by fire, water or other casualty, not the result of the negligence or intentional act of the landlord, this subsection is inapplicable and either section 611.56-3(b) or (c) governs.

(5) The landlord is responsible for all required pest control to keep the premises in a safe and healthy condition, provided that where an infestation has occurred due to the acts or inaction of the tenant the pest control costs may be assessed against the tenant.

(b) Duties of the Tenant.

(1) If the premises are damaged, including by an infestation of insects or other pests, due to the acts or inaction of the tenant, the landlord may elect to allow the tenant to remediate or repair the damage and restore the appearance of the premises by redecorating. However, the landlord may elect to undertake the remediation, repair, or redecoration, and in such case the tenant shall reimburse the landlord for the reasonable cost thereof; the cost to the landlord is presumed reasonable unless proven otherwise by the tenant.

(2) The tenant shall keep plumbing, electrical wiring, machinery and equipment furnished with the premises in reasonable working order.

(3) Tenants shall comply with all laws and rules of the Nation.

(c) Untenability. If the premises become untenable because of damage by fire, water or other casualty or because of any condition hazardous to health, or if there is a substantial violation of section 611.56-3(a) materially affecting the health or safety of the tenant, the

tenant may move from the premises unless the landlord promptly repairs, rebuilds or eliminates the health hazard or the substantial violation of 611.56-3(a) materially affecting the health or safety of the tenant.

(1) The tenant may also move and terminate the rental agreement if the inconvenience to the tenant by reason of the nature and period of repair, rebuilding or elimination would impose undue hardship on the tenant.

(2) If the tenant remains in possession, the landlord shall decrease rent for each month to the extent the tenant is deprived of the full normal use of the premises.

~~The Land Commission and the Comprehensive Housing Division shall jointly develop rules governing how and when rent is decreased pursuant to this section.~~

This subsection does not authorize rent to be withheld in full, if the tenant remains in possession.

(3) If the tenant justifiably moves out under this subsection, the tenant is not liable for rent after the premises become untenable and the landlord shall repay any rent paid in advance apportioned to the period after the premises become untenable. This subsection is inapplicable if the damage or condition is caused by negligence or improper use by the tenant.

(4) If the Nation is the landlord, alternative housing shall be provided to the extent that it is reasonably available.

(d) *Check-in sheet.* Landlords shall provide all new tenants with a check-in sheet when the tenant commences ~~his or her~~ their occupancy of the premises that the tenant may use to make comments, if any, about the condition of the premises. The landlord shall provide the tenant with seven (7) days from the date the tenant commences ~~his or her~~ their occupancy to complete the check-in sheet and return it to the landlord. The landlord is not required to provide the check-in sheet to a tenant upon renewal of a rental agreement.

(e) *Notice to Enter Required.* The landlord shall provide twenty-four (24) hour written notice prior to entering the tenant's premises where notice is required to either be personally served to the tenant or posted on the premises. A landlord is exempt from this notice requirement in the case of an emergency welfare check. The basis of a welfare check may include, but is not limited to the following:

(1) The landlord believes the tenant's or a child's wellbeing may be in jeopardy based on reports of child abuse or neglect, medical concerns, suspicious activity or other reported information;

(2) The landlord suspects the tenant has abandoned the premises; and/or

(3) The landlord receives notice that the premise's utilities have been disconnected.

(f) *Acts of tenant not to affect rights of landlord.* No act of a tenant in acknowledging as landlord a person other than the tenant's original landlord can prejudice the right of the original landlord to possession of the premises.

(g) *Annual Inspection Required.* In the event the tenant renews the rental agreement for additional terms, the landlord shall, at a minimum, inspect the premises once annually.

611.67. Domestic Abuse Protections

611.67-1. If a tenant notices the landlord of domestic abuse with of any of the following documentation, regardless of marital status, the landlord shall change the locks to the premises and, if the tenant is unmarried, allow the tenant to modify the rental agreement to remove the domestic abuser:

- (a) An injunction order under Wis. Stat. 813.12(4) protecting the tenant from a co-tenant;
- (b) An injunction order under Wis. Stat. 813.122 protecting a child of the ~~household~~tenant from a co-tenant;
- (c) An injunction order under Wis. Stat. 813.125(4) protecting the tenant or ~~child~~ of the ~~household~~tenant from a co-tenant, based on the co-tenant's engaging in an act that would constitute sexual assault under Wis. Stat. 940.225, 948.02 or 948.025, or stalking under Wis. Stat. 940.32, or attempting or threatening to do the same;
- (d) A condition of release under Wis. Ch. 969 ordering the co-tenant not to contact the tenant;
- (e) A criminal complaint alleging that the co-tenant sexually assaulted the tenant or a child of the ~~household~~tenant under Wis. Stat. 940.225, 948.02 or 948.025;
- (f) A criminal complaint alleging that the co-tenant stalked the tenant or a child of the ~~household~~tenant under Wis. Stat. 940.32; or
- (g) A criminal complaint that was filed against the co-tenant as a result of the co-tenant being arrested for committing a domestic abuse offense against the tenant under Wis. Stat. 968.075.

611.67-2. If a tenant is no longer eligible to maintain the rental agreement upon removing a co-tenant domestic abuser from the rental agreement, the landlord shall permit the tenant to remain on the premises for the longer of either the duration of the rental agreement or ninety (90) days from the date the rental agreement is modified. If the latter applies, in addition to removing the co-tenant that is the domestic abuser, the landlord shall also revise the rental agreement to extend its duration.

611.67-3. The Eviction and Termination law provides tenants that are victims of domestic abuse with a defense to eviction should the abusers actions be the cause for eviction.

611.78. Sex Offender Registry

611.78-1. Should a tenant request information about whether any other tenants are required to register as a sex offender, the landlord shall provide the tenant with written notice that ~~they he or she~~ may obtain information about the sex offender registry and persons registered within the registry by contacting the department of corrections. The landlord shall include in such notice the appropriate telephone number and internet site of the department of corrections.

611.89. Termination of Tenancy at Death of Tenant

611.89-1. If a tenant dies, ~~his or her~~their tenancy is terminated as follows:

- (a) If the deceased tenant was the only household member listed in the rental agreement, immediately upon the death of the tenant;
- (b) If there were additional adult household members aside from the deceased tenant listed in the household within the rental agreement, then the later of the following, provided that an adult household member remaining in the unit shall assume the tenancy responsibilities under the rental agreement:

- (1) Six (6) months after the landlord receives notice, is advised, or otherwise becomes aware of the tenant's death, provided that any extension beyond the original term of the agreement requires an amendment or limited term rental agreement which covers the term of the extension; or
- (2) The expiration of the term of the rental agreement.

611.89-2. The deceased tenant or ~~his or her~~their estate is not liable for any rent after the termination of ~~his or her~~their tenancy. A landlord may not contact or communicate with a member

of the deceased tenant's family for the purpose of obtaining from the family member rent for which the family member has no liability except that if adult household members remain in the rental unit following the deceased tenant's death in accordance with section 611.89-1 or 611.89-4, an adult household member shall assume the tenancy responsibilities pursuant to the rental agreement. 611.89-3. Nothing in this section relieves another adult tenant of the deceased tenant's premises from any obligation under a rental agreement or any other liability to the landlord.

611.89-4. Where the Nation is the landlord, and if the deceased tenant is a Tribal member whose death renders a co-tenant no longer eligible for a rental agreement based on Tribal member status, the non-Tribal member tenant may remain in the premises as follows:

(a) If subject to a standard rental agreement (i.e. not on a rent-to-own basis), see section 611.89-1(b) above.

(b) If the rental agreement was on a rent-to-own basis, the remaining non-Tribal member tenant may remain in the premises for a maximum of six (6) months from the date of the Tribal member tenant's death unless the non-Tribal member tenant has a child that is a Tribal member. In the event the original tenants have a Tribal member child, the non-Tribal member tenant may remain in the premises under the rent-to-own agreement so long as the non-Tribal member tenant either:

(1) Transfers the premises and the rent-to-own agreement to a child of one (1) or both of the original tenants who is a Tribal member, eighteen years or older, and agrees to live in the premises; or

(2) Signs an agreement indicating that the premises and the rent-to-own agreement shall be transferred to a minor Tribal member child when the child is eighteen (18) years old.

(c) Should the non-Tribal member tenant satisfy the payment requirements of the rent-to-own agreement prior to the Tribal member child's eighteenth (18th) birthday, the rent-to-own agreement shall be extended at no additional cost to the tenant and conveyance postponed until the Tribal member child reaches eighteen (18) years of age and the rent-to-own agreement is transferred to the child.

(d) In the event the non-Tribal member tenant either has no children living in the premises that are Tribal members or declines to enter the agreement transferring the rent-to-own agreement to a Tribal member child, the rent-to-own agreement shall be terminated upon the tenant's ineligibility to remain in the rent-to-own program and a limited term rental agreement shall be executed.

~~611.9-5.~~ 611.8-5. Where a landlord is terminating a rental agreement entered on a rent-to-own basis based on death of a Tribal member tenant, the landlord shall pay the remaining co-tenant all equity the tenants may have accrued in accordance with the rental agreement.

611.9-10. Landlord or Tenant Actions

~~611.9-10-1.~~ The Oneida Judiciary is granted jurisdiction to hear complaints filed regarding actions taken pursuant to this law and/or a rental agreement.

~~611.9-10-2.~~ No administrative hearing body, including a board, committee or commission, is authorized to hear a complaint regarding actions taken pursuant to this law and/or a rental agreement.

~~611.9-10-3.~~ Where the Nation is the landlord any complaint filed with the judiciary ~~The landlord is the Comprehensive Housing Division in regards to taking actions authorized under this law and complaints filed with the Oneida Judiciary~~ shall name the Comprehensive Housing Division and the specific program.

611.10. Comprehensive Housing Division Rental Programs

611.10-1. Available Rental Programs. Consistent with available funds, the Comprehensive Housing Division shall provide residential rental programs for providing housing to the following types of tenants. The Comprehensive Housing Division shall establish rules naming said programs and providing the specific requirements and regulations that apply to each program:

- (a) Elder Tribal members;
- (b) Low-income Oneida tribal members and families; and
- (c) Tribal members in general.

611.10-2. Minimum Rental Eligibility Requirements. In order to be eligible for a rental agreement with CHD, applicants shall meet the following conditions:

- (a) Be eighteen (18) years of age at the time of the application;
- (b) Have no felony or drug convictions within the past two (2) years from the date of application, provided that a pardon or forgiveness received pursuant to the Pardon and Forgiveness law may provide an exception to this condition;
- (c) Meet the local governments' laws' requirements regarding residency restrictions for convicted sex offenders;
- (d) Meet the income requirements for entering the rental agreement as determined by the rental program's governing rules;
- (e) Not hold a residential lease with the Nation; and
- (f) Meet any other eligibility requirements set by the rental program's rules, which may not be less strict than this law, but may be stricter than this law, provided that rules developed for low-income Tribal members and families:
 - (1) May not contain eligibility requirements that consider debt owed or evictions from entities other than the Comprehensive Housing Division; but
 - (2) May contain eligibility requirements that consider debt owed to utility providers, provided that eligibility may not be denied for any debt owed to a utility provider with a past due balance of less than two hundred dollars (\$200).

End.

Adopted – BC-10-12-16-C
Emergency Amended – BC-01-25-17-C
Emergency Extension – BC-07-26-17-I
Amended—BC-12-13-17-D

Title 6. Property and Land- Chapter 611

LANDLORD-TENANT

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where it bound to the earth - issues

611.1.	Purpose and Policy	611.6.	Domestic Abuse Protections
611.2.	Adoption, Amendment, Repeal	611.7.	Sex Offender Registry
611.3.	Definitions	611.8.	Termination of Tenancy at Death of Tenant
611.4.	Rental Agreement Documents	611.9.	Landlord or Tenant Actions
611.5.	Rights and Duties of Landlords and Tenants	611.10	Comprehensive Housing Division Rental Programs

611.1. Purpose and Policy

611.1-1. *Purpose.* The purpose of this law is to provide mechanisms for protecting the rights of the landlords and tenants on all land owned by the Nation or Tribal members within the Reservation boundaries.

611.1-2. *Policy.* It is the Nation's policy to provide a fair process to all landlords and tenants that preserves the peace, harmony, safety, health, and general welfare of the Nation's residents.

611.2. Adoption, Amendment, Repeal

611.2-1. This law was adopted by the Oneida Business Committee by resolution BC-10-12-16-C and thereafter amended by resolution BC-12-13-17-D.

611.2-2. This law 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.

611.2-3. 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.

611.2-4. 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.

611.2-5. This law is adopted under the authority of the Constitution of the Oneida Nation.

611.3. Definitions

611.3-1. This section shall govern the definitions of words and phrases as used herein. All words not defined herein shall be used in their ordinary and everyday sense.

(a) "Comprehensive Housing Division" is the division within the Oneida Nation under the direction of the Comprehensive Housing Division Director which consists of all residential services offered by the Nation, including but not limited to, all rental programs, the rent-to-own program, and the residential sales and mortgages programs.

(b) "Landlord" means any person or entity within the Nation's jurisdiction in their capacity to rent real property subject to a rental agreement.

(c) "Nation" means the Oneida Nation.

(d) "Premises" means the property covered by a rental agreement, including not only the real property and fixtures, but also any personal property furnished by the landlord pursuant to a rental agreement.

(e) “Rental Agreement” means a written contract between a landlord and a tenant, whereby the tenant is granted the right to use or occupy the premises for a residential purpose for one (1) year or less, provided that the term may be longer than one (1) year in circumstances where the contract is on a rent-to-own basis.

(f) “Reservation” means all property 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.

(g) “Rule” means a set of requirements, including citation fees and penalty schedules, enacted by the Comprehensive Housing Division in accordance with the Administrative Rulemaking law based on authority delegated in this law in order to implement, interpret and/or enforce this law

(h) “Tenant” means the person granted the right to use or occupy a premises pursuant to a rental agreement.

(i) “Tribal member” means an individual who is an enrolled member of the Nation.

(j) “Security Deposit” means a payment made to the landlord by the tenant to ensure that rent will be paid and other responsibilities of the rental agreement performed.

611.4. Rental Agreement Documents

611.4-1. *Severability of Rental Agreement Provisions.* The provisions of a rental agreement are severable. If any provision of a rental agreement is void or unenforceable by reason of any law, rule, regulation, or judicial order, the invalidity or unenforceability of that provision does not affect other provisions of the rental agreement that can be given effect without the invalid or unenforceable provision.

611.4-2. *Requirements of Rental Agreements and Terminations.* A rental agreement or termination of a rental agreement is not enforceable unless it meets the requirements of this law and is in writing.

(a) All rental agreements shall:

(1) Set forth the amount of rent or other consideration provided in exchange for the ability to use/occupy the premises;

(2) Set forth the required amount of security deposit and require payment of the security deposit prior to the tenant(s) taking use/occupancy of the premises, if applicable;

(3) Set the time of commencement and expiration of the rental agreement;

(4) Provide a reasonably definite description of the premises;

(5) If the Nation is the landlord, state that nothing in the agreement may be considered a waiver of the Nation’s sovereign immunity, provided that tenants may seek enforcement of a rental agreement or dispute an action taken pursuant to a rental agreement with the Oneida Judiciary; and

(6) Be signed by both the landlord and the tenant(s) prior to the tenant(s) taking use/occupancy of the premises;

(A) The rental agreement is not required to be signed by all adults using/occupying the premises, provided that the rights and responsibilities contained in the rental agreement do not extend to persons that are not named as tenants in the rental agreement.

(B) Unless legally separated, if a tenant(s) is married, the landlord shall require that each spouse sign the rental agreement.

(b) Any provision of a rental agreement that does any of the following is void and unenforceable.

(1) Allows a landlord to do or threaten to do any of the following because a tenant has contacted an entity for law enforcement services, health services or safety services:

(A) Increase rent;

(B) Decrease services;

(C) Bring an action for eviction unless authorized by the Eviction and Termination law; and/or

(D) Refuse to renew a rental agreement.

(2) Except as otherwise provided in this law in regard to domestic abuse, authorizes the eviction or exclusion of a tenant from the premises other than through the process described in the Eviction and Termination law.

(3) Requires the tenant to pay attorney's fees or costs incurred by the landlord in any legal action or dispute arising under the rental agreement except as supported by a court order.

(4) States that the landlord is not liable for property damage or personal injury caused by negligent acts or omissions of the landlord. This subsection does not affect ordinary maintenance obligations of a tenant under 611.5-3(b) or assumed by a tenant under a rental agreement or other written agreement between the landlord and the tenant.

(5) Imposes liability on the tenant for any of the following:

(A) Personal injury arising from causes clearly beyond the tenant's control.

(B) Property damage caused by natural disasters or by persons other than the tenant or the tenant's guests or invitees. This subsection does not affect ordinary maintenance obligations of a tenant under 611.5-3(b) or assumed by a tenant under a rental agreement or other written agreement between the landlord and the tenant.

(6) Waives any obligation on the part of the landlord to deliver the premises in a fit and habitable condition or to maintain the premises during the tenant's tenancy.

(7) Allows for periodic tenancy, which for the purposes of this section means when a tenant uses/occupies a premises without an effective and valid rental agreement by paying rent on a periodic basis including, but not limited to, day-to-day, week-to-week and month-to-month.

611.4-3. *Assignment of Rental Agreements Not Permitted.* Assignments of rental agreements are not permitted under any circumstances.

611.5. Rights and Duties of Landlords and Tenants

611.5-1. This section governs the rights and duties of the landlord and tenant in the absence of any inconsistent provision found in a valid rental agreement.

611.5-2. *Disposition of Personal Property Left by the Tenant.* If the tenant moves from or is evicted from the premises and leaves personal property, the landlord may presume that the tenant has abandoned the personal property and may dispose of said property in any manner that the landlord, in their sole discretion, determines is appropriate, provided that:

(a) The landlord shall hold personal property for a minimum of five (5) business days and the tenant may retrieve said personal property by contacting the landlord.

(b) The landlord shall keep a written log of the date and the work time that the landlord or the landlord's staff expends storing and/or removing personal property and/or removing/disposing of debris left at the property after the expiration of the timeframe provided in the order to vacate.

(c) The Comprehensive Housing Division shall create rules further governing the disposition of personal property on Tribal land.

611.5-3. *Repairs; Untenability.* This section applies to all rental agreements if there is no contrary provision in writing signed by both parties.

(a) *Duties of the Landlord.*

(1) Except for repairs made necessary by the negligence of, or improper use of the premises by the tenant, the landlord has a duty to do all of the following:

(A) Keep in a reasonable state of repair portions of the premises over which the landlord maintains control.

(B) Keep in a reasonable state of repair all equipment under the landlord's control necessary to supply services that the landlord has expressly or impliedly agreed to furnish to the tenant, such as heat, water, elevator, or air conditioning.

(C) Make all necessary structural repairs.

(D) Except as provided in section 611.5-3(b)(2), repair or replace any plumbing, electrical wiring, machinery, or equipment furnished with the premises and no longer in reasonable working condition.

(E) Comply with any laws or rules of the Nation that are applicable to the premises.

(2) If the premises are part of a building where other parts are occupied by one (1) or more other tenants, negligence or improper use by one (1) tenant does not relieve the landlord from the landlord's duty to make repairs as provided in 611.5-3(a)(1), provided that the landlord may require the responsible tenant to pay for such repairs.

(3) A landlord shall disclose to a prospective tenant, before entering into a rental agreement with or accepting any earnest money or security deposit from the prospective tenant, any violation of either the Building Code of the Oneida Nation or the Zoning and Shoreland Protection Ordinance if all of the following apply:

(A) The landlord has actual knowledge of the violation;

(B) The violation affects the dwelling unit that is the subject of the prospective rental agreement or a common area of the premises;

(C) The violation presents a significant threat to the prospective tenant's health or safety; and

(D) The violation has not yet been corrected but the landlord shall correct the violation prior to the tenant taking occupancy of the premises.

(4) If the premises are damaged by fire, water or other casualty, not the result of the negligence or intentional act of the landlord, this subsection is inapplicable and either section 611.5-3(b) or (c) governs.

(5) The landlord is responsible for all required pest control to keep the premises in a safe and healthy condition, provided that where an infestation has occurred due to the acts or inaction of the tenant the pest control costs may be assessed against the tenant.

(b) *Duties of the Tenant.*

(1) If the premises are damaged, including by an infestation of insects or other pests, due to the acts or inaction of the tenant, the landlord may elect to allow the tenant to remediate or repair the damage and restore the appearance of the premises by redecorating. However, the landlord may elect to undertake the remediation, repair, or redecoration, and in such case the tenant shall reimburse the landlord for the reasonable cost thereof; the cost to the landlord is presumed reasonable unless proven otherwise by the tenant.

(2) The tenant shall keep plumbing, electrical wiring, machinery and equipment furnished with the premises in reasonable working order.

(3) Tenants shall comply with all laws and rules of the Nation.

(c) *Untenability.* If the premises become untenable because of damage by fire, water or other casualty or because of any condition hazardous to health, or if there is a substantial violation of section 611.5-3(a) materially affecting the health or safety of the tenant, the tenant may move from the premises unless the landlord promptly repairs, rebuilds or eliminates the health hazard or the substantial violation of 611.5-3(a) materially affecting the health or safety of the tenant.

(1) The tenant may also move and terminate the rental agreement if the inconvenience to the tenant by reason of the nature and period of repair, rebuilding or elimination would impose undue hardship on the tenant.

(2) If the tenant remains in possession, the landlord shall decrease rent for each month to the extent the tenant is deprived of the full normal use of the premises. This subsection does not authorize rent to be withheld in full, if the tenant remains in possession.

(3) If the tenant justifiably moves out under this subsection, the tenant is not liable for rent after the premises become untenable and the landlord shall repay any rent paid in advance apportioned to the period after the premises become untenable. This subsection is inapplicable if the damage or condition is caused by negligence or improper use by the tenant.

(4) If the Nation is the landlord, alternative housing shall be provided to the extent that it is reasonably available.

(d) *Check-in sheet.* Landlords shall provide all new tenants with a check-in sheet when the tenant commences their occupancy of the premises that the tenant may use to make comments, if any, about the condition of the premises. The landlord shall provide the tenant with seven (7) days from the date the tenant commences their occupancy to complete the check-in sheet and return it to the landlord. The landlord is not required to provide the check-in sheet to a tenant upon renewal of a rental agreement.

(e) *Notice to Enter Required.* The landlord shall provide twenty-four (24) hour written notice prior to entering the tenant's premises where notice is required to either be personally served to the tenant or posted on the premises. A landlord is exempt from this notice requirement in the case of an emergency welfare check. The basis of a welfare check may include, but is not limited to the following:

(1) The landlord believes the tenant's or a child's wellbeing may be in jeopardy based on reports of child abuse or neglect, medical concerns, suspicious activity or other reported information;

(2) The landlord suspects the tenant has abandoned the premises; and/or

(3) The landlord receives notice that the premise's utilities have been disconnected.

(f) *Acts of tenant not to affect rights of landlord.* No act of a tenant in acknowledging as landlord a person other than the tenant's original landlord can prejudice the right of the original landlord to possession of the premises.

(g) *Annual Inspection Required.* In the event the tenant renews the rental agreement for additional terms, the landlord shall, at a minimum, inspect the premises once annually.

611.6. Domestic Abuse Protections

611.6-1. If a tenant notices the landlord of domestic abuse with of any of the following documentation, regardless of marital status, the landlord shall change the locks to the premises and, if the tenant is unmarried, allow the tenant to modify the rental agreement to remove the domestic abuser:

- (a) An injunction order under Wis. Stat. 813.12(4) protecting the tenant from a co-tenant;
- (b) An injunction order under Wis. Stat. 813.122 protecting a child of the household from a co-tenant;
- (c) An injunction order under Wis. Stat. 813.125(4) protecting the tenant or child of the household from a co-tenant, based on the co-tenant's engaging in an act that would constitute sexual assault under Wis. Stat. 940.225, 948.02 or 948.025, or stalking under Wis. Stat. 940.32, or attempting or threatening to do the same;
- (d) A condition of release under Wis. Ch. 969 ordering the co-tenant not to contact the tenant;
- (e) A criminal complaint alleging that the co-tenant sexually assaulted the tenant or a child of the household under Wis. Stat. 940.225, 948.02 or 948.025;
- (f) A criminal complaint alleging that the co-tenant stalked the tenant or a child of the household under Wis. Stat. 940.32; or
- (g) A criminal complaint that was filed against the co-tenant as a result of the co-tenant being arrested for committing a domestic abuse offense against the tenant under Wis. Stat. 968.075.

611.6-2. If a tenant is no longer eligible to maintain the rental agreement upon removing a co-tenant domestic abuser from the rental agreement, the landlord shall permit the tenant to remain on the premises for the longer of either the duration of the rental agreement or ninety (90) days from the date the rental agreement is modified. If the latter applies, in addition to removing the co-tenant that is the domestic abuser, the landlord shall also revise the rental agreement to extend its duration.

611.6-3. The Eviction and Termination law provides tenants that are victims of domestic abuse with a defense to eviction should the abusers actions be the cause for eviction.

611.7. Sex Offender Registry

611.7-1. Should a tenant request information about whether any other tenants are required to register as a sex offender, the landlord shall provide the tenant with written notice that they may obtain information about the sex offender registry and persons registered within the registry by contacting the department of corrections. The landlord shall include in such notice the appropriate telephone number and internet site of the department of corrections.

611.8. Termination of Tenancy at Death of Tenant

611.8-1. If a tenant dies, their tenancy is terminated as follows:

- (a) If the deceased tenant was the only household member listed in the rental agreement, immediately upon the death of the tenant;

(b) If there were additional adult household members aside from the deceased tenant listed in the household within the rental agreement, then the later of the following, provided that an adult household member remaining in the unit shall assume the tenancy responsibilities under the rental agreement:

(1) Six (6) months after the landlord receives notice, is advised, or otherwise becomes aware of the tenant's death, provided that any extension beyond the original term of the agreement requires an amendment or limited term rental agreement which covers the term of the extension; or

(2) The expiration of the term of the rental agreement.

611.8-2. The deceased tenant or their estate is not liable for any rent after the termination of their tenancy. A landlord may not contact or communicate with a member of the deceased tenant's family for the purpose of obtaining from the family member rent for which the family member has no liability except that if adult household members remain in the rental unit following the deceased tenant's death in accordance with section 611.8-1 or 611.8-4, an adult household member shall assume the tenancy responsibilities pursuant to the rental agreement.

611.8-3. Nothing in this section relieves another adult tenant of the deceased tenant's premises from any obligation under a rental agreement or any other liability to the landlord.

611.8-4. Where the Nation is the landlord, and if the deceased tenant is a Tribal member whose death renders a co-tenant no longer eligible for a rental agreement based on Tribal member status, the non-Tribal member tenant may remain in the premises as follows:

(a) If subject to a standard rental agreement (i.e. not on a rent-to-own basis), see section 611.8-1(b) above.

(b) If the rental agreement was on a rent-to-own basis, the remaining non-Tribal member tenant may remain in the premises for a maximum of six (6) months from the date of the Tribal member tenant's death unless the non-Tribal member tenant has a child that is a Tribal member. In the event the original tenants have a Tribal member child, the non-Tribal member tenant may remain in the premises under the rent-to-own agreement so long as the non-Tribal member tenant either:

(1) Transfers the premises and the rent-to-own agreement to a child of one (1) or both of the original tenants who is a Tribal member, eighteen years or older, and agrees to live in the premises; or

(2) Signs an agreement indicating that the premises and the rent-to-own agreement shall be transferred to a minor Tribal member child when the child is eighteen (18) years old.

(c) Should the non-Tribal member tenant satisfy the payment requirements of the rent-to-own agreement prior to the Tribal member child's eighteenth (18th) birthday, the rent-to-own agreement shall be extended at no additional cost to the tenant and conveyance postponed until the Tribal member child reaches eighteen (18) years of age and the rent-to-own agreement is transferred to the child.

(d) In the event the non-Tribal member tenant either has no children living in the premises that are Tribal members or declines to enter the agreement transferring the rent-to-own agreement to a Tribal member child, the rent-to-own agreement shall be terminated upon the tenant's ineligibility to remain in the rent-to-own program and a limited term rental agreement shall be executed.

611.8-5. Where a landlord is terminating a rental agreement entered on a rent-to-own basis based on death of a Tribal member tenant, the landlord shall pay the remaining co-tenant all equity the tenants may have accrued in accordance with the rental agreement.

611.9. Landlord or Tenant Actions

611.9-1. The Oneida Judiciary is granted jurisdiction to hear complaints filed regarding actions taken pursuant to this law and/or a rental agreement.

611.9-2. No administrative hearing body, including a board, committee or commission, is authorized to hear a complaint regarding actions taken pursuant to this law and/or a rental agreement.

611.9-3. Where the Nation is the landlord, any complaint filed with the judiciary shall name the Comprehensive Housing Division and the specific program.

611.10. Comprehensive Housing Division Rental Programs

611.10-1. *Available Rental Programs.* Consistent with available funds, the Comprehensive Housing Division shall provide residential rental programs for providing housing to the following types of tenants. The Comprehensive Housing Division shall establish rules naming said programs and providing the specific requirements and regulations that apply to each program:

- (a) Elder Tribal members;
- (b) Low-income Oneida tribal members and families; and
- (c) Tribal members in general.

611.10-2. *Minimum Rental Eligibility Requirements.* In order to be eligible for a rental agreement with CHD, applicants shall meet the following conditions:

- (a) Be eighteen (18) years of age at the time of the application;
- (b) Have no felony or drug convictions within the past two (2) years from the date of application, provided that a pardon or forgiveness received pursuant to the Pardon and Forgiveness law may provide an exception to this condition;
- (c) Meet the local governments' laws' requirements regarding residency restrictions for convicted sex offenders;
- (d) Meet the income requirements for entering the rental agreement as determined by the rental program's governing rules;
- (e) Not hold a residential lease with the Nation; and
- (f) Meet any other eligibility requirements set by the rental program's rules, which may not be less strict than this law, but may be stricter than this law, provided that rules developed for low-income Tribal members and families:
 - (1) May not contain eligibility requirements that consider debt owed or evictions from entities other than the Comprehensive Housing Division; but
 - (2) May contain eligibility requirements that consider debt owed to utility providers, provided that eligibility may not be denied for any debt owed to a utility provider with a past due balance of less than two hundred dollars (\$200).

End.

Adopted – BC-10-12-16-C
Emergency Amended – BC-01-25-17-C
Emergency Extension – BC-07-26-17-I
Amended—BC-12-13-17-D



LANDLORD TENANT LAW AMENDMENTS LEGISLATIVE ANALYSIS

SECTION 1. EXECUTIVE SUMMARY

<i>Analysis by the Legislative Reference Office</i>	
Intent of the Legislation or Amendments	▪ Expand the scope of the law to include all land owned by the Nation or members of the Nation within the Reservation boundaries instead of only to the Nation’s rental programs. [6 O.C. 611.1-1]. ▪ Expand the Nation’s policy of providing a fair process to landlords and tenants of the Nation’s rental programs to include all residents of the Nation. [6 O.C. 611.1-2]. ▪ Expand the definition of landlord to include any person or entity within the Nation’s jurisdiction, instead of limiting it to the Nation acting in its capacity as the landlord. [6 O.C. 611.3-1(b)]. ▪ Redefine “rule” to grant rulemaking authority solely to the Comprehensive Housing Division instead of jointly to the Land Commission and the Comprehensive Housing Division. [6 O.C. 611.3-1(g)]. The Land Commission’s rulemaking authorities are eliminated as follows: • Naming programs and providing specific requirements and regulations that apply to said programs. [6 O.C. 611.10-1] • Disposition of personal property on Tribal land. [6 O.C. 611.5-2(c)]. • How and when rent shall be decreased due to untenability. [6 O.C. 611.5-3(c)(2)]. • Governing the selection of applicants for the issuance of rental agreements. [current 6 O.C. 611.4-3]. ▪ Remove rulemaking authority over applicant selection for the issuance of rental agreements from both the Land Commission and the Comprehensive Housing Division. [current 6 O.C. 611.4-3]. ▪ Organize the law to flow from general to specific in accordance with the Legislative Procedures Act. [1 O.C. 109.11-1(d)]. The Rental Program section is limited to rental programs managed by the Comprehensive Housing Division, these programs now occupy a subset of landlord tenant relationships under the proposed amendments expanded scope of landlord tenant relationships. [6 O.C. 611.1-1]. Therefore, the Rental Program section is moved from the beginning of the law to the end. [current 6 O.C. 611.4]. [proposed 6 O.C. 611.10]. ▪ Clarify that rental agreements shall state that nothing in the agreement may be considered a waiver of the Nation’s sovereign immunity when the Nation is acting in its capacity as a landlord. [6 O.C. 611.4-2(a)(5)]. ▪ Clarify that all landlords or their staff must keep a written log of the date and the work time expended storing and/or removing personal property and/or removing debris left at the property after the expiration of the timeframe provided in the order to vacate. [6 O.C. 611.5-2(b)].

	▪ Remove language applying any section of this law to leases. [6 O.C. 611.5-3]. ▪ Clarify that a landlord may bring an action for eviction when it is authorized by the Eviction and Termination law based on contacts with an entity for law enforcement services, health services, or safety services. [6 O.C. 611.4-(b)(1)(C)]. ▪ Provide that when the Nation is the landlord, and a property has become untenable due to damage by fire, water or other casualty, or because of any condition hazardous to health, or if there is a substantial violation of 611.5-3(a) materially affecting the health and safety of the tenant, alternative housing shall be provided if it is reasonably available. [6 O.C. 611.5-3(c)(4)]. ▪ Expand protections provided to a child of a tenant to a child of the household when the landlord is presented with documentation of any of the following: • An injunction order under Wis. Stat. 813.122 protecting a child from a co-tenant; • An injunction order or criminal complaint filed under Wis. Stat. 813.125(4) protecting a child from a co-tenant, based on the co-tenant's engaging in an act that would constitute sexual assault under Wis. Stat. 940.225, 948.02 and 948.025; • A criminal complaint filed under Wis. Stat. 940.32 alleging the co-tenant stalked the child. [6 O.C. 611.6-1(b), (c), (e), and (f)]. ▪ Make other minor drafting changes throughout the Law.
Purpose	The purpose of this law is to provide mechanisms for protecting the rights of the landlords and tenants on all land owned by the Nation or members of the Nation within the Reservation boundaries. [6 O.C. 611.1-1].
Affected Entities	The Comprehensive Housing Division, Land Commission, Oneida Tribal members, their spouses and occupants who rent and occupy premises under this law, and all landlords leasing land from the Nation and their tenants.
Related Legislation	Administrative Rulemaking law, Building Code, Leasing law, Eviction and Termination law, Judiciary law, Oneida Judiciary Rules of Civil Procedure, Pardon and Forgiveness law, Real Property law and Zoning and Shoreline Protection Ordinance.
Enforcement	The Landlord-Tenant law delegates authority to the CHD to develop rules, pursuant to the Administrative Rulemaking law, as well as citation fees and penalty schedules, for the implementation, interpretation and/or enforcement of the law. [6 O.C. 611.3-1(g)]. No administrative hearing body, including a board, committee or commission, is authorized to hear a complaint regarding actions taken under the law and/or rental agreement; [6 O.C. 611.9-2]. Where the Nation is the landlord, any complaint filed with the judiciary shall name the Comprehensive Housing Division and the specific program. [6 O.C. 611.9-3].
Due Process	A pardon or forgiveness received pursuant to the Pardon and forgiveness law may provide an exception to the condition that a rental program an applicant must have no felony or drug convictions within the past two (2) years from the date of application. [6 O.C. 611.10-2(b)]. The Oneida Judiciary is granted jurisdiction to hear complaints filed under the law and/or a rental agreement. [6 O.C. 611.9-1].
Public Meeting	A public meeting 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 Landlord Tenant law was originally adopted by the Oneida Business Committee by motion on October 12, 2016, and then through resolutions BC-10-12-16-C, and BC-12-13-17-D. The Landlord Tenant law provides mechanisms for protecting the rights of landlords and tenants on all lands owned by the Nation or members of the Nation within the Reservation boundaries. [6 O.C. 611.1-1].
- B. **Request for Amendments.** This item was added to the Active Files List on February 21, 2024, at the request of the Oneida Law Office for the purpose of making the Landlord Tenant law generally applicable to all landlords, not just the Nation as landlord, and assert the Nation's jurisdiction within the Reservation boundaries. The sponsor of the Landlord Tenant law amendments is Councilman Jonas Hill.

SECTION 3. CONSULTATION AND OUTREACH

- Representatives from the following departments or entities participated in the development of the amendments to this Law and legislative analysis:
 - Comprehensive Housing Division (CHD);
 - Oneida Law Office;
 - Land Management; and
 - General Manager.
- The following laws of the Nation were reviewed in the drafting of this analysis:
 - Eviction and Termination law;
 - Real Property law;
 - Leasing law;
 - Administrative Rulemaking law;
 - Pardon and Forgiveness law;
 - Building Code;
 - Zoning and Shoreline Protection Ordinance;
 - Judiciary law; and
 - Oneida Judiciary Rules of Civil Procedure.

SECTION 4. PROCESS

- A. The amendments to this Law comply with the process set forth in the Legislative Procedures Act.
- On February 21, 2024, the Legislative Operating Committee added this Law to its Active Files List for amendments.
 - On September 18, 2024, the Legislative Operating Committee approved the draft of the Landlord Tenant law amendments and directed that a legislative analysis be developed.
 - On February 5, 2025, the Legislative Operating Committee accepted the Landlord Tenant law amendments Legislative Analysis and approved the public meeting packet for amendments to the Landlord Tenant law.
 - On March 14, 2025, the Legislative Operating Committee held a Public Comment Meeting. No individuals provided oral comments during the public meeting.
 - The public comment period was then held open until March 21, 2025. One (1) person provided written comments.

- On May 7, 2025, the Legislative Operating Committee accepted the public comments and the public comment review memorandum and deferred these items to a work meeting for further consideration. The Legislative Operating Committee then reviewed and considered those comments that same day.
- B. At the time this legislative analysis was developed the following work meetings had been held regarding the development of the amendments to this law:
 - March 20, 2024: LOC work session;
 - May 28, 2024: LOC work session with the Oneida Law office;
 - July 11, 2024: LOC work session with the Oneida Law Office, Land Management, and the Comprehensive Housing Division;
 - August 1, 2024: LOC work session with the Oneida Law Office, Land Management, Comprehensive Housing Division, and the General Manager;
 - August 23, 2024: LOC work session;
 - December 18, 2024: LOC work session.

SECTION 5. CONTENTS OF THE LEGISLATION

- A. **Who the Law applies to.** The proposed amendments to the Law expand its application to cover all land owned by the Nation or its members instead of only to the Nation's rental programs. [6 O.C. 611.1-1]. The Law currently only applies to the Nation's rental programs. [6 O.C. 611.1-1].
 - *Effect.* The proposed amendments to the Law apply the Law to all land owned by the Nation or its members regardless of who the landlord is. This expands the Nation's exercise of sovereignty within Reservation boundaries.
- B. **Redefining landlord.** The proposed amendments to the Law define landlord to mean any person or entity within the Nation's jurisdiction in their capacity to rent real property subject to a rental agreement. [6 O.C. 611.3-1(b)]. Currently, the definition of landlord is limited to the Nation acting in its capacity to rent real property subject to a rental agreement. [6 O.C. 611.3-1(b)].
 - *Effect.* The proposed amendments to the Law will apply the Law to all landlord-tenant relationships occurring on land owned by the Nation or its members regardless of whether the relationship is based on one of the Nation's rental programs. The reach of the Law is increased to cover all land owned by the Nation or its members regardless of who the landlord is. This expands the Nation's exercise of sovereignty within the Reservation boundaries.
- C. **Compliance with the Eviction and Termination law.** The proposed amendments to the Law align the Landlord Tenant law with the Eviction and Termination law by clarifying that a landlord may take action to evict or threaten to evict based on a tenant's contacts with an entity for law enforcement services, health services or safety services as long as it is authorized by the Eviction and Termination law. [6 O.C. 611.4-2(b)(1)(C)]. The Law currently renders void and unenforceable any rental agreement that allows a landlord to increase rent, decrease services, evict or threaten to evict, or refuse to renew a rental agreement based on tenant contacts with an entity for law enforcement services, health services, or safety services. [6 O.C. 611.4-2(b)(1)(A), (B), (C), or (D)].
 - *Effect.* A landlord may act to evict a tenant based on contacts with an entity for law enforcement services, health services or safety services when it is authorized by the Eviction and Termination law.
- D. **Alternate housing.** The proposed amendments to the Law provide that when the Nation is the landlord, and the property has become untenable due to damage by fire, water or other casualty, or because of

any condition hazardous to health, or if there is a substantial violation of 611.5-3(a) alternate housing will be provided when it is reasonably available. [6 O.C. 611.5-3(c)(4)].

- *Effect.* When the Nation is the landlord, and a property has become untenable due to damage by fire, water or other casualty, or because of any condition hazardous to health, or if there is a substantial violation of 611.5-3(a), the Nation will provide the tenant with alternative housing if it is reasonably available. [6 O.C. 611.5-3(c)(4)].

E. *Protection of children in the household.* The proposed amendments to the Law expand protections provided to a child of a tenant, to a child of the household, when the landlord is presented with documentation of any of the following:

- An injunction order under Wis. Stat. 813.122 protecting a child from a co-tenant;
- An injunction order or criminal complaint filed under Wis. Stat. 813.125(4) protecting a child from a co-tenant, based on the co-tenant's engaging in an act that would constitute sexual assault under Wis. Stat. 940.225, 948.02 and 948.025;
- A criminal complaint filed under Wis. Stat. 940.32 alleging the co-tenant stalked the child. [6 O.C. 611.6-1(b), (c), (e), and (f)].
- *Effect.* The proposed amendments to the Law expand protections provided to children of a tenant to all children of the household. Protections apply to any child living in the household regardless of whether that child is a child of a tenant.

F. *Eliminate the Land Commission's rulemaking authority.* The proposed amendments to the Law remove the Land Commission from all rulemaking authority delegated via this Law. Specific removals include naming programs and providing specific requirements and regulations that apply to said programs; disposition of personal property on tribal land; determining how and when rent is decreased due to untenability, and the selection of applicants for the issuance of rental agreements. [6 O.C. 611-3(g); current 611.4-1; 611.5-2(c); 611.5-3; current 611.4-3]. Rulemaking authority over applicant selection and the issuance of rental agreements is also removed from both the Land Commission and the Comprehensive Housing Division. [current 6 O.C. 611.4-3].

- *Effect.* The Comprehensive Housing Division will have sole authority to develop rules pursuant to this Law.

G. *Eliminate all rulemaking authority over applicant selection and the issuance of rental agreements.* Rulemaking authority over applicant selection and the issuance of rental agreements is removed from both the Land Commission and the Comprehensive Housing Division. [current 6 O.C. 611.4-3].

- *Effect.* Applicant selection will be determined by program criteria as applicable.

H. *Other Amendments.* Overall, a variety of other amendments and revisions were made to the Law to address formatting, drafting style, and organization that did not affect the substance of the Law.

SECTION 6. EXISTING LEGISLATION

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

- *Eviction and Termination Law.* The purpose of the Eviction and Termination Law is to provide consistent procedures for terminating contracts and evicting occupants under the Nation's rental and/or leasing programs that include due process and protects for all parties involved. [6 O.C. 610.1-1]. The law's underlying policy is to "provide fair termination and eviction processes that preserves the peace, harmony, safety, health, general welfare and the Nation's resources." [6 O.C. 610.1-2].

- 130 ▪ According to the Eviction and Termination law, the Nation, as the owner or landlord, may
131 terminate a contract prior to the contract term and evict the occupant, if the occupant:
 - 132 ▪ Violates the terms of the contract;
 - 133 ▪ Is alleged to have violated any applicable law or rule; and/or
 - 134 ▪ Is alleged to have committed one or more nuisance activities. [6 O.C. 610.5-1].
- 135 ▪ The law defines nuisance as an occupant's interference with another occupant's use and
136 enjoyment of the premises, including, but not limited to, harassment, disorderly conduct,
137 battery, lewd and lascivious behavior, prostitution, theft, possession of stolen property,
138 arson, illegal drug activity, gambling, animal violations, trespassing, weapons violations,
139 habitual noise violations, execution of warrants, alcohol violations, obstruction/resisting
140 and inspection related calls in which a law enforcement agency responds. [6 O.C. 610.3-
141 1(e)].
- 142 ▪ *Leasing Law.* The purpose of the Leasing Law is to set forth the Nation's authority to issue, review,
143 approve, as well as enforce, leases and was established in accordance with the Helping Expedite
144 and Advance Responsible Tribal Home Ownership Act of 2021 (HEARTH Act) so that the Nation
145 can approve leases on its land without having to obtain additional approval from the Secretary of the
146 Interior. [6 O.C. 602.1- 1]. The policy behind the law is to codify the expectations and
147 responsibilities of the lessor and lessee when leasing Tribal land and to ensure that the leasing of
148 Tribal land results in minimal risk to the Nation. [6 O.C. 602.1-2].
 - 149 ▪ According to the Leasing Law leases approved under the Law are subject to all of the
150 Nation's laws, except to the extent those laws are inconsistent with applicable federal law.
151 [6 O.C. 602.4-3]. Any landlord leasing land from the Nation through the Leasing Law is
152 subject to all other laws of the Nation including the Eviction and Termination Law as well
153 as the Landlord Tenant Law.
- 154 ▪ *Judiciary Law.* The purpose of the Judiciary law is to establish a Judiciary, and to provide for the
155 administration of law, justice, judicial procedures and practices by the Oneida Nation as a sovereign
156 nation by exercising the inherent power to make, execute, apply and enforce its own law, and to
157 apply its own customs and traditions in matters affecting the Oneida people. [8 O.C. 801.1-1].
 - 158 ▪ This Law provides that the Oneida Judiciary is granted jurisdiction to hear complaints filed
159 under the law and/or a rental agreement. [6 O.C. 611.9-1].
- 160 ▪ *Real Property law.* The purpose of the Real Property law is to provide regulations and procedures
161 for the transfer, control and management of the territory within the Reservation and all Tribal land;
162 to integrate these regulations and procedures with the real property laws and practices of other
163 federal and state sovereigns which may hold jurisdiction within the Reservation; and to establish
164 licensing and certification requirements for the Nation's employees dealing with real property
165 transactions. [6 O.C. 601.1-1].
 - 166 ▪ According to the Real Property Law the Comprehensive Housing Division oversees all
167 residential transactions within the Reservation and shall administer such transactions using
168 the applicable laws of the Nation including the Landlord Tenant law. [6 O.C. 601.12-1].
- 169 ▪ *Administrative Rulemaking.* The purpose of the Administrative Rulemaking law is to provide a
170 process for the adoption of and amendments to the Nation's administrative rules. [1 O.C. 106.1-1].
171 Its underlying policy is to ensure there exists an efficient, effective and democratic process for
172 enacting and revising administrative rules, and that authorized agencies act in a responsible and
173 consistent manner when enacting and revising administrative rules. [1 O.C. 106.1-2].

- This Law delegates rulemaking authority solely to the Comprehensive Housing Division.
- Any rules promulgated by the Comprehensive Housing Division are required to be developed in accordance with the process and procedures of the Administrative Rulemaking law.
- *Pardon and Forgiveness law.* The purpose of the Law is to provide a fair, efficient and formal process by which: a member of the Nation may receive a pardon for the conviction of a crime; a member of the Nation may receive forgiveness for acts that render him or her ineligible for housing or other benefits through the Nation; and a member or non-member of the Nation may receive forgiveness for acts that render him or her ineligible to be employed with the Nation; receive a Nation-issued occupational license, certification or permit; and/or obtain housing or other benefits through the Nation [1 O.C. 126.1-1(a)].
 - This Law provides that in order to be eligible for a rental program an applicant must have no felony or drug convictions within the past two (2) years from the date of application, provided that a pardon or forgiveness received pursuant to the Pardon and forgiveness law may provide an exception to this condition. [6 O.C. 611.10-2(b)].

SECTION 7. ENFORCEMENT AND ACCOUNTABILITY

- A. The Landlord Tenant law delegates authority to the Comprehensive Housing Division to develop rules, pursuant to the Administrative Rulemaking law, as well as citation fees and penalty schedules, for the implementation, interpretation and/or enforcement of the law. [6 O.C. 611.3-1(g)].
- B. The Landlord Tenant law provides a process for grieving decisions made by the Comprehensive Housing Division under its delegation of authority, said process is as follows: [6 O.C. 611.9].
 - That, the Oneida Judiciary is granted jurisdiction to hear complaints filed for actions taken under the law and/or rental agreement; [6 O.C. 611.9-1].
 - That, no administrative hearing body, including a board, committee or commission, is authorized to hear a complaint regarding actions taken under the law and/or rental agreement; [6 O.C. 611.9-2].
 - Where the Nation is the landlord, any complaint filed with the judiciary shall name the Comprehensive Housing Division and the specific program. [6 O.C. 611.9-3].

SECTION 8. OTHER CONSIDERATIONS

Fiscal Impact. Under the Legislative Procedures Act, a fiscal impact statement is required for all legislation except emergency legislation [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 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.

- *Conclusion.* The Legislative Operating Committee has not yet directed that a fiscal impact be completed.



TO: Ralinda Ninham-Lamberies, Chief Financial Officer
FROM: Jameson Wilson, Legislative Operating Committee Chairman
DATE: May 21, 2025
RE: Landlord Tenant Law Amendments Fiscal Impact Statement

The Legislative Operating Committee (LOC) is currently developing amendments to the Landlord Tenant 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 May 21, 2025, the Legislative Operating Committee approved the final draft of the proposed amendments to the Landlord Tenant Law. Therefore, the LOC is directing the Finance Department to provide a fiscal impact statement on the proposed amendments to the Landlord Tenant Law by June 6, 2025.

A copy of the proposed amendments to the Landlord Tenant 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 Landlord Tenant Law by June 6, 2025.



Legislative Operating Committee
May 21, 2025

Workplace Violence

Submission Date: 2/6/19	Public Meeting: N/A
LOC Sponsor: Jennifer Webster	Emergency Enacted: N/A

Summary: *This item was carried over from the last two (2) terms. This request for amendments to the Workplace Violence law was added to the AFL in February 2019 upon request of the Nation's Human Resources Department. The Nation's Human Resources Department requested amendments to the Workplace Violence law to address investigative enforcement. Amendments are being sought to delegate authority to investigators to put employees on investigative leave, and discipline employees. An amendment was also sought so that if terminated, an employee would be ineligible for employment with the Nation but may request forgiveness after five (5) years. This item was added to the AFL in conjunctions with a request for amendments to the Oneida Personnel Policies and Procedures and the Investigative Leave Policy.*

2/6/19 LOC: Motion by Jennifer Webster to add the Workplace Violence law, Investigative Leave Policy, and Oneida Personnel Policies and Procedures to the active files list and assign David P. Jordan as the sponsor; seconded by Kirby Metoxen. Motion carried unanimously.

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

8/18/21 LOC: Motion by Kirby Metoxen to accept the information provided in the request [for amendments to the Workplace Violence law to address employment eligibility after termination due to workplace violence] as FYI; seconded by Marie Summers. Motion carried unanimously.

8/29/22: *Work Meeting.* Present: Todd Vanden Heuvel, Matthew Denny, Nicolas Reynolds, Wendy Alvarez, Whitney Wheelock, Clorissa Santiago, Carolyn Salutz, David Jordan, Jennifer Webster, Kirby Metoxen, Kristal Hill, Rhiannon Metoxen. The purpose of this work meeting was to review the law line-by-line and collect input from LOC and HRD. *9/07/22: Work Meeting.* Present: David Jordan, Kirby Metoxen, Marie Summers, Clorissa Santiago, Carolyn Salutz, Grace Elliott, Rhiannon Metoxen, Kristal Hill. The purpose of this work meeting was to gather LOC input on HRD's suggested amendments.

9/21/22: *Work Meeting.* Present: David Jordan, Kirby Metoxen, Marie Summers, Jennifer Webster, Daniel Guzman, Clorissa Santiago, Carolyn Salutz, Grace Elliott. The purpose of this work meeting was to review proposed line edits to the law. The LOC made several suggestions, including adding in "social media"; clarifying Section 223.4 Applicability; making sure the supervisor will be notified throughout the process of reporting and investigation. Overall, the law is still wordy and could be simplified and reduced.

1/6/23: *Work Meeting.* Present: David Jordan, Kirby Metoxen, Marie Cornelius, Jennifer Webster, Daniel Guzman, Todd Vanden Heuvel, Matthew Denny, Nicholas Reynolds, Rita Reiter, Carolyn Salutz, Grace Elliott. The purpose of this work meeting was to review the procedures of investigative leave, and employment ineligibility. During the meeting it was discussed if

the procedures of investigation and follow-up would be better placed within the Investigative Leave policy.

1/31/23: *Work Meeting.* Present: David Jordan, Kirby Metoxen, Marie Cornelius, Jennifer Webster, Daniel Guzman, Todd Vanden Heuvel, Matthew Denny, Nicholas Reynolds, Rita Reiter, Joshua Cottrell, Peggy Van Gheem, Clorissa Leeman, Grace Elliott, Carolyn Salutz, Kristal Hill, Rhiannon Metoxen. The purpose of this work meeting was to review final changes and receive final guidance from HRD on all changes – and changes relating to investigations, the scope and coverage of the law, employment eligibility, and next steps. Clarity needed on extending this law to adequately cover incidents of violence that occur outside work hours, the scope of EEO responsibilities related to investigations that don't lead to investigative leave, employment eligibility.

10/4/23 LOC: Motion by Jonas Hill to add the Workplace Violence Law Amendments to the Active Files List with Jennifer Webster as the sponsor; seconded by Marlon Skenandore. Motion carried unanimously.

7/29/24: *Work Meeting.* Present: Jameson Wilson, Carolyn Salutz, Clorissa Leeman (Microsoft Teams), Jennifer Webster (Microsoft Teams), Maureen Perkins (Microsoft Teams), Kristal Hill (Microsoft Teams), Todd Vanden Heuvel (Microsoft Teams), Rita Reiter (Microsoft Teams), Laura Laitinen-Warren (Microsoft Teams). The purpose of this work meeting was to review the draft, we did a line-by-line review of the entire draft. One issue left to consider: how involved do we want supervisors to be in determining the final resolution? Should supervisors be involved in deciding the final resolution with EEO/HRD or not involved but able to dispute the final resolution or not involved or able to dispute. A suggestion was to invite managers, supervisors, etc., to next work meeting to discuss.

9/4/24 LOC: Motion by Jonas Hill to accept the request for amendments to the Workplace Violence law as information, noting the Workplace Violence law is already on the Active Files List; seconded by Marlon Skenandore. Motion carried unanimously.

10/18/24: *Work Meeting.* Present: Matthew Denny, Todd Vanden Heuvel, Laura Laiten-Warren, Peggy Van Gheem, Clorissa Leeman, Grace Elliott, Carolyn Salutz, Fawn Cottrell, Kristal Hill, Maureen Perkins, Jameson Wilson, Kirby Metoxen, Marlon Skenandore. The purpose of this work meeting was to review the draft, we did a line-by-line edit. No major suggestions for edits were brought up, the work group was satisfied with the current amendments; there were minor suggestions for changes; wording, more inclusion of the law office in workplace violence investigations. There was a lot of discussion on the supervisor's role in the investigation and discipline.

1/13/25: *Work Meeting.* Present: Laura Laiten-Warren, Marie Cornelius, Peggy Van Gheem, Grace Elliott, Carolyn Salutz, Maureen Perkins, Fawn Billie, Jameson Wilson, Marlon Skenandore, Jonas Hill, Jennifer Webster, Kirby Metoxen. The purpose of this work meeting was to continue to review edits. We did a line-by-line review of the entire draft. The group was still satisfied with the amendments and no major suggestions were made; most suggestions were to clarify processes or definitions. Carolyn will summarize notes and send to attendees, work on newest amendments, and then schedule the next work meeting.

2/14/25: *Work Meeting.* Present: Laura Laiten-Warren, Matthew Denny, Peggy Van Gheem, Kristal Hill, Fawn Cottrell, Jameson Wilson, Jonas Hill, Marlon Skenandore, Jennifer Webster. The purpose of this meeting was to review the latest amendments. There was a brief back-and-forth between Matt Denny and Peggy about when the EEO Office should notify the law office – Peggy said immediately when an investigation is started, Matt said EEO should be required to notify them immediately. This is an issue the LOC will decide and consider. Other issues involved clarifying some language and making sure all reporting goes to EEO, but that EEO will communicate with HRD and vice versa if needed – but not many other issues.

- 2/19/25:** *Work Session.* Present: Jameson Wilson, Jonas Hill, Marlon Skenandore, Kirby Metoxen, Jennifer Webster, Kristal Hill, Fawn Cottrell, Carolyn Salutz, Clorissa Leeman, Grace Elliott. The purpose of this work meeting is to review and decide on an issue that came up during the work meeting on 2/14/25: should the law require EEO to report to the law office at the start of every investigation. By majority, LOC decided they do want to require EEO to report to the law office at the start of every investigation.
- 3/5/25:** *Work Session.* Present: Jameson Wilson, Jonas Hill, Kirby Metoxen, Jennifer Webster, Clorissa Leeman, Grace Elliott, Kristal Hill, Fawn Billie, Fawn Cottrell. The purpose of this work meeting was for Carolyn to review her reasoning on why it may not be necessary for the law to require EEO to report to the law office at the start of each investigation. Jenny was, at first, still in favor of requiring reporting but eventually LOC did arrive at a consensus to not require it but instead allow it. So, EEO reporting to the law office at the start of each investigation will not be required.
- 5/2/25:** *Work Meeting.* Present: Matthew Denny, Ria Reiter, Whitney Wheelock, Jameson Wilson, Jonas Hill, Kirby Metoxen, Jennifer Webster, Fawn Billie, Fawn Cottrell, Kristal Hill, Clorissa Leeman, Carolyn Salutz. The purpose of this work meeting is to review the newest edits to the draft. The work group reviewed the entire draft, no discussion was needed, the group was satisfied with the amendments.
- 5/7/25 LOC:** Motion by Jennifer Webster to approve the draft of proposed amendments to the Workplace Violence Law and direct that a legislative analysis be completed; seconded by Marlon Skenandore. Motion carried unanimously.

Next Steps:

- Accept the draft and Legislative Analysis and direct the Legislative Reference Office to schedule a public meeting and prepare a public meeting packet.

Draft 1
2025 05 21

Title 2. Employment – Chapter 223 WORKPLACE VIOLENCE

ONEIDA TRANSLATION

~~223.1. Purpose and Policy~~
~~223.2. Adoption, Amendment, Appeal~~
~~223.3. Definitions~~
~~223.4. Applicability~~
~~223.5. Prohibited Behavior~~
~~223.6. Reporting Workplace Violence~~
~~223.7. Future Workplace Violence~~

~~223.8. Supervisor Responsibilities~~
~~223.9. Equal Employment Opportunity Department Responsibilities~~
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~~223.11. Confidentiality~~
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[223.2. Adoption, Amendment, Appeal](#)
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[223.1. Purpose and Policy](#)

223.1. Purpose and Policy

223.1-1. *-Purpose.-* The purpose of this law is to provide all Oneida Nation employees and visitors an environment that is free of violence and the threat of violence.

223.1-2. *-Policy.-* It is the policy of the Nation to provide a safe and secure environment for employees to work and ~~for conducting~~ [conduct](#) business by establishing the procedures by which incidents of workplace violence shall be addressed. -

223.2. Adoption, Amendment, Repeal

223.2-1.- This law was adopted by the Oneida Business Committee by resolution BC-06-28-17-E.

223.2-2. *-This law 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.*

223.2-3. *-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.*

223.2-4. *-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.*

223.2-5. *-This law is adopted under authority of the Constitution of the Oneida Nation.*

223.3. Definitions

223.3-1. *-This section shall govern the definitions of words and phrases as used within this law. All words not defined herein shall be used in their ordinary and everyday sense.*

~~(a) "Area Manager" means the person two (2) levels of supervision in the chain of command above an employee, or an individual designated to be the Area Manager by the Division Director.~~

~~(b)~~ (a) "EEO ~~Department~~" means the Equal Employment Opportunity Department within the Nation's Human ~~Resource~~ [Resources](#) Department.-

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(b) “EEO Officer” means the employee from within the EEO Department, or the employee the EEO Department assigns as designee, responsible for completing the requirements of section 223.9 of this law.

(c) “Employee” means ~~anyone~~ any person employed by the ~~ONEIDA~~ Nation in one of the following ~~employed~~ capacities: full-time, part-time, emergency temporary, limited term, or on a contractual basis.

(d) “Final ~~resolution~~ decision” means the ultimate decision issued from the EEO Department, the Nation’s Human Resources Executive Director ~~Department~~, and the employee’s supervisor regarding the allegation and investigation of the incident of workplace violence.

(e) “Harassing” means a pattern of conduct composed of a series of acts over a period of time evidencing a continuity of purpose; the purpose being intimidation, or creating a threat, and which serves no legitimate purpose.

~~(d)~~ (f) “Intimidation” means making others feel afraid or fearful through threatening behavior.

~~(e)~~ (g) “Nation” means the Oneida Nation.

(h) “Official duties” mean the duties of any employee of the Nation when that employee is actively performing their job requirements.

(i) “Roughhousing” means wildly playful, rough, noisy, or mischievous behavior.

~~(f)~~ (j) “Stalking” means unwanted or obsessive attention by an individual or group toward ~~another person. Stalking includes a course of conduct directed at a~~ a specific person ~~that or more than one person. Stalking~~ involves repeated visual or physical proximity, nonconsensual communication, or verbal, written, or implied threats, or a combination thereof, that would cause a reasonable person ~~fear~~ to feel unsafe.

~~(g)~~ (k) “Supervisor” means the person or entity responsible for directly overseeing the employee.

~~(h)~~ (l) “Threat” means the implication or expression of intent to inflict serious physical or emotional harm or actions that a reasonable person would interpret as a threat to ~~physical~~ their safety ~~or, the safety of a member of their family, or their~~ property.

~~(i)~~ (m) “Weapon” means a firearm, knife, electric weapon, club, or any other object intended to cause harm to oneself or others. -

~~(j)~~ (n) “Workplace” means any location owned and operated by the Nation, ~~and~~ any location or event where an employee represents the Nation, including over-the-road travel in the Nation’s owned or rented vehicles ~~and~~, circumstances where the employee is being reimbursed for expenses: for attending, participating, or the time and manner the employee spends traveling to and from the event.

~~(k)~~ (o) “Workplace Violence” means any intentional act committed by an employee in a workplace ~~that or in a setting or circumstance otherwise reasonably related to employment with the Nation that:~~

(1) inflicts, attempts to inflict, or threatens to inflict emotional or ~~bodily~~ physical harm on another person; or

(2) inflicts, attempts to inflict, or threatens to inflict, ~~damage to property.~~ of the Nation or property of another.

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223.4. ~~Applicability~~ Application

223.4-1. ~~This law applies to all employees in any of the Nation's workplaces, and covers workplace violence whether or not the employee is operating within the course of his or her employment at the time commits workplace violence during or outside the employee's normal work hours as long as the incident of workplace violence occurs, is reasonably connected to the workplace.~~

223.5. Prohibited Behavior

223.5-1. *Prohibited Behaviors.* Examples of workplace violence include, but are not limited to, the following prohibited behaviors:

- (a) intentionally causing physical injury to another person; which can include:
 - (1) hitting or shoving; or
 - (2) throwing an object at an individual;
- ~~(b)~~ (c) fighting or ~~"horseplay"~~ roughhousing that may be dangerous to others;
- ~~(c)~~ (d) direct threats or ~~physical~~ intimidation;
- ~~(d)~~ (e) implications or suggestions of violence;
- ~~(e)~~ (f) stalking;
- ~~(f)~~ (g) ~~possession~~ possessing, carrying, or use of weapons using a weapon of any kind, whether in the open or concealed, on property of the Nation, including parking lots, in fleet vehicles, on other exterior premises, or while engaged in activities for the Nation;
- ~~(g)~~ (h) physical restraint, or confinement;
- ~~(h)~~ (i) ~~an established pattern of~~ loud, disruptive, angry, or abusive language or behavior;
- ~~(i)~~ (j) sending ~~of a~~ threatening, harassing, or abusive message by e-mails, letters, faxes, mail, letter, fax, phone calls, call, text messages, message or any other form of electronic media; including all social media platforms;
- ~~(j)~~ (k) using the workplace to violate ~~protective~~ restraining orders;
- ~~(k)~~ (l) intentionally damaging property of the Nation or property of another;
- ~~(l)~~ (m) ~~throwing an object at an individual;~~ and
- ~~(m)~~ (n) any other act that a reasonable person would perceive as constituting a threat of violence, or actual violence.

223.5-2. *Exceptions to Prohibited Behavior.* ~~The following~~ An employee shall ~~be exempt from this law;~~

- ~~(a) Law enforcement officials and security staff are not~~ be considered to ~~be in violation~~ have committed the prohibited behavior of this law when acting in their possessing, carrying, or using a weapon under section 223.5-1(f) if the employee is actively:
 - (a) performing official capacity;
 - (b) Employees required to use knives or other tools owned by the Nation that could potentially be duties which require a weapon to be possessed, carried, or used as weapons are not considered to be in violation of this law as long as the tools are and the weapon is possessed, carried, or used within the normal scope of employment and not used in a way to intimidate, threaten or otherwise harm another person within the workplace; and those official duties;

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- ~~(e)~~ (b) participating in cultural activities or ceremonies on property of the Nation which require a weapon to be possessed, carried, or used and the weapon is possessed, carried, or used within the normal scope of the cultural activities or ceremonies;
- (c) hunting, fishing, or trapping on property of the Nation in accordance with the Nation's laws and rules governing hunting, fishing, and trapping and the weapon is possessed, carried, or used within the normal scope of hunting, fishing, or trapping; or
- (d) Any other action that is consistent with laws of the Nation.-

223.6. Reporting Workplace Violence

223.6-1. ~~The EEO Department~~ is responsible for investigating complaints, issuing the final decision, and all other duties and responsibilities detailed in section 223.9.

223.6-2. Reporting by a Non-Employee. ~~non-employee.~~ Any non-employee is encouraged to report threats ~~of~~ or observed workplace violence that occurs in the Nation's facilities and workplaces.- A report of workplace violence given to an employee from a non-employee shall be promptly reported ~~in writing to the employee's supervisor. The supervisor shall perform the initial assessment of the information pursuant to section~~ by the employee to the EEO Department or the Nation's Human Resources Department. ~~223.9.~~

~~223.6-2.~~ 3. Permissive Reporting by an Employee. ~~An~~ Any employee may report workplace violence to ~~his or her supervisor~~ the EEO Department where the employee:

- (a) is the victim of workplace violence; or
- (b) ~~believes he or she~~ has been threatened with workplace violence.

~~223.6-3.~~ 4. Mandatory Reporting by an Employee. ~~An~~ Any employee shall promptly report ~~in writing~~ workplace violence ~~to the EEO Department~~ where the employee witnesses ~~an act or a threat or an incident~~ of workplace violence ~~towards anyone else, or is informed by a non-employee of a threat or an incident of workplace violence.~~

(a) *Emergency Situation.* - If an emergency exists or the situation is one of immediate danger to the life and safety of a person, the employee shall, if possible, without causing themselves to be in danger, contact the Oneida Police Department or local law enforcement, and facility security, ~~if determined~~ appropriate, and take whatever emergency steps are available and appropriate to protect ~~himself or herself~~ themselves from immediate harm. The employee shall report the incident ~~in writing to the appropriate supervisor~~ EEO Department as soon as possible.

(b) *Non-Emergency Situation.* - If a non-emergency ~~situation~~ exists or the situation is not one of immediate danger to the life and safety of a person, the employee shall report the incident ~~in writing to the appropriate supervisor~~ EEO Department as soon as possible ~~if the situation is not one of immediate danger to life and safety.~~

~~223.6-4. Reporting the Behavior of a Supervisor.~~ 5. EEO and the Nation's Human Resources Department are responsible for communicating and sharing information with each other to ensure that all complaints and investigations are properly and timely handled.

223.6-6. Any employee can be in compliance with this law if the employee contacts or communicates, either verbally or in writing, with either EEO or the Nation's Human Resources Department to report an incident of alleged workplace violence involves the supervisor, the,

[Type here]

(b) If an employee ~~shall report the~~ verbally reports an incident ~~to~~ of workplace violence to either EEO or the Nation's Human Resources Department, whichever department receives ~~the supervisor's supervisor, or if none exists, to the area manager.~~ report should instruct that employee to submit a written report to EEO.

~~223.6-5.-~~

~~223.7. Reporting Restraining Orders.—An~~ and Injunctions. Any employee who possesses a current restraining order against another employee, shall immediately supply, upon receipt of the signed order, give a copy of the signed order to his or her supervisor. ~~the Oneida Nation Human Resource Department.~~

~~(a) The supervisor~~ 223.7-1. Voluntary reporting. Any employee who obtains a restraining order or injunction against another employee may provide EEO a copy of the signed order.

223.7-2. Mandatory reporting. Any employee who is issued a restraining order or injunction regarding another employee, shall immediately, upon receipt of the signed order against them, give a copy of the signed order to EEO.

(a) Any employee who does not immediately, upon receipt of a restraining order or injunction against them, provide a copy of the restraining order or injunction to EEO may be subject to disciplinary action under the Nation's laws, policies, and rules governing employment, up to and including termination.

223.7-3. EEO shall immediately provide copies of the restraining order or injunction to the area manager ~~employee's supervisor and the EEO Department~~ Nation's Human Resources Executive Director or designee.

~~223.8.-~~

~~223.7.-~~ **Future Workplace Violence**

~~223.78-1.-~~ Where an employee has reason to believe that ~~he, she or others,~~ another employee may be victimized sometime in the future, either at the workplace or as a direct result of their employment with the Nation, ~~he or she~~ the employee is encouraged to provide this information ~~in writing to his or her supervisor~~ the EEO Department or the Human Resources Department as soon as possible for an initial assessment pursuant to section 223.8-198. ~~The EEO Department or the Human Resources Department shall inform the Oneida Police Department, local law enforcement, or facility security if appropriate.~~

~~(a) If an employee reports a possibility of future workplace violence to his or her supervisor the supervisor shall inform the EEO Department Director or designee.~~

~~(b) The EEO Department Director or designee shall inform the Oneida Police Department or local law enforcement and/or facility security if determined appropriate.~~

~~223.78-2. -Anonymous threats or letters.— In the event that,~~ If an employee learns of an employee ~~receives~~ anonymous ~~threats or letters~~ threat, the employee shall immediately forward ~~a summary of such~~ the information in a confidential manner to the Chief of the Oneida Police Department in accordance with the Nation's laws, policies, and rules governing anonymous letters. The employee shall ~~then also~~ immediately notify ~~his or her supervisor.~~ The supervisor shall notify the target of the threat, take measures to ensure safety, and ensure that the Oneida Police ~~EEO Department as notified, and notify local law enforcement and/or facility security if determined appropriate or the Human Resources Department and the employee's supervisor.~~

[Type here]

**223.8. — Supervisor 223.9. EEO (“Equal Employment Opportunity Department”)
Responsibilities -**

~~223.8-1. Upon receiving a report~~ EEO is responsible for investigating complaints of workplace violence or otherwise becoming aware of a threat and will delegate such responsibilities to one employee from within EEO, who shall be known as the EEO Officer.

~~223.9-2. When the EEO Department receives a complaint of workplace violence or a workplace violence episode, a, whether verbal or in writing, the EEO Officer shall promptly notify in writing the immediate supervisor shall immediately conduct an assessment of the situation and determine if an emergency exists or if employee being complained about so the situation is one of immediate danger. supervisor:~~

~~223.8-2. Emergency Situation. If an emergency situation exists and if possible without causing themselves to be in danger, a supervisor shall immediately contact the Oneida Police Department or local law enforcement, and facility security if appropriate, and take whatever emergency steps are available and appropriate to protect himself or herself, employees and others from immediate harm.~~

~~223.8-3. Non-Emergency Situation. If the situation is not creating immediate danger to life and safety, the supervisor shall speak to the person reporting the incident and assess the situation.~~

~~(a) If the supervisor deems the episode is not a workplace violence problem then the investigation as a workplace violence matter ends.~~

(a) is aware that the EEO Officer will be investigating the employee;

~~(b) Where the supervisor deems the episode as a workplace violence matter, he or she shall prepare a written Workplace Violence Incident Report detailing the complaint. The supervisor shall then forward this report to the EEO Department Director or designee.~~

~~223.8-4. knows the EEO Officer Investigative Leave. A supervisor may place an employee alleged to be involved in a workplace violence incident the employee on investigative leave, if the supervisor deems the they determine investigative leave to be necessary and appropriate, in accordance with the Nation’s laws, policies and rules governing investigative leave except for the EEO Department Director or designee, not the employee’s supervisor, shall conduct the investigation of the alleged workplace violence incident.; and~~

~~223.8-5. A supervisor shall consider the recommendation for disciplinary action provided by the EEO Department Director or designee pursuant to section 223.9-4(b) when carrying out a disciplinary action of an employee. The supervisor shall carry out any disciplinary action of an employee within five (5) days of receiving the recommendation. If the supervisor does not follow the disciplinary action recommendation provided by the EEO Department Director or designee, the supervisor shall provide justification for the deviation from the recommendation to the EEO Department Director and the supervisor’s Area Manager.~~

223.9. Equal Employment Opportunity Department Responsibilities-

~~223.9-1. The EEO Department Director, or an individual assigned as designee by the EEO Department Director, shall be responsible for investigating alleged workplace violence.~~

[Type here]

~~223.9-2. Upon receipt of a completed Workplace Violence Incident Report, or other acceptable written notice of an allegation of workplace violence, the EEO Department Director or designee shall coordinate with all involved agencies or departments and immediately conduct an~~(c) knows they will be responsible, along with the EEO Officer and the Nation's Human Resources Executive Director, for implementing the final decision.

223.9-3. The EEO Officer shall promptly conduct a thorough investigation which may include the following duties:

- (a) ~~Personally~~coordinate with all involved agencies or departments;
- (b) ~~meet with the employee filing the complaint;~~
- (c) visit the scene of ~~an~~the incident as soon as possible;
- (b) ~~Interview~~(d) interview employees and other witnesses;
- (c) ~~Examine the workplace for security risk factors associated with the incident, including examination of any reports of inappropriate behavior by the perpetrator;~~
- (d) ~~Determine the cause of the incident;~~
- (e) ~~Determine what mitigating action could prevent the incident from recurring;~~
- (f) ~~Record the findings and recommended mitigating actions; and~~
- (g) ~~Contact~~contact the Oneida Police Department and/or any other appropriate law enforcement agency when necessary;
- (h) ~~Review~~(f) send weekly updates to the employee's supervisor;
- (g) review relevant video surveillance footage if available, in accordance with standard operating procedures on the subject; and
- (i) ~~Any~~h) conduct any other investigative methods necessary for a thorough investigation.

223.9-3. 4. When the EEO Officer begins an investigation the EEO Officer shall inform the Oneida Law Office.

223.9-45. In performing these investigative duties, the EEO ~~Department Director or designee~~Officer shall not interfere in the investigation of any law enforcement agencies. ~~If,~~ at any time, criminal charges are brought against an employee as a result of an incident of workplace violence, ~~then~~ the employee shall be placed on investigative leave in accordance with the Nation's laws, policies, and rules governing investigative leave, ~~except for the EEO Department Director or designee, not the employee's supervisor, shall conduct the investigation of the alleged workplace violence incident.~~

223.9-56. The EEO Officer shall conclude the investigation when the EEO Officer obtains enough verifiable facts and information regarding the incident under investigation in order to make a safe and equitable final decision.

223.9-67. Mitigation. During the investigation, the EEO Officer and the Nation's Human Resources Executive Director are encouraged to examine the workplace for security risk factors and record any mitigating actions that could be implemented to prevent a similar occurrence of workplace violence.

223.9-78. Investigative Leave. The EEO Officer may place an employee alleged to be involved in an incident of workplace violence on investigative leave in accordance with the Nation's laws, policies, and rules governing investigative leave.

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223.9-89. Final ~~resolution~~-decision. The EEO Officer shall meet with the Nation's Human Resources Executive Director and the employee's supervisor to mutually determine an appropriate ~~final resolution~~- decision.

(a) *Format.* The final ~~resolution~~-decision shall be in writing, contain justification, ~~for the final resolution~~, and be signed by the EEO Officer, the Nation's Human Resources Executive Director, and the employee's supervisor.

(b) *Record keeping.* The final ~~resolution~~-decision and all supporting documentation, included in the Investigative file, shall be filed with ~~the EEO Department~~ for reporting purposes.

(c) *Investigative file.* Three business days before the EEO Officer, the Nation's Human Resources Executive Director, and the employee's supervisor meet to determine the final decision, the EEO Officer should share the investigative file with the employee's supervisor.

~~223.10.223.9-4.~~ Upon completion of the investigation, the EEO Department Director or designee shall:

(a) ~~implement any preventive factors within the Nation's Human Resources Department's authority;~~

(b) ~~provide a written report of the investigation and recommendation for disciplinary action, if any, to the supervisor of the employee;~~

(c) ~~notify the Oneida Police Department or local law enforcement when a potential criminal act has occurred; and~~

(d) ~~refer employees to post-event trauma counseling for those employees desiring such assistance.~~

223.9-5. Employment Eligibility

223.10-1. Employee Resignation. An employee who resigns from their position when there is an ongoing workplace violence investigation or in lieu of a termination shall not be eligible for hiring consideration in any position with the Nation. The employee may be eligible for employment in a different position ~~within~~with the Nation ~~for~~ three (3) years from the date of ~~the~~ resignation. ~~The EEO Department Director or designee if the employee receives a pardon from the Nation's Pardon and Forgiveness eCommittee. The EEO Officer~~ shall remain responsible for completing the investigation in the event an employee resigns during an investigation.

~~223.9-6. In appropriate circumstances, the EEO Department Director or designee shall inform the reporting individual of the results of the investigation which would not compromise the legally-protected confidentiality of any other person.~~

223.10-2. Employee Termination. If, as a result of the completed workplace violence investigation, the employee is terminated, the employee shall not be eligible for hiring consideration in any position with the Nation. The employee may be eligible for employment in a different position with the Nation five (5) years from the date of termination if the employee receives a pardon from the Nation's ~~P~~pardon and Forgiveness eCommittee.

223.10-3. Immediate eligibility. If, as the result of a completed investigation, the EEO Officer, the Nation's Human Resources Executive Director, and the employee's supervisor mutually determine in the final decision that no incident of workplace violence occurred, a copy of the final ~~resolution~~

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decision shall be included in the employee's file and, if the employee resigned as a direct result of the workplace violence investigation, the employee shall be immediately eligible for re-hiring consideration with the Nation.

223.11.

~~223.10.~~ **Fraudulent Report**

~~223.10~~11-1. If at any time the EEO Department Director or designee, or supervisor is made aware that an employee or supervisor has made a report of workplace violence other than in good faith, the employee or supervisor may be disciplined according to the Nation's laws, policies, and rules governing employment, up to and including termination.

~~223.11~~12. **Confidentiality**

~~223.11-1. In appropriate circumstances, the EEO Officer may inform the reporting individual of the results of the investigation if doing so would not compromise the legally protected confidentiality of any other person.~~

223.12-1. To the greatest extent possible, the Nation shall maintain the confidentiality of employees and the investigation. However, the Nation may need to disclose results in appropriate circumstances; for example, in order to protect individual safety.

~~223.11~~12-2. Information related to the application of this law is strictly confidential. Information shall not be disclosed to third parties unless:

- (a) the prior written consent of the alleged victim is obtained;
- (b) the release of information ~~is in compliance~~complies with a court order; ~~and/or~~
- (c) the release of information is pursuant to applicable laws ~~and/or~~ policies.

~~223.12~~13. **Enforcement**

~~223.12~~13-1. ~~An~~Any employee or supervisor who violates this law may be subject to disciplinary action under the Nation's laws, policies, and rules governing employment, up to and including termination.

~~223.12-2. An employee who violates this law may be subject to removal from a workplace of the Nation.~~

End

Title 2. Employment – Chapter 223
WORKPLACE VIOLENCE
ONEIDA
TRANSLATION

223.1.	Purpose and Policy	Responsibilities	
223.2.	Adoption, Amendment, Appeal	223.10.	Employment Eligibility
223.3.	Definitions	223.11.	Fraudulent Report
223.4.	Application	223.12.	Confidentiality
223.5.	Prohibited Behavior	223.13.	Enforcement
223.6.	Reporting Workplace Violence		
223.7.	Reporting Restraining Orders and Injunctions		
223.8.	Future Workplace Violence		
223.9.	EEO ("Equal Employment Opportunity Department")		

223.1. Purpose and Policy

223.1-1. *Purpose.* The purpose of this law is to provide all Oneida Nation employees and visitors an environment that is free of violence and the threat of violence.

223.1-2. *Policy.* It is the policy of the Nation to provide a safe and secure environment for employees to work and conduct business by establishing the procedures by which incidents of workplace violence shall be addressed.

223.2. Adoption, Amendment, Repeal

223.2-1. This law was adopted by the Oneida Business Committee by resolution BC-06-28-17-E.

223.2-2. This law may be amended or repealed by the Oneida Business Committee or the Oneida General Tribal Council pursuant to the procedures set out in the Legislative Procedures Act.

223.2-3. 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.

223.2-4. 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.

223.2-5. This law is adopted under authority of the Constitution of the Oneida Nation.

223.3. Definitions

223.3-1. This section shall govern the definitions of words and phrases as used within this law. All words not defined herein shall be used in their ordinary and everyday sense.

(a) "EEO" means the Equal Employment Opportunity Department within the Nation's Human Resources Department.

(b) "EEO Officer" means the employee from within the EEO Department, or the employee the EEO Department assigns as designee, responsible for completing the requirements of section 223.9 of this law.

(c) "Employee" means any person employed by the Nation in one of the following capacities: full-time, part-time, emergency temporary, limited term, or on a contractual basis.

(d) "Final decision" means the ultimate decision issued from the EEO Department, the Nation's Human Resources Executive Director, and the employee's supervisor regarding the allegation and investigation of the incident of workplace violence.

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(e) “Harassing” means a pattern of conduct composed of a series of acts over a period of time evidencing a continuity of purpose; the purpose being intimidation, or creating a threat, and which serves no legitimate purpose.

(f) “Intimidation” means making others feel afraid or fearful through threatening behavior.

(g) “Nation” means the Oneida Nation.

(h) “Official duties” mean the duties of any employee of the Nation when that employee is actively performing their job requirements.

(i) “Roughhousing” means wildly playful, rough, noisy, or mischievous behavior.

(j) “Stalking” means unwanted or obsessive attention by an individual or group toward a specific person or more than one person. Stalking involves repeated visual or physical proximity, nonconsensual communication, or verbal, written, or implied threats, or a combination thereof, that would cause a reasonable person to feel unsafe.

(k) “Supervisor” means the person or entity responsible for directly overseeing the employee.

(l) “Threat” means the implication or expression of intent to inflict serious physical or emotional harm or actions that a reasonable person would interpret as a threat to their safety, the safety of a member of their family, or their property.

(m) “Weapon” means a firearm, knife, electric weapon, club, or any other object intended to cause harm to oneself or others.

(n) “Workplace” means any location owned and operated by the Nation, any location or event where an employee represents the Nation, including over-the-road travel in the Nation’s owned or rented vehicles, circumstances where the employee is being reimbursed for expenses for attending, participating, or the time and manner the employee spends traveling to and from the event.

(o) “Workplace Violence” means any intentional act committed by an employee in a workplace or in a setting or circumstance otherwise reasonably related to employment with the Nation that:

(1) inflicts, attempts to inflict, or threatens to inflict emotional or physical harm on another person; or

(2) inflicts, attempts to inflict, or threatens to inflict damage to property of the Nation or property of another.

223.4. Application

223.4-1. This law applies to all employees in any of the Nation’s workplaces and covers workplace violence whether the employee commits workplace violence during or outside the employee’s normal work hours as long as the incident of workplace violence is reasonably connected to the workplace.

223.5. Prohibited Behavior

223.5-1. *Prohibited Behaviors.* Examples of workplace violence include, but are not limited to, the following prohibited behaviors:

(a) intentionally causing physical injury to another person; which can include;

(1) hitting or shoving or

(2) throwing an object at an individual;

(b) fighting or roughhousing that may be dangerous to others;

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- (c) direct threats or intimidation;
- (d) implications or suggestions of violence;
- (e) stalking;
- (f) possessing, carrying, or using a weapon of any kind, whether in the open or concealed, on property of the Nation, including parking lots, in fleet vehicles, on other exterior premises, or while engaged in activities for the Nation;
- (g) physical restraint or confinement;
- (h) an established pattern of loud, disruptive, angry, or abusive language or behavior;
- (i) sending a threatening, harassing, or abusive message by e-mail, letter, fax, phone call, text message or any other form of electronic media, including all social media platforms;
- (j) using the workplace to violate restraining orders;
- (k) intentionally damaging property of the Nation or property of another; and
- (l) any other act that a reasonable person would perceive as constituting a threat of violence or actual violence.

223.5-2. *Exceptions to Prohibited Behavior.* An employee shall not be considered to have committed the prohibited behavior of possessing, carrying, or using a weapon under section 223.5-1(f) if the employee is actively:

- (a) performing official duties which require a weapon to be possessed, carried, or used and the weapon is possessed, carried, or used within the normal scope of those official duties;
- (b) participating in cultural activities or ceremonies on property of the Nation which require a weapon to be possessed, carried, or used and the weapon is possessed, carried, or used within the normal scope of the cultural activities or ceremonies;
- (c) hunting, fishing, or trapping on property of the Nation in accordance with the Nation's laws and rules governing hunting, fishing, and trapping and the weapon is possessed, carried, or used within the normal scope of hunting, fishing, or trapping; or
- (d) Any other action that is consistent with laws of the Nation.

223.6. Reporting Workplace Violence

223.6-1. EEO is responsible for investigating complaints, issuing the final decision, and all other duties and responsibilities detailed in section 223.9.

223.6-2. *Reporting by a non-employee.* Any non-employee is encouraged to report threats or observed workplace violence that occurs in the Nation's facilities and workplaces. A report of workplace violence given to an employee from a non-employee shall be promptly reported by the employee to EEO

223.6-3. *Permissive Reporting by an Employee.* Any employee may report workplace violence to EEO where the employee:

- (a) is the victim of workplace violence; or
- (b) has been threatened with workplace violence.

223.6-4. *Mandatory Reporting by an Employee.* Any employee shall promptly report workplace violence to EEO where the employee witnesses a threat or an incident of workplace violence or is informed by a non-employee of a threat or an incident of workplace violence.

- (a) *Emergency Situation.* If an emergency exists or the situation is one of immediate danger to the life and safety of a person, the employee shall, if possible, without causing themselves to be in danger, contact the Oneida Police Department or local law enforcement, and facility security, if appropriate, and take whatever emergency steps are

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available and appropriate to protect themselves from immediate harm. The employee shall report the incident to EEO as soon as possible.

(b) *Non-Emergency Situation.* If a non-emergency exists or the situation is not one of immediate danger to the life and safety of a person, the employee shall report the incident to EEO as soon as possible.

223.6-5. EEO and the Nation's Human Resources Department are responsible for communicating and sharing information with each other to ensure that all complaints and investigations are properly and timely handled.

223.6-6. Any employee can be in compliance with this law if the employee contacts or communicates, either verbally or in writing, with either EEO or the Nation's Human Resources Department to report an incident of workplace violence.

(a) If an employee verbally reports an incident of workplace violence to either EEO or the Nation's Human Resources Department, whichever department receives the report should instruct that employee to submit a written report to EEO.

223.7. Reporting Restraining Orders and Injunctions.

223.7-1. *Voluntary reporting.* Any employee who obtains a restraining order or injunction against another employee may provide EEO a copy of the signed order.

223.7-2. *Mandatory reporting.* Any employee who is issued a restraining order or injunction regarding another employee, shall immediately, upon receipt of the signed order against them, give a copy of the signed order to EEO.

(a) Any employee who does not immediately, upon receipt of a restraining order or injunction against them, provide a copy of the restraining order or injunction to EEO may be subject to disciplinary action under the Nation's laws, policies, and rules governing employment, up to and including termination.

223.7-3. EEO shall immediately provide copies of the restraining order or injunction to the employee's supervisor and the Nation's Human Resources Executive Director.

223.8. Future Workplace Violence

223.8-1. Where an employee has reason to believe that another employee may be victimized sometime in the future, either at the workplace or as a direct result of their employment with the Nation, the employee is encouraged to provide this information to EEO as soon as possible for an initial assessment pursuant to section 223.9. EEO shall inform the Oneida Police Department, local law enforcement, or facility security if appropriate.

223.8-2. *Anonymous threats.* If an employee learns of an anonymous threat, the employee shall immediately forward the information in a confidential manner to the Chief of the Oneida Police Department in accordance with the Nation's laws, policies, and rules governing anonymous letters. The employee shall also immediately notify EEO

223.9. EEO ("Equal Employment Opportunity Department") Responsibilities

223.9-1. EEO is responsible for investigating complaints of workplace violence and will delegate such responsibilities to one employee from within EEO, who shall be known as the EEO Officer.

223.9-2. When EEO receives a complaint of workplace violence, whether verbal or in writing, the EEO Officer shall promptly notify in writing the immediate supervisor of the employee being complained about so the immediate supervisor:

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- (a) is aware that the EEO Officer will be investigating the employee;
- (b) knows the EEO Officer may place the employee on investigative leave if they determine investigative leave to be necessary; and
- (c) knows they will be responsible, along with the EEO Officer and the Nation's Human Resources Executive Director, for implementing the final decision.

223.9-3. The EEO Officer shall promptly conduct a thorough investigation which may include the following duties:

- (a) coordinate with all involved agencies or departments; (b) meet with the employee filing the complaint;
- (b) visit the scene of the incident as soon as possible;
- (c) interview employees and other witnesses;
- (d) contact the Oneida Police Department or any other appropriate law enforcement agency when necessary;
- (e) send weekly updates to the employee's supervisor;
- (f) review relevant video surveillance footage if available, in accordance with standard operating procedures on the subject; and
- (g) conduct any other investigative methods necessary for a thorough investigation.

223.9-4. In performing these investigative duties, the EEO Officer shall not interfere in the investigation of any law enforcement agencies. If, at any time, criminal charges are brought against an employee as a result of an incident of workplace violence, the employee shall be placed on investigative leave in accordance with the Nation's laws, policies, and rules governing investigative leave.

223.9-5. The EEO Officer shall conclude the investigation when the EEO Officer obtains enough verifiable facts and information regarding the incident under investigation in order to make a safe and equitable final decision.

223.9-6. *Mitigation*. During the investigation, the EEO Officer and the Nation's Human Resources Executive Director are encouraged to examine the workplace for security risk factors and record any mitigating actions that could be implemented to prevent a similar occurrence of workplace violence.

223.9-7. *Investigative Leave*. The EEO Officer may place an employee alleged to be involved in an incident of workplace violence on investigative leave in accordance with the Nation's laws, policies, and rules governing investigative leave.

223.9-8. *Final decision*. The EEO Officer shall meet with the Nation's Human Resources Executive Director and the employee's supervisor to mutually determine an appropriate final decision.

- (a) *Format*. The final decision shall be in writing, contain justification, and be signed by the EEO Officer, the Nation's Human Resources Executive Director, and the employee's supervisor.

- (b) *Record keeping*. The final decision and all supporting documentation, included in the Investigative file, shall be filed with EEO for reporting purposes.

- (c) *Investigative file*. Three business days before the EEO Officer, the Nation's Human Resources Executive Director, and the employee's supervisor meet to determine the final decision, the EEO Officer should share the investigative file with the employee's supervisor.

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223.10. Employment Eligibility

223.10-1. *Employee Resignation.* An employee who resigns from their position when there is an ongoing workplace violence investigation or in lieu of termination shall not be eligible for hiring consideration in any position with the Nation. The employee may be eligible for employment in a different position with the Nation three (3) years from the date of resignation if the employee receives a pardon from the Nation's Pardon and Forgiveness Committee. The EEO Officer shall remain responsible for completing the investigation in the event an employee resigns during an investigation.

223.10-2. *Employee Termination.* If, as a result of the completed workplace violence investigation, the employee is terminated, the employee shall not be eligible for hiring consideration in any position with the Nation. The employee may be eligible for employment in a different position with the Nation five (5) years from the date of termination if the employee receives a pardon from the Nation's Pardon and Forgiveness Committee.

223.10-3. *Immediate eligibility.* If, as the result of a completed investigation, the EEO Officer, the Nation's Human Resources Executive Director, and the employee's supervisor mutually determine in the final decision that no incident of workplace violence occurred, a copy of the final decision shall be included in the employee's file and, if the employee resigned as a direct result of the workplace violence investigation, the employee shall be immediately eligible for re-hiring consideration with the Nation.

223.11. Fraudulent Report

223.11-1. If at any time EEO is made aware that an employee made a report of workplace violence other than in good faith, the employee may be disciplined according to the Nation's laws, policies, and rules governing employment, up to and including termination.

223.12. Confidentiality

223.12-1. To the greatest extent possible, the Nation shall maintain the confidentiality of employees and the investigation. However, the Nation may need to disclose results in appropriate circumstances; for example, in order to protect individual safety.

223.12-2. Information related to the application of this law is strictly confidential. Information shall not be disclosed to third parties unless:

- (a) the prior written consent of the alleged victim is obtained;
- (b) the release of information complies with a court order; or
- (c) the release of information is pursuant to applicable laws or policies.

223.13. Enforcement

223.13-1. Any employee who violates this law may be subject to disciplinary action under the Nation's laws, policies, and rules governing employment, up to and including termination.

End



WORKPLACE VIOLENCE LAW AMENDMENTS LEGISLATIVE ANALYSIS

SECTION 1. EXECUTIVE SUMMARY

Analysis by the Legislative Reference Office	
Intent of the Legislation or Amendments	- Clarify that this law applies to all employees, during or outside of any employee's normal work hours and as long as the alleged incident of workplace violence occurs in a setting reasonable connected to the workplace. [2 O.C. 223.4]. - Clarify what constitutes "prohibited behaviors." [2 O.C. 223.5]. - Clarify exceptions to "prohibited behaviors." [2 O.C. 223.5-2]. - Require that all complaints and investigations of alleged workplace violence be directed to and handled by the Equal Employment Opportunity Department ("EEO") within the Oneida Nation Human Resources Department ("HRD"). [2 O.C. 223.6-1; 223.9]. - Clarify that there will be a "final decision" which is the ultimate decision issued from the EEO Department, the Nation's Human Resources Executive Director, and the employee's supervisor regarding the allegation and investigation of the incident of workplace violence. [2 O.C. 223.9-8]. - Clarify the responsibilities of the EEO Department. The EEO Department will be responsible for assigning an EEO Officer who will investigate the complaint and be responsible for determining the final decision along with the Nation's Human Resources Executive Director and the employee's supervisor. [2 O.C. 223.9]. - Clarify that the EEO Department and the Nation's Human Resources Department are responsible for communicating and sharing information with each other to ensure all complaints and investigations are properly and timely handled. [2 O.C. 223.6-6]. - Clarify that verbal complaints are acceptable but whichever department receives the verbal complaint should direct that employee to submit a written complaint to the EEO Department. [2 O.C. 223.6-6(a)]. - Clarify the reporting of restraining orders and injunctions – when reporting is mandatory and when it is discretionary. [2 O.C. 223.7]. - Clarify employment eligibility for employees who resign during a workplace violence investigation or are terminated as a result of a workplace violence investigation. [2 O.C. 223.10]. - Various grammatical changes and other minor changes throughout the law.

Purpose	The purpose of this law is to provide all Oneida Nation employees and visitors an environment that is free of violence and the threat of violence. [2 O.C. 223.1-1].
Affected Entities	The Nation's Human Resources Department, the Nation's Equal Employment Opportunity Office, the Oneida Law Office, and all Oneida Nation employees and visitors.
Related Legislation	Investigative Leave law, Code of Ethics, Anonymous Letters Policy, Pardon and Forgiveness law, Public Peace law
Enforcement	The Workplace Violence law directs the EEO department, specifically the designated EEO Officer, to investigate all allegations of workplace violence. [2 O.C. 223.6-1]. The EEO Officer, the Nation's Human Resources Executive Director, and the employee's supervisor are responsible for determining the final decision, which is the ultimate conclusion of the investigation and the decision to take disciplinary actions, if any. [2 O.C.223.9-8]. The EEO Officer may place an employee alleged to be involved in an incident of workplace violence on investigative leave pursuant to the Nation's law and policies governing investigative leave. [2 O.C. 223.9-7]. Any employee who violates the Workplace Violence law may be subject to disciplinary action under the Nation's laws, policies, and rules governing employment, up to and including termination. [2 O.C 223.13].
Due Process	The Workplace Violence law directs the EEO Officer to promptly conduct a thorough investigation into allegations of workplace violence. [2 O.C. 223.9-3]. The law requires that when the EEO Department receives an allegation of workplace violence and assigns an EEO Officer to investigate, the assigned EEO Officer is required to notify the employee's immediate supervisor, so the immediate supervisor is aware that: ▪ the EEO Officer will be investigating the employee; ▪ the EEO Officer may place the employee on investigative leave; and ▪ they will be responsible, along with the EEO Officer and the Nation's Human Resources Executive Director for determining and implementing the final decision. [2 O.C. 223.9-2]. The law requires the EEO Officer to conclude the investigation when they obtain enough verifiable facts and information regarding the incident under investigation to make a safe and equitable final decision. [2 O.C. 223.9-5]. The EEO Officer may

	share the investigative file with the employee’s supervisor and the Nation’s Human Resources Executive Director, three days before they meet to determine the final decision. [2 O.C. 223.9-8(c)]. The EEO Officer is required to meet with the Nation’s Human Resources Executive Director and the employee’s supervisor to mutually determine a final decision. [2 O.C. 223.9-8]. The employee may be eligible for rehiring consideration with the Nation if they receive a pardon from the Nation’s Pardon and Forgiveness Committee. [2 O.C. 223.10]. Any employee who resigns while an investigation of workplace violence is pending or who is terminated as a result of the findings of a workplace violence investigation is eligible to re-apply for employment with the Nation, but only after a certain amount of time has passed and only if that employee receives a pardon from the Nation’s Pardon and Forgiveness Committee. [2 O.C. 223.10-1; 2 O.C. 223.10-2]. If an employee resigned while an investigation of workplace violence was pending and the results of the investigation determine that no incident of workplace violence occurred, the employee shall be immediately eligible for re-hiring. [2 O.C. 223.10-3].
Public Meeting	A public meeting has not yet been held.
Fiscal Impact	A fiscal impact statement prepared in accordance with the Legislative Procedures Act has not been requested.

SECTION 2. LEGISLATIVE DEVELOPMENT

- A. **Background.** The Workplace Violence law was originally adopted by the Oneida Business Committee on June 28, 2017, through resolution BC-06-28-17-E. The Workplace Violence law provides mechanisms for ensuring the safety of all employees and visitors to the Nation’s workplaces by ensuring all allegations and subsequent investigations of alleged workplace violence are handled by the Equal Employment Opportunity Department of the Nation. The Equal Employment Opportunity Department and the Nation’s Human Resources Department are responsible for sharing information with each other to ensure all complaints and investigations are properly and timely handled. [2 O.C. 223.6-5].
- B. **Request for Amendments.** This item was originally added to the Active Files List on February 6, 2019, at the request of the Nation’s Human Resources Department to address investigative enforcement and employee ineligibility. This item was readdded to the Active Files list on October 7, 2020. This item was added to the Active Files list for a third time on October 4, 2023. The sponsor of the Workplace Violence law amendments is Councilwoman Jennifer Webster.

SECTION 3. CONSULTATION AND OUTREACH

- Representatives from the following departments participated in the development of the amendments to this Law and legislative analysis:
 - the Equal Employment Opportunity Department (“EEO”);
 - the Nation’s Human Resources Department (“HRD”); and
 - Oneida Law Office.
- The following laws and policies of the Nation were reviewed in the drafting of this analysis:
 - Investigative Leave law [2 O.C 208];
 - Code of Ethics [2 O.C. 103];
 - Anonymous Letter Policy [3 O.C. 307];
 - Pardon and Forgiveness law [1 O.C. 126];
 - Public Peace law [3 O.C. 309]; and
 - Oneida Personnel Policies and Procedures.

SECTION 4. PROCESS

- A. The amendments to this Law comply with the process set forth in the Legislative Procedures Act.
 - On October 4, 2023, the Legislative Operating Committee added this Law to its Active Files List for amendments this legislative term.
 - On September 4, 2024, the Legislative Operating Committee accepted HRD’s request to amend the Workplace Violence law as information since the law was already on the Active Files List for amendments to be made.
 - On May 7, 2025, the Legislative Operating Committee approved the draft of the Workplace Violence law amendments and directed that a legislative analysis be developed.
- B. At the time this legislative analysis was developed the following work meetings had been held regarding the development of the amendments to this law:
 - August 29, 2021: LOC work meeting with EEO and HRD.
 - September 7, 2022: LOC work session.
 - September 21, 2022: LOC work session.
 - January 6, 2023: LOC work meeting with EEO and HRD.
 - January 31, 2023: LOC work meeting with EEO and HRD.
 - July 29, 2024: LOC meeting with EEO and HRD.
 - October 18, 2024: LOC work meeting with EEO, HRD, and the law office.
 - January 13, 2025: LOC work meeting with HRD and the law office.
 - February 14, 2025: LOC work meeting with EEO, HRD, and the law office.
 - February 19, 2025: LOC work session.
 - March 5, 2025: LOC work session.
 - May 2, 2025: LOC work meeting with EEO and HRD where the LOC informally approved the final draft.

SECTION 5. CONTENTS OF THE LEGISLATION

- A. ***Application of this Law.*** The proposed amendments to the Law expand its application to cover all incidents of workplace violence that occur in any of the Nation’s workplaces whether the employee commits workplace violence during or outside of the employee’s normal work hours and as long as the incident of workplace violence is reasonably connected to the workplace. [2 O.C. 223.4-1.]

- *Effect.* The proposed amendments clarify that this Law covers all employees of the Nation, even if an incident occurs outside of normal work hours. The proposed amendments further clarify that a prohibited behavior can be considered workplace violence as long as the incident is reasonably connected to the workplace. This proposed amendment clarifies and expands the scope of this Law and extends the Nation’s jurisdiction and the Nation’s ability to protect its employees.
- B. *Defining the “final decision.”*** The proposed amendments require the EEO Officer, the Nation’s Human Resources Executive Director, and the employee’s supervisor to mutually determine a final decision. [2 O.C. 223.9-8].
 - *Effect.* The proposed amendments make clear that there will be one (1), final decision regarding the alleged incident of workplace violence. That one (1), final decision will be mutually decided by the EEO Officer, Nation’s Human Resources Executive Director, and the employee’s supervisor. This ensures greater accountability for the Nation and ensures the process for deciding disciplinary measures is standardized.
- C. *Expanding the definitions of “workplace” and “workplace violence.”*** The proposed amendments clarify and expand the definitions of “workplace” and “workplace violence” to include any setting or circumstance, including traveling to or from a work-related event, and any setting or circumstance that is reasonably related to that employee’s employment with the Nation. [2 O.C. 223.3(n); 2 O.C. 223.3(o)].
 - *Effect.* The proposed amendments to the definitions expand and clarify the application of this law, which expands the Nation’s ability to protect its employees.
- D. *Redefining prohibited behaviors.*** The proposed amendments clarify specific examples of behaviors that can constitute workplace violence. [2 O.C. 223.5]. Currently, prohibited behaviors do not include social media platforms and the proposed amendments also clarify what it can mean to “intentionally caus[e] physical injury” and redefining “horseplay” to mean “fighting or roughhousing that may be dangerous to others” and require “an established pattern of loud, disruptive, angry, or abusive language or behavior.” [2 O.C. 223.5-1].
 - *Effect.* These proposed amendments clarify the types of behaviors the Nation will not tolerate from its employees and will make it easier for the Nation to identify and enforce.
- E. *Redefining the exceptions to prohibited behaviors.*** The law prohibits possessing, carrying, or using a weapon. [2 O.C. 223.5-1]. However, the proposed amendments have identified three exceptions to the prohibition of possessing, carrying, or using a weapon. [2 O.C. 223.5-2]. The proposed amendments clarify an exception applies to any employee of the Nation who is required to possess, carry, or use a weapon as part of their official duties. [2 O.C. 223.5-2(a)]. The proposed amendments make an exception for any employee actively engaged in cultural activities or ceremonies. [2 O.C. 223.5-2(b)]. The proposed amendments also make an exception for any employee actively hunting, fishing, or trapping. [2 O.C. 223.5-2(c)]. The proposed amendments allow these three exceptions as long as the employee is required to possess, use, or carry a weapon as part of their employment with the Nation, as part of cultural activities or ceremonies in which they are actively participating, or if the employee is actively hunting, fishing, or trapping according to the Nation’s laws and rules on hunting, fishing, or trapping and the employee possess, uses, or carries the weapon within the normal scope of those activities. [2 O.C. 223.5-2].

- *Effect.* This proposed amendment allows the Nation to continue to prohibit an employee from possessing, carrying, or using a weapon but it allows the Nation to make an exception for specific jobs and job-related duties, cultural activities, and hunting, fishing, and trapping.

F. Redefining the reporting, investigation, and disciplinary procedures. The proposed amendments clarify the duties of the EEO Department in conducting the investigation into allegations of workplace violence. [2 O.C. 223.9]. The proposed amendments clarify that when the EEO Department receives a complaint of workplace violence, the EEO Department will delegate the responsibility to investigate to one employee from within the EEO Department who will be known as the EEO Officer. [2 O.C. 223.9-1]. The proposed amendments clarify that all reports of workplace violence must be given to the EEO Department rather than the employee's supervisor. [2 O.C. 223.6-4]. The proposed amendments allow the EEO Officer, instead of the employee's supervisor, to place the employee on investigative leave pursuant to the Nation's Investigative Leave law, policies, and rules if the EEO Officer determines it will be necessary. [2 O.C. 223.9-7]. The proposed amendments clarify that the EEO Department and the Nation's Human Resources Department will communicate and share information with each other to ensure all complaints and investigations are properly and timely handled. [2 O.C. 223.6-5]. The proposed amendments clarify that the EEO Officer will conclude the investigation when they have obtained enough verifiable facts and information to make a safe and equitable decision. [2 O.C. 223.9-5]. The proposed amendments clarify the EEO Officer is responsible for meeting with the Nation's Human Resources Executive Director and the employee's supervisor to mutually determine a final decision. [2 O.C. 223.9-8]. The final decision shall be in writing, contain justification, and be signed by the EEO Officer, the Nation's Human Resources Executive Director, and the employee's supervisor. [2 O.C. 223.9-8(a)]. The EEO Department is responsible for keeping record of all supporting documentation included in the investigative file. [2 O.C. 223.9-8(b)]. The EEO Officer should share the investigative file with the Nation's Human Resources Executive Director and the employee's supervisor three business days before they meet to determine the final decision. [2 O.C. 223.9-8(c)].

- *Effect.* The proposed amendments simplify the process for the Nation and its employees to report an incident of workplace violence and then to have that incident be investigated and managed by standardizing the requirement that all complaints and investigations are handled by the EEO Department, specifically the EEO Officer. The proposed amendments also make determining any disciplinary procedures, if any, more equitable by requiring the EEO Officer, the Nation's Human Resources Executive Director, and the employee's supervisor meet and mutually determine disciplinary procedures, if any, and requiring the EEO Officer share the investigative file with the Nation's Human Resources Executive Director and the employee's supervisor before they meet to determine the final decision.

G. Redefining employment eligibility. The proposed amendments clarify that if an employee resigns during a workplace violence investigation that employee is not eligible for rehiring consideration with the Nation. [2 O.C. 223.10-1]. That employee may be eligible for rehiring consideration, in a different position, three (3) years after the date of resigning, if that employee receives a pardon from the Nation's Pardon and Forgiveness Committee. [2 O.C. 223.10-1]. The proposed amendments clarify that if an employee is terminated as the result of a workplace violence investigation, that employee is not eligible for rehiring consideration with the Nation but may be eligible for rehiring consideration, in a different position, five (5) years after the date of termination if that employee receives a pardon from the Nation's Pardon and Forgiveness Committee [2 O.C. 223.10-2]. The proposed amendments clarify that if an employee resigns during a workplace violence investigation but upon concluding the investigation, the

EEO Officer, the Nation's Human Resources Executive Director, and the employee's supervisor mutually determine that no incident of workplace violence occurred, that employee will be immediately eligible for rehiring consideration. [2 O.C. 223.10-3].

- **Effect.** The proposed amendments allow the Nation to further ensure the safety of its employees by making certain employees ineligible for employment with the Nation and requiring any employee subject to this law to receive a pardon from the Nation's Pardon and Forgiveness Committee before that employee may work for the Nation, even in a different position.

H. Other amendments. Overall, a variety of other amendments and revisions were made to the law to address formatting, drafting style, and organization that did not affect the substance of the law.

SECTION 6. EXISTING LEGISLATION

A. Related legislation and policy. The following laws and policy of the Nation are related to the proposed amendments to this law:

- **Investigative Leave Law.** The purpose of the Investigative Leave law is to set forth a process to address investigative leave for employees undergoing work-related investigations. [2 O.C. 208.1-1]. The law's underlying policy is to conduct objective, confidential investigations into alleged employee misconduct. [2 O.C. 208.1-2].
 - According to the Investigative Leave law, the Nation may place an employee on investigative leave when a situation requires an investigation and one of the following occurs:
 - The nature and severity of the alleged violation or alleged illegal activity is significant and can include workplace violence, sexual harassment, theft, arson, bribery, or perjury, or obstruction or interference with an investigation authorized by the Nation. [2 O.C. 208.4-1(a)].
 - The employee's presence in the workplace may result in the destruction of evidence relevant to the investigation, loss or damage to property of the Nation, or otherwise damage a legitimate interest of the Nation. [2 O.C. 208.4-1(b)].
 - The employee's presence in the workplace may pose an unacceptable risk to the life, safety, health, or personal property of other employees, contractors, vendors or visitors. [2 O.C. 208.4-1(c)].
 - The employee allegedly commits an act which would preclude the employee from meeting employment eligibility. [2 O.C. 208.4-1(d)].
 - The law defines workplace to mean any location owned and operated by the Nation, any location where employees are staffing an event sponsored by the Nation, and any location where an employee represents the Nation, including over-the-road travel in vehicles owned or rented by the Nation and any circumstances where an employee is being reimbursed for expenses. [2 O.C. 208.3].
 - The law does not define workplace violence but does identify workplace violence as one reason to place an employee on investigative leave. [2 O.C. 208.4-1(a)].
 - The proposed amendments align with the Investigative Leave law by requiring the EEO Officer to defer to the procedures of investigative leave if the EEO Officer determines investigative leave is necessary. [2 O.C. 223.9-7]. The EEO Officer is

responsible for conducting an investigation into allegations of workplace violence pursuant to the procedures required in the Workplace Violence law; however, the EEO Officer may place an employee on investigative leave pursuant to the Nation's Investigative Leave law.

- *Code of Ethics.* The purpose of this law is to promote the highest ethical conduct in all of its elected and appointed officials and employees. [1 O.C. 103.1].
 - This law expects an employee to report any violation of the Code of Ethics, as well as any other dishonest or illegal acts of which they become aware in the workplace. [1 O.C. 103.5-3(c)(1)].
 - This law also protects any employees who, in good faith, makes reports of any dishonest or illegal act in the workplace. [1 O.C. 103.5-3(c)(1)].
 - This law also prohibits fighting on the job or premises and possession of unauthorized firearms. [1 O.C. 103.5-3(c)(4)].
 - The proposed amendments align with the Code of Ethics law which expects an employee to report any violation of the Code of Ethics, as well as any other dishonest or illegal acts of which they become aware in the workplace, which would include instances of workplace violence. [1 O.C. 103.5-3(c)(1)].
- *Anonymous Letters Policy.* The purpose of this law is to set in place a system where anonymous information is forwarded to a location best able to verify its reliability and to act on the source or the accusation. [3 O.C. 307.1-1].
 - This law requires that any employee who receives anonymous information will forward a summary of that information in a confidential manner to the Chief of the Oneida Police Department. [3 O.C. 307.4-1]. This law also requires that all information forwarded will contain information identifying who received it, the day, date, and time received. [3 O.C. 307.4-2]. This law makes the Chief of the Oneida Police Department responsible to maintain the files on anonymous information and to take appropriate action consistent with police investigatory procedures. [3 O.C. 307.4-3].
 - The proposed amendments align with the Anonymous Letters Policy by requiring that if an employee learns of an anonymous threat, the employee shall immediately forward that information to the Chief of the Oneida Police Department in accordance with the Nation's laws, policies, and rules governing anonymous letters. [2 O.C. 223.8-2]. The proposed amendments will require an anonymous threat to be reported twice; once to the Chief of the Oneida Police Department pursuant to the Anonymous Letters Policy and once to the EEO Department pursuant to the Workplace Violence Law. [2 O.C. 223.6; 223.8-2].
- *Pardon and Forgiveness Law.* The purpose of the Law is to provide a fair, efficient, and formal process by which a Tribal member may receive a pardon for the conviction of a crime; a Tribal member may receive forgiveness for acts that render him or her ineligible for Tribal housing or other Tribal benefits; and a Tribal member or non-Tribal member may receive forgiveness for acts that render him or her ineligible for Tribal employment; an occupational license, certification or permit issued by the Tribe; or obtain housing through the Tribe or other benefits through the Tribe. [1 O.C. 126.1-1(a)].

- This law allows a Tribal member to apply for a pardon one (1) year after an act is committed. [1 O.C. 126-1(b)].
- This law allows a Tribal member to apply for a pardon or a forgiveness for an act that rendered the Tribal member ineligible for Tribal employment or an occupational license, certification, or permit issued by the Tribe. [1 O.C. 126-1].
- The proposed amendments align with the Pardon and Forgiveness law by requiring the any employee that resigns or is terminated during, or as the result of, a workplace violence investigation must receive a pardon from the Pardon and Forgiveness Committee before the employee is eligible for re-hiring consideration. [1 O.C. 126-1].
- *Public Peace Law.* The purpose of this law is to set forth community standards and expectations which preserve the peace, harmony, safety, health, and general welfare of individuals who live within the boundaries of the Reservation. [3 O.C. 309.1-1]. It is the policy of the Nation to promote peace and order within the boundaries of the Reservation while also providing an orderly process for addressing civil infractions. [3 O.C. 309.1-2].
 - This law makes certain actions civil infractions subject to a citation, which can include fines or other penalties, by the Oneida Police Department. [3 O.C. 309.11].
 - This law provides protections within the Reservation boundaries. [3 O.C. 309.1]. It would not apply to all instances of workplace violence, unless the workplace violence occurred within the Reservation boundaries.
 - This law applies when “[a] person commits” a civil infraction identified in the law; it does not define or require that a “person” be a tribal member. [3 O.C. 309].
 - This law gives the Oneida Trial Court and the Oneida Police Department the jurisdiction and authority to hear, investigate, and issue citations for any violation under this law. [3 O.C. 309.4].
 - The proposed amendments align with the Public Peace law by setting standards and protections for all employees of the Nation like the Public Peace law sets standards and protections for all persons within the Reservation boundaries. [3 O.C. 309.1-1]. This law’s enforcement mechanisms do not conflict with the Workplace Violence law.
- *Oneida Personnel Policies and Procedures.* The purpose of this policy is to provide for the Nation’s employee related policies and procedures including recruitment, selection, compensation and benefits, employee relations, safety and health, program and enterprise rules and regulations, and record keeping.
 - This policy has procedures for handling an employee who has a disagreement or complaint with another employee.
 - For employee disagreements with another employee, the employee’s immediate supervisor will investigate, resolve, and initiate any disciplinary actions.
 - The actions of threatening, attempting, or doing bodily harm to another person is subject to termination.
 - The actions of intimidating, interfering with or using abusive language towards customers, clients, co-workers, or others is subject to suspension or termination.

- A variety of other behaviors are subject to disciplinary actions ranging from a written warning, suspension, or termination, including any violation of an adopted Oneida Nation ordinance.
- The proposed amendments to the Workplace Violence law require stricter standards for the complaint, investigation, and disciplinary actions for complaints of workplace violence because of the seriousness of workplace violence. The proposed amendments still require the involvement of the employee's immediate supervisor in the determination of the final decision; however, the proposed amendments require that all workplace violence allegations and investigations will be handled by the EEO Department, as opposed to the employee's supervisor. [2 O.C. 223.6-1; 223.9]. The proposed amendments require that any disciplinary action determined in the final decision will be mutually determined by the EEO Officer, the Nation's Human Resources Executive Director, and the employee's immediate supervisor, as opposed to the Oneida Personnel Policies and Procedures which requires disciplinary action to be determined only by the employee's immediate supervisor.

SECTION 7. ENFORCEMENT AND ACCOUNTABILITY

- A. The Workplace Violence law gives authority to the EEO Department, specifically the EEO Officer, to investigate all complaints of alleged workplace violence. [2 O.C. 223.9-1].
- B. The Workplace Violence law requires that when the EEO Department receives a complaint of workplace violence, the EEO Department will delegate the investigative responsibilities to the EEO Officer who shall promptly inform the immediate supervisor of the employee being complained about so the immediate supervisor is aware:
 - the EEO Officer will be investigating the employee;
 - knows the EEO Officer may place the employee on investigative leave; and
 - knows they will be responsible, along with the EEO Officer and the Nation's Human Resources Director for deciding and implementing the final decision. [2 O.C. 223.9-1; 2 O.C. 223.9-2].
- C. The Workplace Violence law requires that the EEO Officer, the Nation's Human Resources Executive Director and the employee's supervisor mutually determine an appropriate final decision. [2 O.C. 223.9-8].
- D. The Workplace Violence law requires that the final decision be in writing, contain justification, and be signed by the EEO Officer, the Nation's Human Resources Executive Director, and the employee's supervisor. [2 O.C. 223.9-8(a)].
- E. The Workplace Violence law requires that the final decision and all supporting documentation included in the investigative file be filed with the EEO Department for reporting purposes. [2 O.C. 223.9-8(b)].
- F. The Workplace Violence law requires that three (3) business days prior to meeting to mutually determine the final decision, the EEO Officer should share the investigative file with the Nation's Human Resources Executive Director and the employee's supervisor. [2 O.C. 223.9-8(c)].
- G. If the EEO Department is made aware that an employee made a report of workplace violence other than in good faith, that employee may be disciplined according to the Nation's laws, policies, and rules governing employment, up to and including termination. [2 O.C. 223.11].
- H. To the greatest extent possible, the Nation shall maintain the confidentiality of employees and the investigation. [2 O.C. 223.12-1].

- I. Any employee who violates the Workplace Violence law may be subject to disciplinary action under the Nation's laws, policies, and rules governing employment, up to and including termination. [2 O.C. 223.13-1].

SECTION 8. OTHER CONSIDERATIONS

Fiscal Impact. Under the Legislative Procedures Act, a fiscal impact statement is required for all legislation except emergency legislation [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 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.

- **Conclusion.** The Legislative Operating Committee has not yet directed that a fiscal impact be completed.



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



AGENDA REQUEST FORM

- 1) Request Date: May 13, 2025
- 2) Contact Person(s): Shannon Davis
 Dept: GAO/Recording Clerk for OEB
 Phone Number: 869-4324 Email: Election_Board@oneidanation.org
- 3) Agenda Title: _____
- 4) Detailed description of the item and the reason/justification it is being brought before the LOC:
Requesting to have an emergency amendment to the Oneida Election
Law section 102.10-2 which states At least six (6) Election Board
members shall sign the election totals, which shall include the tape
signed by the members of the Nation before the polls were open per
section 102.9-3(a)

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

- 1) Election Law Section 102.10-2
- 2) _____
- 3) _____
- 4) _____
- 5) Please list any laws, policies or resolutions that might be affected:
None
- 6) Please list all other departments or person(s) you have brought your concern to:

- 7) Do you consider this request urgent? ☒ Yes ☐ No
 If yes, please indicate why:
Due to # of Board members and lack of alternates especially for Milwaukee site.

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

Signature of Requester:

Shannon Davis

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

Officials during the voting period.

102.8-5. Every person who intends to vote must sign his/her name on an official Voter Registration Form containing the voter's following information:

- (a) name and maiden name (if any);
- (b) current address;
- (c) date of birth; and
- (d) enrollment number.

Section D. Qualification/Verification of Voter Eligibility

102.8-6. Should a question or dispute arise as to the eligibility of a voter being qualified to vote, the Judges of the Election Officials appointed by the Election Board Chairperson shall meet with the Trust Enrollment Department personnel who are registering voters, to decide the voting member's eligibility currently being questioned and shall make such decisions from the facts available, whether the applicant is, in fact, qualified/verifiable under the Oneida Nation Constitution, Article III Section 2, to vote in the Nation's elections.

102.8-7. Any voter denied eligibility shall be allowed to vote, provided that the ballot shall be placed in an envelope, initialed by two (2) Election Officials, sealed and numbered. The name of the voter shall be written next to a numbered list which corresponds to the numbered and sealed envelope. The voter shall be required to mail a written appeal to the Election Board at P.O. Box 413, Oneida, Wisconsin, 54155, postmarked within two (2) business days of the election if they desire to challenge the decision made by the Election Officials. The Election Board shall make a final decision, within five (5) business days of receiving the appeal and shall report this decision in the final report sent to the Oneida Business Committee.

102.9. Election Process

Section A. Polling Places and Times

102.9-1. In accordance with Article III, Section 5 of the Oneida Nation Constitution, elections shall be held in the month of July on a date set by the General Tribal Council. The General Tribal Council shall set the election date at the January annual meeting, or at the first GTC meeting held during a given year. Special Elections shall be set in accordance with 102.12-6.

102.9-2. Elections shall be held in an Oneida Nation facility(s) as determined by the Election Board.

102.9-3. Voting for elections shall begin at 7:00 a.m. and shall end at 7:00 p.m. All voters in line to vote at 7:00 p.m. shall be allowed to vote.

- (a) If a ballot counting machine is used, the ballot counting machine shall be prepared prior to 7:00 a.m. on the day of the election. The Judges shall open the polls only after four (4) members of the Nation verify, through signature on the tape, the ballot box is empty and the ballot counting machine printer tape has a zero (0) total count.

102.9-4. At least one (1) Oneida Police Officer shall be present during the time the polls are open, and until the counting of ballots is completed, and tentative results posted.

102.9-5. The Election Board shall provide a voting area sufficiently isolated for each voter such that there is an area with at least two sides and a back enclosure.

102.9-6. No campaigning of any type shall be conducted within two hundred eighty (280) feet of the voting area, excluding private property.

102.9-7. No one causing a disturbance shall be allowed in the voting area.

102.9-8. Election Board members may restrict the voting area to qualified voters only. This restriction is in the interest of maintaining security of the ballots and voting process.

Section B. Ballot Box

102.9-9. All ballots being votes, shall be placed in a receptacle clearly marked "Ballot Box" and shall be locked until counting at the close of polls. Provided that, with electronic ballot counting, the ballots may be placed within the ballot counting machine as they are received.

Section C. Spoiled Ballots

102.9-10. If a voter spoils his/her ballot, he/she shall be given a new ballot.

102.9-11. The spoiled ballot shall be marked "VOID" and initialed by two (2) Election Officials and placed in an envelope marked as "Spoiled Ballots."

102.9-12. The Spoiled Ballot envelopes shall be retained and secured for no less than fifteen (15) calendar days following finalization of any challenge of the election, at the Records Management Department.

Section D. Rejected Ballots

102.9-13. Rejected Ballots are to be placed in a specially marked container and sealed.

(a) Computer rejected ballots shall be reviewed by the Election Officials to verify the authenticity of the ballot. Ballots rejected because of mutilation shall be added to the final computer total, provided that, a new ballot was not received as set out in sections 102.9-10 through 102.9-12.

(b) Ballots rejected, either during the computer process or during a manual counting, shall be reviewed by the Election Officials to verify that they are authentic. If the Election Officials determine that the ballot is not an official ballot, or that it is an illegal ballot, the ballot shall be designated 'void,' and placed in a sealed container marked "Void Ballots."

102.10. Tabulating and Securing Ballots

Section A. Machine Counted Ballots

102.10-1. When ballots are counted by machine, at the close of polls the Judges shall generate from the ballot counting machine copies of the election totals from the votes cast.

102.10-2. At least six (6) Election Board members shall sign the election totals, which shall include the tape signed by the members of the Nation before the polls were opened per section 102.9-3(a).

Section B. Manually Counted Ballots

102.10-3. When ballots are manually counted, at the close of polls the Judges shall unlock the ballot box and remove the ballots.

102.10-4. If the ballots need to be counted at a location other than the polling site, the ballots shall be secured in a sealed container for transportation to the ballot counting location. The sealed ballots shall be transported by an Oneida Police Officer with at least three (3) of the Election Officials for counting/tallying of ballots.

102.10-5. The sealed ballots shall be opened at the time of counting by the Election Officials and witnessed/monitored by an Oneida Police Officer.

102.10-6. Ballots must be counted by two different Election Officials until two final tallies are equal in back to back counting. Final tallies shall be verified by the Election Judges.

Section C. Securing Ballots



LEGISLATIVE OPERATING COMMITTEE

COMMUNITY MEETING

RESCHEDULED
WEDNESDAY, JUNE 18
~~WEDNESDAY, JUNE 4~~

5:30PM - 7:30PM

NORBERT HILL CENTER CAFETERIA

N7210 Seminary Rd, Oneida, WI 54155

Please join the Legislative Operating Committee (LOC) for a community meeting to gather input regarding the development of the following new laws for the Nation:

- ◆ **10 day Notice Policy Amendments**
- ◆ **Election Law Amendments**
- ◆ **Renewable Energy Law**

The LOC will have a brief overview of the legislative process prior to the discussion of the above mentioned topics. The LOC encourages everyone to come participate in the legislative process by providing comments, suggestions, and questions that the LOC can consider and utilize in the development of these new laws for the Nation.

Food from the Oneida Cannery will be provided during this community event.

LEGISLATIVE OPERATING COMMITTEE MEMBERS

Kirby Metoxen
LOC Vice Chairman



Jameson Wilson
LOC Chairman



Jennifer Webster
LOC Member



Marlon Skenandore
LOC Member



Jonas Hill
LOC Member



June 2025

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