



LEGISLATIVE OPERATING COMMITTEE MEETING AGENDA REVISED

Business Committee Conference Room - 2nd Floor Norbert Hill Center

June 18, 2025

9:00 a.m.

I. Call to Order and Approval of the Agenda

II. Minutes to be Approved

1. May 21, 2025 LOC Meeting Minutes (pg. 2)

III. Current Business

1. Landlord Tenants Law Amendments (pg. 4)
2. Election Law Emergency Amendments (pg. 40)
3. Hunting, Fishing, and Trapping Law Amendments (pg. 80)
4. Petition: S. Benton – Personnel Policies and Procedures Amendments #2025-01 (pg. 124)
5. Petition: S. Benton – Trial Court Rules Amendments #2025-02 (pg. 134)

IV. New Submissions

V. Additions

VI. Administrative Updates

VII. Executive Session

VIII. Recess/Adjourn



LEGISLATIVE OPERATING COMMITTEE MEETING MINUTES
Oneida Business Committee Conference Room-2nd Floor Norbert Hill Center
May 21, 2025
9:00 a.m.

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

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

Others Present on Microsoft Teams: David P. Jordan, Rae Skenandore, Eric Boulanger, Katsitsiyo Danforth, Kristal Hill, Fawn Cottrell, Ralinda Ninham-Lamberies, Kaylynn Gresham, Fawn Billie, Shannon Stone, Nicole Rommel, Heidi Janowski, Melissa Alvarado, Tavia James-Charles, Mark Powless, Taryn Webster, Leslie Lamberies, Daniel Habeck, Peggy Helm-Quest, Jason Martinez, Diana Taubel, Peggy Van Gheem, Candace House, Ronald Vanschyndel

I. Call to Order and Approval of the Agenda

Jameson Wilson called the May 21, 2025, Legislative Operating Committee meeting to order at 9:00 a.m.

Motion by Jennifer Webster to adopt the agenda with one addition: V.1 Rescheduled Summer LOC Community Meeting Notice; seconded by Jonas Hill. Motion carried unanimously.

II. Minutes to be Approved

1. May 7, 2025 LOC Meeting Minutes

Motion by Jennifer Webster to approve the May 7, 2025 LOC meeting minutes and forward to the Oneida Business Committee; seconded by Marlon Skenandore. Motion carried unanimously.

III. Current Business

1. Hunting, Fishing, and Trapping Law Amendments

Motion by Jennifer Webster to approve the updated draft and legislative analysis; seconded by Jonas Hill. Motion carried unanimously.

2. Landlord Tenant Law Amendments

Motion by Kirby Metoxen to approve the updated public comment review memorandum, draft, and legislative analysis for the proposed amendments to the Landlord Tenant law; seconded by Jennifer Webster. Motion carried unanimously.



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

3. Workplace Violence Law Amendments

Motion by Jennifer Webster to accept the updated draft and legislative analysis and defer to a work meeting to address the potential conflict before a public meeting is held; seconded by Kirby Metoxen. Motion carried unanimously.

IV. New Submissions

1. Election Law Emergency Amendments

Motion by Jennifer Webster to approve the request to process emergency amendments to the Election Law, noting Election Law Amendments are already on the Active Files List; seconded by Jonas Hill. Motion carried unanimously.

V. Additions

1. Rescheduled Summer LOC Community Meeting Notice

Motion by Jennifer Webster to approve the updated LOC Summer Community Meeting Notice and reschedule the Summer LOC Community Meeting to be held on June 18, 2025; seconded by Jonas Hill. Motion carried unanimously.

VI. Administrative Updates

VII. Executive Session

VIII. Adjourn

Motion by Jonas Hill to adjourn at 9:41 a.m.; seconded by Marlon Skenandore. Motion carried unanimously.



Legislative Operating Committee
June 18, 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.
- 12/18/24:** *Work Meeting.* Present: Jameson Wilson, Jonas Hill, Marlon Skenandore, Jennifer Webster, Kirby Metoxen, Clorissa Leeman, Carolyn Salutz, Kristal Hill, Fawn Billie, Fawn Cottrell, Maureen Perkins, Grace Elliott. The purpose of this meeting was to review inconsistencies in the law that were identified in the legislative analysis and gather direction on next steps.
- 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 Skenandore, 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.
- 5/21/25 LOC:** Motion by Kirby Metoxen to approve the updated public comment review memorandum, draft, and legislative analysis for the proposed amendments to the Landlord Tenant law; seconded by Jennifer Webster. Motion carried unanimously.
- Motion by Jennifer Webster to 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; seconded by Marlon Skenandore. Motion carried unanimously

Next Steps:

- Approve the adoption packet for the proposed amendments to the Landlord Tenant Law and forward to the Oneida Business Committee for consideration.



TO: Oneida Business Committee
FROM: Jameson Wilson, LOC Chairperson
DATE: June 25, 2025
RE: Adoption of Amendments to the Landlord Tenant Law

Please find the following attached backup documentation for your consideration of the adoption of amendments to the Landlord Tenant Law:

1. Resolution: Amendments to the Landlord Tenant Law
2. Statement of Effect: Amendments to the Landlord Tenant Law
3. Landlord Tenant Law Amendments Legislative Analysis
4. Landlord Tenant Law Amendments Draft (Redline)
5. Landlord Tenant Law Amendments Draft (Clean)
6. Landlord Tenant Law Amendments Fiscal Impact Statement

Overview

The purpose of the Landlord Tenant 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]. Amendments to the Landlord Tenant Law are being sought to:

- 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.

The Legislative Operating Committee developed the proposed amendments to the Landlord Tenant Law through collaboration with representatives from the Comprehensive Housing Division, Oneida Law Office, Land Management, and General Manager. The Legislative Operating Committee held seven (7) work meetings on the development of the amendments to the Landlord Tenant Law.

The development of the amendments to the Landlord Tenant Law complies with all processes and procedures required by the Legislative Procedures Act, including the development of a legislative analysis, a fiscal analysis, and the opportunity for public review during a public meeting and public comment period. *[1 O.C. 109.6, 109.7, 109.8]*.

The Legislative Operating Committee held a public meeting on the proposed amendments to the Landlord Tenant Law on March 14, 2025. No individuals provided public comments during this public meeting. The public comment period was then held open until March 21, 2025. One (1) individual provided written comments during the public comment period.

The amendments to the Landlord Tenant Law will become effective immediately, June 25, 2025.

Requested Action

Adopt the Resolution: Amendments to the Landlord Tenant Law.

Oneida Nation

Post Office Box 365

Phone: (920)869-2214



Oneida, WI 54155

BC Resolution # Amendments to the Landlord Tenant Law

- WHEREAS,** the Oneida Nation is a federally recognized Indian government and a treaty tribe recognized by the laws of the United States of America; and
- WHEREAS,** the Oneida General Tribal Council is the governing body of the Oneida Nation; and
- WHEREAS,** the Oneida Business Committee has been delegated the authority of Article IV, Section 1, of the Oneida Tribal Constitution by the Oneida General Tribal Council; and
- WHEREAS,** the Landlord Tenant Law ("the Law") was adopted by the Oneida Business Committee through resolution BC-10-12-16-C, and amended by resolution BC-12-13-17-D; and
- WHEREAS,** 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; and
- WHEREAS,** the amendments to the Law 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; and
- WHEREAS,** the amendments to the Law 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; and
- WHEREAS,** the amendments to the Law 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; and
- WHEREAS,** the amendments to the Law redefine "rule" to grant rulemaking authority solely to the Comprehensive Housing Division instead of jointly to the Land Commission and the Comprehensive Housing Division; and
- WHEREAS,** the amendments to the Law remove rulemaking authority over applicant selection for the issuance of rental agreements from both the Land Commission and the Comprehensive Housing Division; and
- WHEREAS,** the amendments to the Law organize the law to flow from general to specific in accordance with the Legislative Procedures Act; and
- WHEREAS,** the amendments to the Law 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; and
- WHEREAS,** the amendments to the Law 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; and

WHEREAS, the amendments to the Law remove language applying any section of this law to leases; and

WHEREAS, the amendments to the Law 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; and

WHEREAS, the amendments to the Law 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; and

WHEREAS, the 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)]; and

WHEREAS, the Legislative Operating Committee developed the proposed amendments to the Law through collaboration with representatives from the Comprehensive Housing Division, Land Management, Oneida Law Office, General Manager; and

WHEREAS, in accordance with the Legislative Procedures Act a legislative analysis and fiscal impact statement were completed for the proposed amendments to the Law; and

WHEREAS, the Legislative Operating Committee held a public meeting on the proposed amendments to the Law on March 14, 2025, with no individuals providing oral comments, and the public comment period for the amendments to this Law was held open until March 21, 2025, with one (1) individual providing written comments; and

NOW THEREFORE BE IT RESOLVED, the Oneida Business Committee hereby adopts the amendments to the Landlord Tenant Law, now known as the Landlord Tenant Law, which shall become effective on June 25, 2025.



Statement of Effect

Amendments to the Landlord Tenant Law

Summary

This resolution adopts amendments to the Landlord Tenant Law.

Submitted by: Grace L. Elliott, Staff Attorney, Legislative Reference Office

Date: June 18, 2025

Analysis by the Legislative Reference Office

This resolution adopts amendments to the Landlord Tenant Law. The purpose of the Landlord Tenant 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]. Amendments to the Landlord Tenant Law are being sought to:

- 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)].

Adoption of any legislation is required to comply with the Legislative Procedures Act ("the LPA"), which was adopted by the General Tribal Council through resolution GTC-01-07-13-A for the purpose of providing a standardized process for the adoption of laws of the Nation. [1 O.C. 109.1-1]. The Landlord Tenant Law amendments complied with all processes and procedures required by the LPA, including the development of a legislative analysis, a fiscal analysis, and the opportunity for public review during a public meeting and public comment period. [1 O.C. 109.6, 109.7, 109.8].

The Legislative Operating Committee held a public meeting on the proposed amendments to the Landlord Tenant Law on March 14, 2025. No individuals provided public comments during this public meeting. The public comment period was then held open until March 21, 2025. One (1) individual provided written comments during this public comment period.

The amendments to the Landlord Tenant Law will become effective immediately on June 25, 2025.

Conclusion

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



LANDLORD TENANT LAW AMENDMENTS LEGISLATIVE ANALYSIS

SECTION 1. EXECUTIVE SUMMARY

<i>Analysis by the Legislative Reference Office</i>	
Intent of the Legislation or Amendments	<ul style="list-style-type: none"> ▪ 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: <ul style="list-style-type: none"> • 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)].

	<ul style="list-style-type: none"> ▪ Remove language applying any section of this law to leases. <i>[6 O.C. 611.5-3]</i>. ▪ 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. <i>[6 O.C. 611.4-(b)(1)(C)]</i>. ▪ 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. <i>[6 O.C. 611.5-3(c)(4)]</i>. ▪ 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: <ul style="list-style-type: none"> • 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. <i>[6 O.C. 611.6-1(b), (c), (e), and (f)]</i>. ▪ 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. <i>[6 O.C. 611.1-1]</i> .
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. <i>[6 O.C. 611.3-1(g)]</i> . 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; <i>[6 O.C. 611.9-2]</i> . Where the Nation is the landlord, any complaint filed with the judiciary shall name the Comprehensive Housing Division and the specific program. <i>[6 O.C. 611.9-3]</i> .
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. <i>[6 O.C. 611.10-2(b)]</i> . The Oneida Judiciary is granted jurisdiction to hear complaints filed under the law and/or a rental agreement. <i>[6 O.C. 611.9-1]</i> .
Public Meeting	A public meeting was held on March 14, 2025. The public comment period was then held open until March 21, 2025.

Fiscal Impact

A fiscal impact statement was provided by the Finance Department on June 2, 2025.

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.
 - On May 21, 25, the Legislative Operating Committee approved the updated public comment review memorandum, draft, and legislative analysis for the proposed amendments to the Landlord Tenant law, and the fiscal impact statement request memorandum and forwarded the materials to the Finance Department directing that fiscal impact statement be prepared and submitted to the LOC by June 6, 2025.
- 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.
 - May 7, 2025: 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 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].
 - According to the Eviction and Termination law, the Nation, as the owner or landlord, may terminate a contract prior to the contract term and evict the occupant, if the occupant:
 - Violates the terms of the contract;
 - Is alleged to have violated any applicable law or rule; and/or
 - Is alleged to have committed one or more nuisance activities. [6 O.C. 610.5-1].
 - The law defines nuisance as an occupant's interference with another occupant's use and enjoyment of the premises, including, but not limited to, harassment, disorderly conduct, battery, lewd and lascivious behavior, prostitution, theft, possession of stolen property, arson, illegal drug activity, gambling, animal violations, trespassing, weapons violations, habitual noise violations, execution of warrants, alcohol violations, obstruction/resisting and inspection related calls in which a law enforcement agency responds. [6 O.C. 610.3-1(e)].
- **Leasing Law.** The purpose of the Leasing Law is to set forth the Nation's authority to issue, review, approve, as well as enforce, leases and was established in accordance with the Helping Expedite and Advance Responsible Tribal Home Ownership Act of 2021 (HEARTH Act) so that the Nation can approve leases on its land without having to obtain additional approval from the Secretary of the Interior. [6 O.C. 602.1- 1]. The policy behind the law is to codify the expectations and responsibilities of the lessor and lessee when leasing Tribal land and to ensure that the leasing of Tribal land results in minimal risk to the Nation. [6 O.C. 602.1-2].
 - According to the Leasing Law leases approved under the Law are subject to all of the Nation's laws, except to the extent those laws are inconsistent with applicable federal law. [6 O.C. 602.4-3]. Any landlord leasing land from the Nation through the Leasing Law is subject to all other laws of the Nation including the Eviction and Termination Law as well as the Landlord Tenant Law.
- **Judiciary Law.** The purpose of the Judiciary law is to establish a Judiciary, and to provide for the administration of law, justice, judicial procedures and practices by the Oneida 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].
 - This Law provides that the Oneida Judiciary is granted jurisdiction to hear complaints filed under the law and/or a rental agreement. [6 O.C. 611.9-1].
- **Real Property law.** The purpose of the Real Property law is to provide regulations and procedures for the transfer, control and management of the territory within the Reservation and all Tribal land; to integrate these regulations and procedures with the real property laws and practices of other federal and state sovereigns which may hold jurisdiction within the Reservation; and to establish

licensing and certification requirements for the Nation's employees dealing with real property transactions. [6 O.C. 601.1-1].

- According to the Real Property Law the Comprehensive Housing Division oversees all residential transactions within the Reservation and shall administer such transactions using the applicable laws of the Nation including the Landlord Tenant law. [6 O.C. 601.12-1].
- *Administrative Rulemaking.* The purpose of the Administrative Rulemaking law is to provide a process for the adoption of and amendments to the Nation's administrative rules. [1 O.C. 106.1-1]. Its underlying policy is to ensure there exists 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. 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

213 titled, “*Further Interpretation of ‘Fiscal Impact Statement’ in the Legislative Procedures Act,*” provides
214 further clarification on who the Legislative Operating Committee may direct complete a fiscal impact
215 statement at various stages of the legislative process, as well as timeframes for completing the fiscal impact
216 statement.

- 217 ▪ *Conclusion.* The Legislative Operating Committee received a fiscal impact statement from the
218 Finance Department on June 2, 2025.

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

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 resolutions BC-12-13-17-D and BC- - - - .

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 ~~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~~ 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
Amended—BC- - - -

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

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 resolutions BC-12-13-17-D and BC- - - .

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
Amended—BC- - - -

FINANCE ADMINISTRATION

Fiscal Impact Statement



MEMORANDUM

TO: Oneida Business Committee

FROM: RaLinda Ninham-Lamberies, Chief Financial Officer

DATE: June 2, 2025

RE: **Fiscal Impact Statement of the Proposed Amendments to the Landlord Tenant Law**

I. Estimated Fiscal Impact Summary

Law: Amendments to the Landlord Tenant Law		Draft 1
Implementing Agency	The Comprehensive Housing Division Oneida Judiciary	
Estimated time to comply	10 days	
Estimated Impact	Current Fiscal Year	10 Year Estimate
Total Estimated Fiscal Impact	\$0	\$0

II. Background

This Law was 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 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. The amendments to the legislation include the following:

- Expand the laws applicability to Include all land owned by the Nation or members of the Nation within the Reservation boundaries.
- Expand the processes to apply to those listed above.
- Eliminate the Land Commission's rulemaking authority.
- Assure compliance with the Eviction and Termination Law.
- Make provisions for alternate housing when reasonable if property has become untenable.
- Expand child protections.

III. Methodology and Assumptions

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

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

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

IV. Findings

There are no start-up costs, no increases in personnel are needed, and no increases in office or documentation costs.

V. Financial Impact

There is no fiscal impact of implementing this legislation.

VI. Recommendation

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



Legislative Operating Committee
June 18, 2025

Election Law Emergency Amendments

Submission Date: 2/19/25	Public Meeting: N/A
LOC Sponsor: Jonas Hill	Emergency Enacted: N/A

Summary: *This item was added to the Active Files List on February 19, 2025. Amendments to the Election law are being sought to address how referendums are handled by the Nation.*

On May 13, 2025, the LOC received a request from Shannon Davis, GAO Recording Clerk, on behalf of the Oneida Election Board to consider emergency amendments to the Election law to lower the number of Election Board members required to sign the election totals from six (6) to three (3) members due to the lack of available Oneida Election Board members and alternates, especially in the Milwaukee polling site. On May 21, 2025, the Legislative Operating Committee decided to pursue these emergency amendments to the Election law.

2/19/25 LOC: Motion by Marlon Skenandore to add the Election law amendments to the Active Files List with Jonas Hill as the sponsor; seconded by Jennifer Webster. Motion carried unanimously.

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 decide on what topics will be included on the June 4, 2025, LOC Community Meeting. The LOC decided to cover the Election Law Amendments, Ten Day Notice Policy Amendments, and Renewable Energy Law.

5/1/25: *E-Poll Conducted.* This e-poll was titled, Approval of the Sanctions and Penalties Law Public Meeting Packet and Summer LOC Community Meeting Notice. The requested action of this e-poll was to approve the public meeting packet for the Sanctions and Penalties law and forward the Sanctions and Penalties law to a public meeting to be held on June 13, 2025; and approve the Summer LOC Community Meeting Notice and schedule a community meeting to be held on June 4, 2025. This e-poll was approved by Jennifer Webster, Marlon Skenandore, Jonas Hill, and Kirby Metoxen.

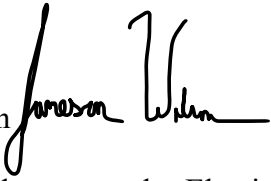
5/7/25 LOC: Motion by Jennifer Webster to enter into the record the results of the May 1, 2025, e-poll entitled, Approval of the Sanctions and Penalties Law Public Meeting Packet and Summer LOC Community Meeting Notice; seconded by Marlon Skenandore. Motion carried unanimously.

5/21/25 LOC: Motion by Jennifer Webster to approve the request to process emergency amendments to the Election Law, noting Election Law Amendments are already on the Active Files List; seconded by Jonas Hill. Motion carried unanimously.

Next Steps:

- Approve the Election Law Emergency Adoption Packet and forward to the Oneida Business Committee for consideration.



TO: Oneida Business Committee
FROM: Jameson Wilson, LOC Chairman 
DATE: June 18, 2025
RE: Adoption of Emergency Amendments to the Election Law for the 2025 Special Election

Please find the following attached backup documentation for your consideration of an emergency amendments to the Election law:

1. Resolution: Emergency Amendments to the Election Law for the 2025 Special Election
2. Statement of Effect: Emergency Amendment to the Election Law for the 2025 Special Election
3. Election law Emergency Amendments Legislative Analysis
4. Election law Emergency Amendments Draft (Redline)
5. Election law Emergency Amendments (Clean)

Overview

Emergency amendments to the Election law are being sought for the 2025 Special Election. On May 13, 2025, the Legislative Operating Committee received a request from the Oneida Election Board to consider emergency amendments to the Election law to ensure the 2025 Special Election can be conducted in an efficient and lawful manner. The Election law governs the procedures for the conduct of orderly elections of the Nation, including pre-election activities such as caucuses and nominations. [1 O.C. 102.1-1]. The emergency amendments to the Election law will reduce the number of Election Board members required to sign the election totals from six (6) to three (3). [1 O.C. 102.10-2].

The Oneida Business Committee can temporarily enact legislation when legislation is necessary for the immediate preservation of the public health, safety, or general welfare of the Reservation population, and the amendment of the legislation is required sooner than would be possible under the Legislative Procedures Act. [1 O.C. 109.9-5]. A fiscal impact statement and public meeting are not required for emergency legislation. [1 O.C. 109.9-5(a)].

The emergency amendments to the Election law are necessary for the preservation of the general welfare of the Reservation population to ensure that the 2025 Special Election can occur in an efficient and lawful manner. The 2025 Special Election is scheduled for July 12, 2025. The number of Election Board members required to sign the election totals is being reduced from six (6) to three (3) due to the Election Board's concern that there will not be enough Election Board members to meet the original requirement for six (6) members. The Election Board has provided that they have not been able to secure an adequate number of alternate positions for the 2025 Special Election.

Additionally, observance of the requirements under the Legislative Procedures Act for the adoption of the amendments to the Election law would be contrary to public interest and the process and requirements of the Legislative Procedures Act cannot be completed in time to allow the proposed emergency amendments to be adopted and implemented prior to the July 12, 2025 Special Election.

The adoption of the emergency amendments to the Election law will take effect immediately upon adoption by the Oneida Business Committee. The emergency amendments to the Election law will remain effective for six (6) months. The Legislative Procedures Act provides the possibility to extend the emergency amendment for an additional six (6) months, or until the emergency amendment expires or is permanently adopted. *[1 O.C. 109.9-5(b)]*.

Requested Action

Adopt the Resolution: Emergency Amendments to the Election Law for the 2025 Special Election

Oneida Nation

Post Office Box 365

Phone: (920)869-2214



Oneida, WI 54155

BC Resolution # Emergency Amendments to the Election Law for the 2025 Special Election

- 1 **WHEREAS,** the Oneida Nation is a federally recognized Indian government and a treaty tribe
- 2 recognized by the laws of the United States of America; and
- 3
- 4 **WHEREAS,** the Oneida General Tribal Council is the governing body of the Oneida Nation; and
- 5
- 6 **WHEREAS,** the Oneida Business Committee has been delegated the authority of Article IV, Section 1,
- 7 of the Oneida Tribal Constitution by the Oneida General Tribal Council; and
- 8
- 9 **WHEREAS,** the Election law ("the Law") was adopted by the General Tribal Council on June 19, 1993
- 10 for the purpose of governing the procedures for the conduct of orderly elections of the
- 11 Nation, and was most recently amended by the General Tribal Council through resolution
- 12 GTC-04-23-17-A; and
- 13
- 14 **WHEREAS,** the Oneida Election Board has requested emergency amendments to the Election law to
- 15 ensure the 2025 Special Election can be conducted in an efficient and lawful manner; and
- 16
- 17 **WHEREAS,** the 2025 Special Election is scheduled for July 12, 2025; and
- 18
- 19 **WHEREAS,** section 102.10-2 of the Law requires that at least six (6) Oneida Election Board members
- 20 sign the election totals of machine counted ballots, which shall include the tape signed by
- 21 the members of the Nation before the polls were opened per section 102.9-3(a); and
- 22
- 23 **WHEREAS,** the proposed emergency amendments to the Law will reduce the number of Election Board
- 24 members required to sign the election totals from six (6) to three (3); and
- 25
- 26 **WHEREAS,** reducing the number of Election Board members required to sign the election totals
- 27 addresses the Election Board's concerns that they will not have enough Oneida Election
- 28 Board members or alternates to meet the requirement of section 102.10-2 of the Law; and
- 29
- 30 **WHEREAS,** the Legislative Procedures Act authorizes the Oneida Business Committee to enact
- 31 legislation on an emergency basis, to be in effect for a period of six (6) months, renewable
- 32 for an additional six (6) months; and
- 33
- 34 **WHEREAS,** emergency adoption of legislation is allowed when legislation is necessary for the
- 35 immediate preservation of the public health, safety, or general welfare of the Reservation
- 36 population, and the amendment of the legislation is required sooner than would be possible
- 37 under the Legislative Procedures Act; and
- 38
- 39 **WHEREAS,** the emergency adoption of the amendments to the Law are necessary for the preservation
- 40 of the general welfare of the Reservation population to ensure that the 2025 Special
- 41 Election can occur in an efficient and lawful manner in accordance with the requirements
- 42 of the Election law; and
- 43

WHEREAS, observance of the requirements under the Legislative Procedures Act for adoption of these amendments would be contrary to public interest and the process and requirements of the Legislative Procedures Act cannot be completed in time to allow the proposed amendments to be adopted and implemented prior to the July 12, 2025 Special Election; and

WHEREAS, the Legislative Procedures Act does not require a public meeting or fiscal impact statement when considering emergency legislation; and

NOW THEREFORE BE IT RESOLVED, the Oneida Business Committee hereby adopts the emergency amendment to the Election Law effective immediately.



Statement of Effect

Emergency Amendments to the Election Law for the 2025 Special Election

Summary

This resolution adopts emergency amendments to the Election law ensure the 2025 Special Election can be conducted in an efficient and lawful manner.

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

Date: June 18, 2025

Analysis by the Legislative Reference Office

This resolution adopts emergency amendments to the Election law. The Election law governs the procedures for the conduct of orderly elections of the Nation, including pre-election activities such as caucuses and nominations. [1 O.C. 102.1-1]. The emergency amendments to the Election law will:

- Reduce the number of Election Board members required to sign the election totals from six (6) to three (3). [1 O.C. 102.10-2].

The Legislative Procedures Act (“the LPA”) was adopted by the General Tribal Council for the purpose of providing a process for the adoption or amendment of laws of the Nation. [1 O.C. 109.1-1]. The LPA allows the Oneida Business Committee to take emergency action where it is necessary for the immediate preservation of the public health, safety, or general welfare of the Reservation population and when enactment or amendment of legislation is required sooner than would be possible under the LPA. [1 O.C. 109.9-5]. A public meeting and fiscal impact statement are not required for emergency legislation. [1 O.C. 109.8-1(b) and 109.9-5(a)].

The 2025 Special Election is scheduled for July 12, 2025. The Oneida Election Board requested emergency amendments to the Election law to ensure that the 2025 Special Election can be conducted in an efficient and lawful manner.

Section 102.10-2 of the Law requires that at least six (6) Oneida Election Board members sign the election totals of machine counted ballots, which shall include the tape signed by the members of the Nation before the polls were opened per section 102.9-3(a). The reduction of the number of Election Board members required to sign the election totals from six (6) to three (3) was made due to the Election Board’s concern that there will not be enough eligible Election Board members or alternates to meet the original requirement for six (6) members.

The resolution provides that the emergency amendment to the Election law is necessary for the preservation of the general welfare of the Reservation population to ensure that the 2025 Special Election can occur in an efficient and lawful manner in accordance with the requirements of the Election law. Additionally, observance of the requirements under the LPA for the adoption of the amendment to the Election law would be contrary to public interest and the process and

requirements of the Legislative Procedures Act cannot be completed in time to allow the proposed amendments to be adopted and implemented prior to the July 12, 2025, Special Election.

The adoption of the emergency amendment to the Election law will take effect immediately upon adoption by the Oneida Business Committee. The emergency amendment to the Election law will remain effective for six (6) months. The LPA provides the possibility to extend the emergency amendment for an additional six (6) months, or until the emergency amendment expires or is permanently adopted. [1 O.C. 109.9-5(b)].

Conclusion

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



ELECTION LAW EMERGENCY AMENDMENTS LEGISLATIVE ANALYSIS

SECTION 1. EXECUTIVE SUMMARY

<i>Analysis by the Legislative Reference Office</i>	
Intent of the Proposed Amendments	Reduce the number of Election Board members required to sign the election totals of machine counted ballots from six (6) to three (3) members. [1 O.C. 102.10-2].
Purpose	To govern the procedures for the conduct of orderly elections of the Nation, including pre-election activities such as caucuses and nominations. [1 O.C. 102.1-1]
Affected Entities	Oneida Nation Election Board.
Public Meeting	A public meeting is not required for emergency legislation. [1 O.C. 109.8-1(b) and 109.9-5(a)].
Fiscal Impact	A fiscal impact statement is not required for emergency legislation. [1 O.C. 109.9-5(a)].
Expiration of Emergency Legislation	Emergency legislation expires six (6) months after adoption and may be renewed for an additional six (6) month period.

SECTION 2. LEGISLATIVE DEVELOPMENT

A. Background. The Election law was first adopted on June 19, 1993, and most recently amended by the General Tribal Council on April 23, 2017. The Law governs the procedures for the conduct of orderly elections of the Nation. [1 O.C. 102.1-1].

B. Request for Emergency Amendments. On May 13, 2025, the Legislative Operating Committee received a request from the Oneida Election Board to consider emergency amendments to the Election law to ensure the 2025 Special Election can be conducted in an efficient and lawful manner.

- The Nation's 2025 Special Election is scheduled for July 12, 2025.
- Section 102.10-2 of the Election Law requires that at least six (6) Election Board members sign the election totals on machine counted ballots. The Oneida Election Board provided that they do not have enough Oneida Election Board members or alternates to meet the requirement of section 102.10-2. The Oneida Election Board therefore made the request to amend the Election law on an emergency basis to reduce the number of Oneida Election Board members who are required to sign the election totals on machine counted ballots from six (6) to three (3).
- The Legislative Operating Committee determined these amendments should be pursued on an emergency basis for the immediate preservation of the general welfare of the Reservation population.

SECTION 3. CONSULTATION AND OUTREACH

- Representatives from the following departments or entities participated in the development of this Law and legislative analysis:
 - Oneida Election Board.

SECTION 4. PROCESS

- B. These amendments are being considered on an emergency basis. The Oneida Business Committee may temporarily enact an emergency legislation where legislation is necessary for the immediate preservation of public health, safety, or general welfare of the Reservation population and enactment or amendment of legislation is required sooner than would be possible under this law. [1 O.C. 109.9-5].
- The emergency adoption of amendments to this Law are necessary for the preservation of the general welfare of the Reservation population in order to ensure that the 2025 Special Election can occur in an efficient and lawful manner.
 - Observance of the requirements under the Legislative Procedures Act for adoption of the emergency amendments to this Law would be contrary to public interest and the process and requirements of the Legislative Procedures Act cannot be completed in time to allow the proposed emergency amendments to be adopted and implemented prior to the July 12, 2025, Special Election.
- C. The emergency amendments will expire six (6) months after adoption, with one (1) opportunity for a six (6) month extension of the emergency amendments. [1 O.C. 109.9-5(b)].
- D. The Legislative Procedures Act does not require a public meeting or fiscal impact statement when considering emergency legislation. [1 O.C. 109.9-5(a)]. However, a public meeting and fiscal impact statement will eventually be required when considering permanent adoption of this Law.
- E. The Election law was already on the Active Files List for comprehensive amendments to be developed, but on May 21, 2025, the Legislative Operating Committee acknowledged that they would pursue these emergency amendments.

SECTION 5. CONTENTS OF THE LEGISLATION

- A. ***Election Board Members Signature on Machine Counted Ballots.*** The proposed amendments lower the number of Oneida Election Board members that are required sign the election totals for machine counted ballots, which includes the tape signed by the members of the Nation before the polls were opened, from six (6) to three (3). [1 O.C. 102.10-2].
- *Effect.* This emergency amendment was made to the Law based on the Election Board's concern that there will not be enough Election Board members to meet the original requirement of section 102.10-2 for six (6) members to sign the election totals. The Election Board has provided that they currently do not have enough eligible members or alternates to meet this requirement.

SECTION 6. EXISTING LEGISLATION

- A. ***Related Legislation.*** The following laws of the Nation are related to the emergency amendments to this Law:
- *Legislative Procedures Act.* The Legislative Procedures Act was adopted by the General Tribal Council on January 7, 2013, for the purpose of providing a standard process for the adoption of laws of the Nation which includes taking into account comments from members of the Nation and input from agencies of the Nation. [1 O.C. 109.1-1, 109.1-2].
 - The Legislative Procedures Act provides a process for the adoption of emergency legislation when the legislation is necessary for the immediate preservation of the public health, safety, or general welfare of the Reservation population and the

enactment or amendment of legislation is required sooner than would be possible under this law. [1 O.C. 109.9-5].

- The Legislative Operating Committee is responsible for first reviewing the emergency legislation and for forwarding the legislation to the Oneida Business Committee for consideration. [1 O.C. 109.9-5(a)].
- The proposed emergency legislation is required to have a legislative analysis completed and attached prior to being sent to the Oneida Business Committee for consideration. [1 O.C. 109.9-5(a)].
 - a. A legislative analysis is a plain language analysis describing the important features of the legislation being considered and factual information to enable the Legislative Operating Committee to make informed decisions regarding legislation. A legislative analysis includes a statement of the legislation's terms and substance; intent of the legislation; a description of the subject(s) involved, including any conflicts with Oneida or other law, key issues, potential impacts of the legislation and policy considerations. [1 O.C. 109.3-1(g)].
- Emergency legislation does not require a fiscal impact statement to be completed or a public comment period to be held. [1 O.C. 109.9-5(a)].
- Upon the determination that an emergency exists the Oneida Business Committee can adopt emergency legislation. The emergency legislation becomes effective immediately upon its approval by the Oneida Business Committee. [1 O.C. 109.9-5(b)].
- Emergency legislation remains in effect for a period of up to six (6) months, with an opportunity for a one-time emergency law extension of up to six (6) months. [1 O.C. 109.9-5(b)].
- Adoption of these proposed emergency amendments would conform with the requirements of the Legislative Procedures Act.

SECTION 7. OTHER CONSIDERATIONS

A. *Deadline for Permanent Adoption of Legislation.* The adoption of emergency amendments to the Law expires six (6) months after adoption. The emergency legislation may be renewed for an additional six (6) month period.

- *Conclusion:* The Legislative Operating Committee will need to determine if the adoption of these amendments is necessary on a permanent basis, and if so, develop the permanent amendments to this Law within the next six (6) to twelve (12) months.

B. *Fiscal Impact.* A fiscal impact statement is not required for emergency legislation.

- Under the Legislative Procedures Act, a fiscal impact statement is required for all legislation except emergency legislation [1 O.C. 109.6-1].

Title 1. Government and Finances - Chapter 102

ELECTION

Onayote'a'ká· Tho Ni· Yót Tsi? Ayethiyataláko Tsi? Kayanl'hsla

People of the Standing Stone how it is we will appoint them the kind of laws we have

102.1. Purpose and Policy	102.8. Registration of Voters
102.2. Adoption, Amendment, Repeal	102.9. Election Process
102.3. Definitions	102.10. Tabulating and Securing Ballots
102.4. Election Board	102.11. Election Outcome and Ties
102.5. Candidate Eligibility	102.12. Elections
102.6. Selection of Candidates	102.13. Oneida Nation Constitution and By-law Amendments
102.7. Notice of Polling Places	

102.1. Purpose and Policy

102.1-1. It is the policy of the Nation that this law shall govern the procedures for the conduct of orderly elections of the Nation, including pre-election activities such as caucuses and nominations. Because of the desire for orderly and easily understood elections, there has not been an allowance made for write-in candidates on ballots.

102.1-2. This law defines the duties and responsibilities of the Election Board members and other persons employed by the Oneida Nation in the conduct of elections. It is intended to govern all procedures used in the election process.

102.2. Adoption, Amendment, Repeal

102.2-1. This law was adopted by the Oneida General Tribal Council by resolution GTC 07-06-98-A ~~and~~, amended by resolutions GTC-01-04-10-A, BC-02-25-15-C and GTC-04-23-17-A, ~~and~~ amended on an emergency basis by resolution BC- - - -.

102.2-2. This law may be amended or repealed by the Oneida General Tribal Council pursuant to the procedures set out in the Legislative Procedures Act. Actions of the Election Board regarding amendments to this law and policies adopted regarding implementation of this law are to be presented to the Business Committee who shall then adopt or forward action(s) to the General Tribal Council for adoption.

102.2-3. 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.

102.2-4. 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.

102.2-5. This law is adopted under authority of the Constitution of the Oneida Nation.

102.3. Definitions

102.3-1. 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.

102.3-2. "Alternate" shall mean an individual appointed by the Business Committee to serve on the Election Board during an election and until election results have been certified.

102.3-3. "Applicant" shall mean a potential candidate who has not yet been officially approved for acceptance on a ballot.

102.3-4. "Business day" shall mean Monday through Friday, 8:00 a.m. – 4:30 p.m., excluding holidays of the Nation.

102.3-5. "Campaigning" shall mean all efforts designed to influence members of the Nation to support or reject a particular candidate of the Nation including, without limitation, advertising, rallying, public speaking, or other communications with members of the Nation.

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102.3-6. "Candidate" shall mean a petitioner or nominee for an elected position whose name is placed on the ballot by the Election Board after successful application.

102.3-7. "Clerk" shall mean the election official who identifies proper registration for the purpose of determining voter eligibility.

102.3-8. "Close of business" shall mean 4:30 p.m. Monday through Friday.

102.3-9. "Conflict of Interest" shall mean any interest, whether it be personal, financial, political or otherwise, in which a Nation elected official, employee, consultant, appointed or elected, member of any board, committee or commission, or their immediate relatives, friends or associates, or any other person with whom they have contact, that conflicts with any right of the Nation to property, information, or any other right to own and operate its enterprises, free from undisclosed competition or other violation of such rights of the Oneida Nation, or as defined in any law or policy of the Nation.

102.3-10. "Election" shall mean every primary and election.

102.3-11. "General election" shall mean the election held every three (3) years in July to elect the Chairperson, Vice-Chairperson, Secretary, Treasurer, and the five Council Members of the Business Committee and may include contests for elected boards, committees and commissions positions.

102.3-12. "Judge" shall mean the election official who informs and advises the Chairperson of discrepancies, complaints and controversy regarding voter eligibility.

102.3-13. "Judiciary" means the judicial system that was established by Oneida General Tribal Council resolution GTC-01-07-13-B to administer the judicial authorities and responsibilities of the Nation.

102.3-14. "Lot drawing" shall mean the equal chance method used to select a candidate as the winner of an elected position, in the case of a tie between two (2) or more candidates.

102.3-15. "Nation" means the Oneida Nation.

102.3-16. "Nation's newspaper" shall mean the Kalihwisaks, or any other newspaper operated by the Nation for the benefit of transmitting news to members of the Nation, which is designated by the Election Board as a source for election related news.

102.3-17. "Oneida Police Officer" shall mean an enrolled member of the Oneida Nation who is a police officer on any police force.

102.3-18. "Private property" shall mean any lot of land not owned by the Nation, a residential dwelling or a privately owned business within the boundaries of the Reservation.

102.3-19. "Prominent locations" shall mean the polling places, main doors of the Norbert Hill Center, main doors of the Oneida Community Library, Tsyunhehkwa Retail Store, the Oneida Community Health Center, the SEOTS building and all One-Stop locations.

102.3-20. "Qualified voter" shall mean an enrolled member of the Nation who is eighteen (18) years of age or older.

102.3-21. "Rejected Ballots" shall mean those ballots which are rejected by the vote tabulating machine.

102.3-22. "Spoiled Ballot" shall mean a ballot which contains a voter error or is otherwise marred and is not tabulated.

102.3-23. "Teller" shall mean the election official in charge of collecting and storing of all ballots.

102.4. Election Board

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83 *Section A. Establishment, Composition and Election*

84 102.4-1. An Election Board is hereby created for the purpose of carrying out the provisions of this
85 law and Article III, Sections 2 and 3 of the Oneida Nation Constitution.

86 102.4-2. The Election Board shall consist of nine (9) elected members. All members shall be
87 elected to terms of three (3) years, not to exceed two (2) consecutive terms.

88 102.4-3. *Recusal*. An Election Board member shall recuse himself/herself from participating as an
89 Election Board member in any pre-election, election day, or post-election activities while he or
90 she is a petitioner, applicant or candidate in any election or there is otherwise a conflict of interest.

91 102.4-4. *Removal*. Removal of members shall be pursuant to the Oneida Removal Law. A member
92 who is removed from the Election Board shall be ineligible to serve on the Board for three (3)
93 years from the time he or she is removed from the Election Board.

94 102.4-5. *Vacancies*. Any vacancy in an unexpired term shall be filled by appointment by the
95 Business Committee for the balance of the unexpired term. The filling of a vacancy may be timed
96 to correspond with the pre-election activities and the needs of the Election Board.

97 102.4-6. The Election Board shall identify tellers, judges and clerks in advance of an election.

98 102.4-7 The Business Committee may appoint or reappoint a sufficient number of alternates to
99 the Election Board, as recommended by the Election Board, to assist with election day and pre-
100 election activities.

101 102.4-8. The Election Board shall choose a Chairperson from amongst themselves as set out in
102 the By-laws of the Election Board, to preside over the meetings. This selection shall be carried
103 out at the first meeting of the Election Board following an election. The Chairperson shall then
104 ask the Election Board to select a Vice-Chairperson and Secretary.

105
106 *Section B. Duties of the Election Board*

107 102.4-9. The Election Board shall have the following duties, along with other responsibilities listed
108 throughout this law.

109 (a) The Election Board shall be in charge of all registration and election procedures; and

110 (b) Upon completion of an election, the Election Board shall make a final report on the
111 election results as set out in this law.

112
113 *Section C. Specific Duties of Officers and Election Board Members*

114 102.4-10. Specific duties of the Chairperson and other Election Board members, in addition to
115 being present at all Election Board meetings and assisting the handicapped through the voting
116 process, are as set out herein:

117 (a) Chairperson: Shall preside over meetings of the Election Board; shall select the hearing
118 body for applicants found to be ineligible in accordance with 102.5-6 in the event of an
119 appeal; shall oversee the conduct of the election; shall dismiss the alternates and Trust
120 Enrollment Department personnel when their election day duties are complete; and shall
121 post and report election results.

122 (b) Vice-Chairperson: Shall preside over all meetings in the absence of the Chairperson.

123 (c) Secretary: Shall keep a record of the meetings and make them available to the Nation's
124 Secretary, other Election Board members and the public as required in the Open Records
125 and Open Meetings Law.

126 (d) Clerks: Shall implement the requirements of identifying and registering all voters and
127 determining voter eligibility. Clerks shall work in conjunction with the Trust Enrollment

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Department personnel in the registration process, and assist the Chairperson as directed in conducting the election. Clerks cannot be currently employed by the Trust Enrollment Department.

(e) Tellers: Shall collect and keep safe all ballots, until the election is complete, as determined by this law. Shall assist the Chairperson in conducting the election.

(f) Judges: Shall inform and advise the Chairperson of all aspects of the election conducted under this law. In case of disputes among Election Board members, or between members of the Nation and Election Board members, or any controversy regarding voter eligibility, the Judge(s) shall assist the Chairperson in making a determination. The Judge(s) shall also ensure that all ballots of voters whose eligibility may be in question, remain confidential.

Section D. Compensation Rates

102.4-11. Election Board members are to be compensated at an hourly rate when conducting elections as provided for in the Election Board's bylaws as approved by the Business Committee. The Election Board shall have a budget, approved through the Nation's budgeting process.

102.4-12. The Trust Enrollment Department personnel and Oneida Police Officer(s) shall be compensated at their regular rate of pay out of their respective budgets.

102.5. Candidate Eligibility

Section A. Requirements

102.5-1. In addition to any specific requirements and/or exceptions set out in duly adopted by-laws or other documents, all applicants shall meet the minimum requirements set out in this section in order to become a candidate.

102.5-2. Minimum Requirements. In order to be eligible to be a candidate, applicants shall:

- (a) be an enrolled member of the Nation, as verified by membership rolls of the Nation.
- (b) be a qualified voter on the day of the election.
- (c) provide proof of physical residency as required for the position for which they have been nominated or for which they have petitioned. Proof of residency may be through one (1) or more of the following:
 - (1) a valid Wisconsin driver's license;
 - (2) a bill or pay check stub showing name and physical address of the candidate from the prior or current month;
 - (3) another form of proof that identifies the candidate and that the candidate has physically resided at the address and identifies that address as the primary residence.

102.5-3. No applicant may have a conflict of interest with the position for which they are being considered, provided that any conflict of interest which may be eliminated within thirty (30) calendar days of being elected shall not be considered as a bar to nomination or election.

102.5-4. Applications and petitions where the applicant was not nominated during caucus shall be filed by presenting the information to the Nation's Secretary, or designated agent, during normal business hours, 8:00 to 4:30 Monday through Friday, within five (5) business days after the caucus. No mailed, internal Nation mail delivery, faxed or other delivery method shall be accepted.

102.5-5. The names of the candidates and the positions sought shall be a public record and made available to the public upon the determination of eligibility by the Election Board or the Board's

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designated agent.

Section B. Eligibility Review

102.5-6. Applicants found to be ineligible shall have two (2) business days to request an appeal. At least four (4) Election Board members shall constitute a hearing body. The Chairperson shall select the hearing body. The hearing shall be held within two (2) business days of receipt of the appeal. The applicant shall be notified by phone of time and place of the hearing. The decision of the hearing body shall be sent via certified mail or hand delivery within two (2) business days of the hearing. Any appeal from a decision of the Election Board hearing body shall be to the Judiciary on an accelerated schedule.

102.5-7. The Election Board shall be responsible for reviewing the qualifications of applicants to verify eligibility. Any applicant found to be ineligible for a nominated or petitioned for position shall be notified by certified mail return receipt requested. The notice shall provide the following information:

- (a) Position for which they were considered
- (b) Qualification of the position and citation of the source. (Copies of source may be attached.)
- (c) A brief summary explaining why the applicant was found to be ineligible.
- (d) That the applicant has two (2) business days from notification to make an appeal. Appeals must be filed at the location designated on the notice by hand delivery. The location designated shall be on the Reservation. No mailed, internal Nation mail, faxed or other delivery method will be accepted.

Section C. Campaign Financing

102.5-8. Contributions:

- (a) Solicitation of Contributions by Candidates.
 - (1) Candidates shall only accept contributions from individuals who are members of the Nation or individuals related by blood or marriage to the candidate. Candidates may not accept contributions from any business, whether sole proprietorship, partnership, corporation, or other business entity.
 - (2) Candidates shall not solicit or accept contributions in any office or business/facility of the Nation.
- (b) Fines. Violation of the contribution restrictions shall result in a fine imposed by the Election Board in an amount specified in a resolution adopted by the Business Committee.

102.5-9. Campaign Signs and Campaigning:

- (a) Placement of campaign signs:
 - (1) Campaign signs shall not be posted or erected on any property of the Nation except for private property with the owner/tenant's permission.
 - (2) No campaign sign shall exceed sixteen (16) square feet in area. A maximum of seven (7) such signs may be placed on a building or on a lot.
 - (3) No campaign sign shall project beyond the property line into the public right of way.
- (b) Removal of campaign signs. All campaign signs shall be removed within five (5) business days after an election.

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(c) Employees of the Nation shall not engage in campaigning for offices of the Nation during work hours. The Nation's employees shall be subject to disciplinary action under the personnel policies and procedures for political campaigning during work hours.

(d) Enforcement. The Zoning Administrator shall cause to be removed any campaign signs that are not in compliance with this law, in accordance with the Zoning and Shoreland Protection Law.

(e) Fines. Violation of the campaign sign restrictions shall result in a fine imposed by the Election Board in an amount specified in a resolution adopted by the Business Committee.

Section D. Candidate Withdrawal

102.5-10 Any candidate may withdraw his or her name from a ballot if submitted in writing by the candidate prior to submission of the ballot for printing to any Election Board member, excluding alternates.

102.5-11 After printing of the ballot, any candidate may withdraw his or her name from the election by submitting in writing a statement indicating they are withdrawing from the election prior to the opening of the polls to any Election Board member, excluding alternates. This statement shall be posted alongside any sample ballot printed prior to the election in the newspaper or any posting at the polling places.

102.5-12. Candidates withdrawing after opening of the polls shall request, in writing to the Election Board members in charge of the polling place, to be removed from the ballot. The written statement shall be posted next to any posted sample ballot.

102.5-13. Candidates withdrawing by any method listed herein shall be denied any position from which they have withdrawn regardless of the number of votes cast for that candidate. A written statement shall be considered the only necessary evidence of withdrawal and acceptance of denial of any position withdrawn from.

102.5-14. Candidate Withdrawal After Winning an Election.

(a) In the event a candidate declines an office after winning an election, the Election Board shall declare the next highest vote recipient the winner. This procedure shall be repeated as necessary until a winner is declared.

(b) If all vote recipients decline or are otherwise unable to be declared the winner, then a Special Election shall be held.

2.6. Selection of Candidates

Section A. Setting of Caucus

102.6-1. The Election Board shall be responsible for calling a caucus before any election is held. The caucus for the general election shall be held at least ninety (90) calendar days prior to the election date. Caucuses for other elections shall be held at least forty-five (45) calendar days prior to the election date. In a general election year, caucuses shall be combined so that candidates for the Business Committee and elected boards, committees and commissions are nominated at the same caucus.

102.6-2. The procedures for the caucus shall be as follows:

(a) Candidates shall be nominated from the floor.

(b) Candidates present at the caucus will accept/decline their nomination at the caucus. Candidates nominated at the caucus, but not present to accept the nomination, shall be required to follow the petition process.

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(c) Nominations shall consist of the following positions: Chairperson, Vice-Chairperson, Treasurer, Secretary, Council Member and other elected positions as required by by-laws or creating documents of a board, committee, or commission.

Section B. Petition

102.6-3. Any eligible member of the Nation may petition to be placed on a ballot according to the following procedures:

(a) Each petitioner, not nominated at caucus, shall file a petition containing endorsee's original signatures; photocopies shall not be accepted.

(b) Petitioners shall use an official petition form as designated by this law which may be obtained in the Office of the Nation's Secretary or from the mailing for that caucus.

(c) The petition form shall consist of each endorsee's:

(1) printed name and address;

(2) date of birth;

(3) Oneida Nation Enrollment Number; and

(4) signature.

(d) Petitioners shall obtain not less than ten (10) signatures of qualified voters as defined under this law.

(e) Petitions shall be presented to the Nation's Secretary, or designated agent, during normal business hours, 8:00 to 4:30 Monday through Friday, but no later than prior to close of business five (5) business days after the caucus. The location to drop-off petitions shall be identified in the mailing identifying the caucus date.

(f) The Nation's Secretary shall forward all petitions to the Election Board Chairperson the next business day following the close of petition submissions.

(g) The Election Board shall have the Trust Enrollment Department verify all signatures contained on the petition.

102.6-4. A person who runs for a position on the Oneida Business Committee, or a position on a judicial court or commission, shall not run for more than one (1) elective office or seat per election.

102.7. Notice of Polling Places

102.7-1. The Election Board shall post a notice in the prominent locations, stating the location of the polling places and the time the polls will be open. This notice shall also be posted in an easily visible position, close to the entrance of the Nation's businesses/facilities.

102.7-2. Polling information shall be posted no less than ten (10) calendar days prior to the election, and shall remain posted until the poll closes on the day of the election.

102.7-3. Except for a Special Election, notice for the election shall be mailed to all Nation members, stating the time and place of the election and a sample of the ballot, no less than ten (10) calendar days prior to the election, through a mass mailing. The Trust Enrollment Department shall be notified, by the Election Board Chairperson, no less than twenty (20) calendar days prior to the requested mailing.

102.7-4. Notice of the election shall be placed in the Nation's newspaper.

102.8. Registration of Voters

Section A. Requirements

102.8-1. *Registration of Voters.* All enrolled members of the Nation, who are eighteen (18) years

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of age or over, are qualified voters of such election(s) as defined in Article III, Section 2 of the Oneida Nation Constitution.

Section B. Identification of Voters

102.8-2. All voters must present one of the following picture identifications in order to be able to vote:

- (a) Oneida Nation I.D.
- (b) Drivers License.
- (c) Other I.D. with name and photo.

Section C. Registration Procedures

102.8-3. Voters shall physically register, on the day of the election, at the polls.

102.8-4. Trust Enrollment Department personnel shall be responsible for verifying enrollment with the Nation. Conduct of Trust Enrollment Department personnel is governed by the Election 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

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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.

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102.10-2. At least ~~six (6)~~three (3) 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

102.10-7. The Judges shall place together all ballots counted and secure them together so that they cannot be untied or tampered with without breaking the seal. The secured ballots, and the election totals with the signed tape, if applicable, shall then be secured by the Judges in a sealed container in such a manner that the container cannot be opened without breaking the seals or locks, or destroying the container. The Oneida Police Officer shall then deliver, on the day of the election, the sealed container to the Records Management Department for retaining.

102.11. Election Outcome and Ties

Section A. Election Results Announcement

102.11-1. The tentative results of an election shall be announced and posted by the Election Board within twenty-four (24) hours after the closing of the polls. Notices of election results shall contain the following statement:

"The election results posted here are tentative results. Final election results are forwarded by the Oneida Election Board to the Oneida Business Committee via a Final Report after time has lapsed for recount requests, or challenges or after all recounts or challenges have been completed, whichever is longer"

102.11-2. The Election Board shall post, in the prominent locations, and publish in the Nation's newspaper, the tentative results of an election.

Section B. Tie

102.11-3. In the event of a tie for any office, and where the breaking of a tie is necessary to determine the outcome of an election, the Election Board shall conduct an automatic recount of the votes for each candidate receiving the same number of votes. Any recount conducted shall be the only recount allowed for the tied candidates.

102.11-4. For Business Committee positions, a run-off election between the candidates with the same number of votes shall be held if there remains a tie after the recount. Said run-off election shall be held within twenty one (21) calendar days after the recount. For all other positions, if there remains a tie after the recount, the Election Board shall decide the winner of the tied positions

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at least two (2) business days after, but no more than five (5) business days after the recount through a lot drawing, which shall be open to the public.

(a) The Election Board shall notify each of the tied candidates and the public of the date, time, and place of the drawing at least one (1) business day before the drawing. Notice to the tied candidates shall be in writing. Notice to the public shall be posted by the Election Board in the prominent locations.

(b) On the date and at the time and place the drawing was noticed, the Election Board Chairperson shall clearly write the name of each tied candidate on separate pieces of paper in front of any witnesses present. The pieces of paper shall be the same, or approximately the same, color, size, and type. The papers shall be folded in half and placed in a container selected by the Election Board Chairperson.

(c) The Election Board Chairperson shall designate an uninterested party to draw a name from the container. The candidate whose name is drawn from the container first shall be declared the winner. An Election Board member other than the Chairperson shall remove the remaining pieces of paper from the container and show them to the witnesses present.

Section C. Recount Procedures

102.11-5. A candidate may request the Election Board to complete a recount, provided the margin between the requesting candidate's vote total and vote total for the unofficial winner was within two percent (2%) of the total votes for the office being sought or twenty (20) votes, whichever is greater. A candidate requests a recount by hand delivering a written request to the office of the Nation's Secretary, or noticed designated agent, within five (5) business days after the election. Requests shall be limited to one (1) request per candidate. The Nation's Secretary shall contact the Election Board Chairperson by the next business day after the request for recounts.

102.11-6. The Election Board shall respond by the close of business on the fifth (5th) day after the request regarding the results of the recount. Provided that, no recount request need be honored where there have been two (2) recounts completed as a result of a request either as a recount of the whole election results, or of that sub-section.

102.11-7. All recounts shall be conducted manually with, if possible, the original Election Officials and Oneida Police Officer present, regardless of the original type of counting process. Manual recounts may, at the discretion of the Election Officials, be of the total election results, or of the challenged sub-section of the election results.

102.11-8. The Oneida Police Officer shall be responsible for picking up the locked, sealed container with the ballots from the Records Management Department and transporting it to the ballot recounting location.

102.11-9. A recount shall be conducted by a quorum of the Election Board, including at least three (3) of the original Election Officials. The locked, sealed ballots shall be opened by the Election Board Chairperson and an Oneida Police Officer shall witness the recount.

102.11-10. Recounting of ballots may be performed manually or by computer. All ballots shall be counted until two (2) final tallies are equal in back to back counting and the total count of ballots reconciles with the total count from the ballot counting machine. Sub-sections of candidates may be recounted in lieu of a full recount.

(a) Manually counted ballots shall be recounted by the Election Board. Ballots shall be counted twice by different persons and certified by the Judges.

(b) Computer counted ballots shall be recounted twice and certified by the Judges. Prior

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to using an electronic ballot counting device, it shall be certified as correct either by the maker, lessor of the machine, or Election Board.

Section D. Challenges and Declaration of Results

102.11-11. *Challenges.* Any qualified voter may challenge the results of an election by filing a complaint with the Judiciary within ten (10) calendar days after the election. The Judiciary shall hear and decide a challenge to any election within two (2) business days after the challenge is filed. Any appeal to the appellate body of the Judiciary shall be filed within one (1) business day after the issuance of the lower body's decision and decided within two (2) business days after the appeal is filed.

(a) The person challenging the election results shall prove by clear and convincing evidence that the Election Law was violated or an unfair election was conducted, and that the outcome of the election would have been different but for the violation.

(b) If the Judiciary invalidates the election results, a Special Election shall be ordered by the Judiciary for the office(s) affected to be held on a date set by the Judiciary for as soon as the Election Law allows for a Special Election.

102.11-12. *The Final Report.* The Election Board shall forward a Final Report to the Nation's Secretary after time has lapsed for recount requests, or challenges or after all recounts or challenges have been completed, whichever is longer. The Final Report shall consist of the following information:

(a) Total number of persons voting.

(b) Total votes cast for each candidate by subsection of the ballot.

(c) List of any ties and final results of those ties, including the method of resolution.

(d) List of candidates elected and position elected to.

(e) Number of spoiled ballots.

(f) Cost of the election, including the compensation paid to each Election Board member.

102.11-13. *Declaration of Results.* The Business Committee shall declare the official results of the election and send notices regarding when the swearing in of newly elected officials shall take place within ten (10) business days after receipt of the Final Report.

102.11-14. Candidates elected to the Business Committee shall resign from any salaried position effective prior to taking a Business Committee oath of office

102.11-15. Except in the event of an emergency, as determined by the Business Committee, newly elected officials shall be sworn into office no later than thirty (30) calendar days after the official results of an election are declared by the Business Committee.

(a) If a newly elected official is not sworn in within thirty (30) calendar days, the seat shall be considered vacant and the Election Board shall declare the next highest vote recipient the winner. This procedure shall be repeated as necessary until a winner is declared.

(b) If all vote recipients decline or are otherwise unable to be declared the winner, then a Special Election shall be held.

102.11-16. The Election Board shall send notice to the Records Management Department to destroy the ballots thirty (30) calendar days after the election or after the final declaration of official election results occurs, whichever is longer.

102.12. Elections

Section A. Primary Elections; Business Committee

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102.12-1. When a primary is required under 102.12-2, it shall be held on a Saturday at least sixty (60) calendar days prior to the election.

102.12-2. There shall be a primary election for Business Committee positions whenever there are three (3) or more candidates for any officer positions or sixteen (16) or more candidates for the at-large council member positions.

(a) The two (2) candidates receiving the highest number of votes cast for each officer position shall be placed on the ballot.

(b) The fifteen (15) candidates receiving the highest number of votes cast for the at-large council member positions shall be placed on the ballot.

(c) Any position where a tie exists to determine the candidates to be placed on the ballot shall include all candidates where the tie exists.

102.12-3. The Election Board shall cancel the primary election if the Business Committee positions did not draw the requisite number of candidates for a primary by the petitioning deadline set for the primary.

102.12-4. In the event a candidate withdraws or is unable to run for office after being declared a winner in the primary, the Election Board shall declare the next highest primary vote recipient the primary winner. This procedure shall be repeated as necessary until the ballot is full or until there are no available candidates. If the ballot has already been printed, the procedures for notifying the Oneida public in section 102.5-11 and 102.5-12 shall be followed, including the requirement to print a notice in the Nation's newspaper if time lines allow.

Section B. Special Elections

102.12-5. Matters subject to a Special Election, i.e., referendum, vacancies, petitions, etc., as defined in this law, may be placed on the same ballot as the subject matter of an election.

102.12-6. Dates of all Special Elections shall be set, as provided for in this law, by the Business Committee as recommended by the Election Board or as ordered by the Judiciary in connection with an election challenge.

102.12-7. Notice of said Special Election shall be posted by the Election Board in the prominent locations, and placed in the Nation's newspaper not less than ten (10) calendar days prior to the Special Election.

102.12-8. In the event of an emergency, the Election Board may reschedule the election, provided that no less than twenty-four (24) hours notice of the rescheduled election date is given to the voters, by posting notices in the prominent locations.

Section C. Referendums

102.12-9. Registered voters may indicate opinions on any development, law or resolution, proposed, enacted, or directed by the Business Committee, or General Tribal Council, in a special referendum election.

(a) Referendum elections in which a majority of the qualified voters who cast votes shall be binding on the Business Committee to present the issue for action/decision at General Tribal Council.

(b) Referendum requests may appear on the next called for election.

(c) Referendum questions are to be presented to the Nation's Secretary, in writing, at the caucus prior to election, regarding issues directly affecting the Nation or general membership.

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Section D. Initiation of Special Elections

102.12-10. Special Elections may be initiated by a request or directive of the General Tribal Council or the Oneida Business Committee.

102.12-11. Special Election may be requested by a member of the Nation to the Business Committee or General Tribal Council.

102.12-12. All Special Elections shall follow rules established for all other elections. This includes positions for all Boards, Committees and Commissions.

102.13. Oneida Nation Constitution and By-law Amendments

102.13-1. Pursuant to Article VI of the Oneida Nation Constitution, amendments to the Oneida Nation Constitution and By-laws may be initiated by the Oneida Business Committee or a petition of qualified voters. The requirements for the Oneida Business Committee's initiation of Constitutional amendments are as provided in the Constitution and as further detailed in the supporting standard operating procedures which the Oneida Business Committee shall adopt. Qualified voters may petition to amend the Oneida Nation Constitution and By-laws by submitting a petition to the Office of the Nation's Secretary which includes the full text of the proposed amendments and signatures that are equal in number to at least ten percent (10%) of all members qualified to vote.

(a) Qualified voters may request a petition form from the Office of the Nation's Secretary.

(b) When a petition form is requested, the Nation's Secretary, or his or her designee, shall direct the Trust Enrollment Department to calculate the number of signatures currently required for a petition submittal, which shall be ten percent (10%) of all members qualified to vote on the date the petition form is requested from the Office of the Nation's Secretary. When the Nation's Secretary receives the calculation from the Trust Enrollment Department, the Nation's Secretary shall provide the requester with the petition form and the number of signatures that are currently required.

(c) Such petitions shall be circulated with all supporting materials and submitted a minimum of ninety (90) days prior to the election at which the proposed amendment is to be voted upon. If a petition includes supporting materials in addition to the petition form, each qualified voter signing the petition shall also acknowledge that the supporting materials were available for review at the time he or she signed the petition by initialing where required on the petition form.

(d) The Nation's Secretary shall forward submitted petitions to the Trust Enrollment Department for verification of signatures and to the Election Board to provide notice that the petition may need to be placed on an upcoming ballot.

(e) If the petition is verified by the Trust Enrollment Department to contain signatures from at least ten percent (10%) of all qualified voters, the Election Board shall make an official announcement of the proposed amendments to the Oneida Nation Constitution at least sixty (60) days prior to the election at which the proposed amendments are to be voted on.

102.13-2. The Election Board shall place any proposed amendments to the Oneida Nation Constitution that meet the requirements contained in 102.13-1 on the ballot at the next general election. Provided that, the Oneida Business Committee or General Tribal Council may order a special election be held to consider the proposed amendments. In such circumstances, the Election Board shall place any proposed amendments to the Oneida Nation Constitution on the ballot at the

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next special election.

102.13-3. The Election Board shall publish any proposed amendments by publishing a sample ballot no less than ten (10) calendar days prior to the election, through a mass mailing. The Trust Enrollment Department shall be notified, by the Election Board Chairperson, no less than twenty (20) calendar days prior to the requested mailing. Copies of such publications shall be prominently posted in each polling place and at administrative offices of the Nation and shall also be published in official Oneida media outlets, which the Oneida Business Committee shall identify by resolution. For the purposes of this section, Oneida administrative offices means the location where the Oneida Business Committee conducts business.

102.13-4. The Election Board shall ensure that the ballot contains a statement of the purpose of the proposed amendments prepared by the Oneida Law Office. The Oneida Law Office shall ensure that the statement of purpose is one hundred (100) words or less exclusive of caption, is a true and impartial statement and is written in such a manner that does not create prejudice for or against the proposed amendment.

102.13-5. Pursuant to Article VI, Section 3 of the Oneida Nation Constitution, proposed amendments that are approved by sixty-five percent (65%) of the qualified voters that vote on that amendment shall become part of the Constitution and By-laws, and shall abrogate or amend existing provisions of the Constitution and By-laws at the end of thirty (30) days after submission of the final election report.

102.13-6. If two (2) or more amendments approved by the voters at the same election conflict, the amendment receiving the highest affirmation vote prevails.

End.

Adopted - June 19, 1993

Amended - June 28, 1995 (Adopted by BC on Behalf of GTC, Completion of Agenda)

Presented for Adoption of 1997 Revisions - GTC-7-6-98-A

Amended- October 11, 2008 (General Tribal Council Meeting)

Amended-GTC-01-04-10-A

Amended – BC-02-25-15-C

Amended – GTC-04-23-17-A

Emergency Amended – BC-03-17-20-B (Expired)

Emergency Amended – BC-05-13-20-H (Expired)

Emergency Amended – BC-06-24-20-B (Expired at Conclusion of 2020 General Election)

Emergency Amended – BC-04-28-21-B (Expired)

Emergency Amended – BC-07-13-22-E (Expired)

Emergency Amended – BC-12-28-22-B (Expired)

Emergency Amended – BC-03-08-23-B (Expired)

Emergency Amended – BC- - - -

Title 1. Government and Finances - Chapter 102**ELECTION****Onayote'a'ká· Tho Ni· Yót Tsi? Ayethiyataláko Tsi? Kayanl'hsila***People of the Standing Stone how it is we will appoint them the kind of laws we have*

102.1. Purpose and Policy

102.2. Adoption, Amendment, Repeal

102.3. Definitions

102.4. Election Board

102.5. Candidate Eligibility

102.6. Selection of Candidates

102.7. Notice of Polling Places

102.8. Registration of Voters

102.9. Election Process

102.10. Tabulating and Securing Ballots

102.11. Election Outcome and Ties

102.12. Elections

102.13. Oneida Nation Constitution and By-law Amendments

102.1. Purpose and Policy

102.1-1. It is the policy of the Nation that this law shall govern the procedures for the conduct of orderly elections of the Nation, including pre-election activities such as caucuses and nominations. Because of the desire for orderly and easily understood elections, there has not been an allowance made for write-in candidates on ballots.

102.1-2. This law defines the duties and responsibilities of the Election Board members and other persons employed by the Oneida Nation in the conduct of elections. It is intended to govern all procedures used in the election process.

102.2. Adoption, Amendment, Repeal

102.2-1. This law was adopted by the Oneida General Tribal Council by resolution GTC 07-06-98-A, amended by resolutions GTC-01-04-10-A, BC-02-25-15-C and GTC-04-23-17-A, and amended on an emergency basis by resolution BC-__-__-__.

102.2-2. This law may be amended or repealed by the Oneida General Tribal Council pursuant to the procedures set out in the Legislative Procedures Act. Actions of the Election Board regarding amendments to this law and policies adopted regarding implementation of this law are to be presented to the Business Committee who shall then adopt or forward action(s) to the General Tribal Council for adoption.

102.2-3. 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.

102.2-4. 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.

102.2-5. This law is adopted under authority of the Constitution of the Oneida Nation.

102.3. Definitions

102.3-1. 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.

102.3-2. "Alternate" shall mean an individual appointed by the Business Committee to serve on the Election Board during an election and until election results have been certified.

102.3-3. "Applicant" shall mean a potential candidate who has not yet been officially approved for acceptance on a ballot.

102.3-4. "Business day" shall mean Monday through Friday, 8:00 a.m. – 4:30 p.m., excluding holidays of the Nation.

102.3-5. "Campaigning" shall mean all efforts designed to influence members of the Nation to support or reject a particular candidate of the Nation including, without limitation, advertising, rallying, public speaking, or other communications with members of the Nation.

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102.3-6. “Candidate” shall mean a petitioner or nominee for an elected position whose name is placed on the ballot by the Election Board after successful application.

102.3-7. “Clerk” shall mean the election official who identifies proper registration for the purpose of determining voter eligibility.

102.3-8. “Close of business” shall mean 4:30 p.m. Monday through Friday.

102.3-9. “Conflict of Interest” shall mean any interest, whether it be personal, financial, political or otherwise, in which a Nation elected official, employee, consultant, appointed or elected, member of any board, committee or commission, or their immediate relatives, friends or associates, or any other person with whom they have contact, that conflicts with any right of the Nation to property, information, or any other right to own and operate its enterprises, free from undisclosed competition or other violation of such rights of the Oneida Nation, or as defined in any law or policy of the Nation.

102.3-10. “Election” shall mean every primary and election.

102.3-11. “General election” shall mean the election held every three (3) years in July to elect the Chairperson, Vice-Chairperson, Secretary, Treasurer, and the five Council Members of the Business Committee and may include contests for elected boards, committees and commissions positions.

102.3-12. “Judge” shall mean the election official who informs and advises the Chairperson of discrepancies, complaints and controversy regarding voter eligibility.

102.3-13. “Judiciary” means the judicial system that was established by Oneida General Tribal Council resolution GTC-01-07-13-B to administer the judicial authorities and responsibilities of the Nation.

102.3-14. “Lot drawing” shall mean the equal chance method used to select a candidate as the winner of an elected position, in the case of a tie between two (2) or more candidates.

102.3-15. “Nation” means the Oneida Nation.

102.3-16. “Nation’s newspaper” shall mean the Kalihwisaks, or any other newspaper operated by the Nation for the benefit of transmitting news to members of the Nation, which is designated by the Election Board as a source for election related news.

102.3-17. “Oneida Police Officer” shall mean an enrolled member of the Oneida Nation who is a police officer on any police force.

102.3-18. “Private property” shall mean any lot of land not owned by the Nation, a residential dwelling or a privately owned business within the boundaries of the Reservation.

102.3-19. “Prominent locations” shall mean the polling places, main doors of the Norbert Hill Center, main doors of the Oneida Community Library, Tsyunhehkwa Retail Store, the Oneida Community Health Center, the SEOTS building and all One-Stop locations.

102.3-20. “Qualified voter” shall mean an enrolled member of the Nation who is eighteen (18) years of age or older.

102.3-21. “Rejected Ballots” shall mean those ballots which are rejected by the vote tabulating machine.

102.3-22. “Spoiled Ballot” shall mean a ballot which contains a voter error or is otherwise marred and is not tabulated.

102.3-23. “Teller” shall mean the election official in charge of collecting and storing of all ballots.

102.4. Election Board

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83 *Section A. Establishment, Composition and Election*

84 102.4-1. An Election Board is hereby created for the purpose of carrying out the provisions of this
85 law and Article III, Sections 2 and 3 of the Oneida Nation Constitution.

86 102.4-2. The Election Board shall consist of nine (9) elected members. All members shall be
87 elected to terms of three (3) years, not to exceed two (2) consecutive terms.

88 102.4-3. *Recusal.* An Election Board member shall recuse himself/herself from participating as an
89 Election Board member in any pre-election, election day, or post-election activities while he or
90 she is a petitioner, applicant or candidate in any election or there is otherwise a conflict of interest.

91 102.4-4. *Removal.* Removal of members shall be pursuant to the Oneida Removal Law. A member
92 who is removed from the Election Board shall be ineligible to serve on the Board for three (3)
93 years from the time he or she is removed from the Election Board.

94 102.4-5. *Vacancies.* Any vacancy in an unexpired term shall be filled by appointment by the
95 Business Committee for the balance of the unexpired term. The filling of a vacancy may be timed
96 to correspond with the pre-election activities and the needs of the Election Board.

97 102.4-6. The Election Board shall identify tellers, judges and clerks in advance of an election.

98 102.4-7 The Business Committee may appoint or reappoint a sufficient number of alternates to
99 the Election Board, as recommended by the Election Board, to assist with election day and pre-
100 election activities.

101 102.4-8. The Election Board shall choose a Chairperson from amongst themselves as set out in
102 the By-laws of the Election Board, to preside over the meetings. This selection shall be carried
103 out at the first meeting of the Election Board following an election. The Chairperson shall then
104 ask the Election Board to select a Vice-Chairperson and Secretary.

105
106 *Section B. Duties of the Election Board*

107 102.4-9. The Election Board shall have the following duties, along with other responsibilities listed
108 throughout this law.

- 109 (a) The Election Board shall be in charge of all registration and election procedures; and
110 (b) Upon completion of an election, the Election Board shall make a final report on the
111 election results as set out in this law.

112
113 *Section C. Specific Duties of Officers and Election Board Members*

114 102.4-10. Specific duties of the Chairperson and other Election Board members, in addition to
115 being present at all Election Board meetings and assisting the handicapped through the voting
116 process, are as set out herein:

117 (a) Chairperson: Shall preside over meetings of the Election Board; shall select the hearing
118 body for applicants found to be ineligible in accordance with 102.5-6 in the event of an
119 appeal; shall oversee the conduct of the election; shall dismiss the alternates and Trust
120 Enrollment Department personnel when their election day duties are complete; and shall
121 post and report election results.

122 (b) Vice-Chairperson: Shall preside over all meetings in the absence of the Chairperson.

123 (c) Secretary: Shall keep a record of the meetings and make them available to the Nation's
124 Secretary, other Election Board members and the public as required in the Open Records
125 and Open Meetings Law.

126 (d) Clerks: Shall implement the requirements of identifying and registering all voters and
127 determining voter eligibility. Clerks shall work in conjunction with the Trust Enrollment

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Department personnel in the registration process, and assist the Chairperson as directed in conducting the election. Clerks cannot be currently employed by the Trust Enrollment Department.

(e) Tellers: Shall collect and keep safe all ballots, until the election is complete, as determined by this law. Shall assist the Chairperson in conducting the election.

(f) Judges: Shall inform and advise the Chairperson of all aspects of the election conducted under this law. In case of disputes among Election Board members, or between members of the Nation and Election Board members, or any controversy regarding voter eligibility, the Judge(s) shall assist the Chairperson in making a determination. The Judge(s) shall also ensure that all ballots of voters whose eligibility may be in question, remain confidential.

Section D. Compensation Rates

102.4-11. Election Board members are to be compensated at an hourly rate when conducting elections as provided for in the Election Board's bylaws as approved by the Business Committee. The Election Board shall have a budget, approved through the Nation's budgeting process.

102.4-12. The Trust Enrollment Department personnel and Oneida Police Officer(s) shall be compensated at their regular rate of pay out of their respective budgets.

102.5. Candidate Eligibility

Section A. Requirements

102.5-1. In addition to any specific requirements and/or exceptions set out in duly adopted by-laws or other documents, all applicants shall meet the minimum requirements set out in this section in order to become a candidate.

102.5-2. Minimum Requirements. In order to be eligible to be a candidate, applicants shall:

- (a) be an enrolled member of the Nation, as verified by membership rolls of the Nation.
- (b) be a qualified voter on the day of the election.
- (c) provide proof of physical residency as required for the position for which they have been nominated or for which they have petitioned. Proof of residency may be through one (1) or more of the following:
 - (1) a valid Wisconsin driver's license;
 - (2) a bill or pay check stub showing name and physical address of the candidate from the prior or current month;
 - (3) another form of proof that identifies the candidate and that the candidate has physically resided at the address and identifies that address as the primary residence.

102.5-3. No applicant may have a conflict of interest with the position for which they are being considered, provided that any conflict of interest which may be eliminated within thirty (30) calendar days of being elected shall not be considered as a bar to nomination or election.

102.5-4. Applications and petitions where the applicant was not nominated during caucus shall be filed by presenting the information to the Nation's Secretary, or designated agent, during normal business hours, 8:00 to 4:30 Monday through Friday, within five (5) business days after the caucus. No mailed, internal Nation mail delivery, faxed or other delivery method shall be accepted.

102.5-5. The names of the candidates and the positions sought shall be a public record and made available to the public upon the determination of eligibility by the Election Board or the Board's

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designated agent.

Section B. Eligibility Review

102.5-6. Applicants found to be ineligible shall have two (2) business days to request an appeal. At least four (4) Election Board members shall constitute a hearing body. The Chairperson shall select the hearing body. The hearing shall be held within two (2) business days of receipt of the appeal. The applicant shall be notified by phone of time and place of the hearing. The decision of the hearing body shall be sent via certified mail or hand delivery within two (2) business days of the hearing. Any appeal from a decision of the Election Board hearing body shall be to the Judiciary on an accelerated schedule.

102.5-7. The Election Board shall be responsible for reviewing the qualifications of applicants to verify eligibility. Any applicant found to be ineligible for a nominated or petitioned for position shall be notified by certified mail return receipt requested. The notice shall provide the following information:

- (a) Position for which they were considered
- (b) Qualification of the position and citation of the source. (Copies of source may be attached.)
- (c) A brief summary explaining why the applicant was found to be ineligible.
- (d) That the applicant has two (2) business days from notification to make an appeal. Appeals must be filed at the location designated on the notice by hand delivery. The location designated shall be on the Reservation. No mailed, internal Nation mail, faxed or other delivery method will be accepted.

Section C. Campaign Financing

102.5-8. Contributions:

- (a) Solicitation of Contributions by Candidates.
 - (1) Candidates shall only accept contributions from individuals who are members of the Nation or individuals related by blood or marriage to the candidate. Candidates may not accept contributions from any business, whether sole proprietorship, partnership, corporation, or other business entity.
 - (2) Candidates shall not solicit or accept contributions in any office or business/facility of the Nation.
- (b) Fines. Violation of the contribution restrictions shall result in a fine imposed by the Election Board in an amount specified in a resolution adopted by the Business Committee.

102.5-9. Campaign Signs and Campaigning:

- (a) Placement of campaign signs:
 - (1) Campaign signs shall not be posted or erected on any property of the Nation except for private property with the owner/tenant's permission.
 - (2) No campaign sign shall exceed sixteen (16) square feet in area. A maximum of seven (7) such signs may be placed on a building or on a lot.
 - (3) No campaign sign shall project beyond the property line into the public right of way.
- (b) Removal of campaign signs. All campaign signs shall be removed within five (5) business days after an election.

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(c) Employees of the Nation shall not engage in campaigning for offices of the Nation during work hours. The Nation's employees shall be subject to disciplinary action under the personnel policies and procedures for political campaigning during work hours.

(d) Enforcement. The Zoning Administrator shall cause to be removed any campaign signs that are not in compliance with this law, in accordance with the Zoning and Shoreland Protection Law.

(e) Fines. Violation of the campaign sign restrictions shall result in a fine imposed by the Election Board in an amount specified in a resolution adopted by the Business Committee.

Section D. Candidate Withdrawal

102.5-10 Any candidate may withdraw his or her name from a ballot if submitted in writing by the candidate prior to submission of the ballot for printing to any Election Board member, excluding alternates.

102.5-11 After printing of the ballot, any candidate may withdraw his or her name from the election by submitting in writing a statement indicating they are withdrawing from the election prior to the opening of the polls to any Election Board member, excluding alternates. This statement shall be posted alongside any sample ballot printed prior to the election in the newspaper or any posting at the polling places.

102.5-12. Candidates withdrawing after opening of the polls shall request, in writing to the Election Board members in charge of the polling place, to be removed from the ballot. The written statement shall be posted next to any posted sample ballot.

102.5-13. Candidates withdrawing by any method listed herein shall be denied any position from which they have withdrawn regardless of the number of votes cast for that candidate. A written statement shall be considered the only necessary evidence of withdrawal and acceptance of denial of any position withdrawn from.

102.5-14. Candidate Withdrawal After Winning an Election.

(a) In the event a candidate declines an office after winning an election, the Election Board shall declare the next highest vote recipient the winner. This procedure shall be repeated as necessary until a winner is declared.

(b) If all vote recipients decline or are otherwise unable to be declared the winner, then a Special Election shall be held.

2.6. Selection of Candidates

Section A. Setting of Caucus

102.6-1. The Election Board shall be responsible for calling a caucus before any election is held. The caucus for the general election shall be held at least ninety (90) calendar days prior to the election date. Caucuses for other elections shall be held at least forty-five (45) calendar days prior to the election date. In a general election year, caucuses shall be combined so that candidates for the Business Committee and elected boards, committees and commissions are nominated at the same caucus.

102.6-2. The procedures for the caucus shall be as follows:

(a) Candidates shall be nominated from the floor.

(b) Candidates present at the caucus will accept/decline their nomination at the caucus. Candidates nominated at the caucus, but not present to accept the nomination, shall be required to follow the petition process.

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(c) Nominations shall consist of the following positions: Chairperson, Vice-Chairperson, Treasurer, Secretary, Council Member and other elected positions as required by by-laws or creating documents of a board, committee, or commission.

Section B. Petition

102.6-3. Any eligible member of the Nation may petition to be placed on a ballot according to the following procedures:

(a) Each petitioner, not nominated at caucus, shall file a petition containing endorsee's original signatures; photocopies shall not be accepted.

(b) Petitioners shall use an official petition form as designated by this law which may be obtained in the Office of the Nation's Secretary or from the mailing for that caucus.

(c) The petition form shall consist of each endorsee's:

(1) printed name and address;

(2) date of birth;

(3) Oneida Nation Enrollment Number; and

(4) signature.

(d) Petitioners shall obtain not less than ten (10) signatures of qualified voters as defined under this law.

(e) Petitions shall be presented to the Nation's Secretary, or designated agent, during normal business hours, 8:00 to 4:30 Monday through Friday, but no later than prior to close of business five (5) business days after the caucus. The location to drop-off petitions shall be identified in the mailing identifying the caucus date.

(f) The Nation's Secretary shall forward all petitions to the Election Board Chairperson the next business day following the close of petition submissions.

(g) The Election Board shall have the Trust Enrollment Department verify all signatures contained on the petition.

102.6-4. A person who runs for a position on the Oneida Business Committee, or a position on a judicial court or commission, shall not run for more than one (1) elective office or seat per election.

102.7. Notice of Polling Places

102.7-1. The Election Board shall post a notice in the prominent locations, stating the location of the polling places and the time the polls will be open. This notice shall also be posted in an easily visible position, close to the entrance of the Nation's businesses/facilities.

102.7-2. Polling information shall be posted no less than ten (10) calendar days prior to the election, and shall remain posted until the poll closes on the day of the election.

102.7-3. Except for a Special Election, notice for the election shall be mailed to all Nation members, stating the time and place of the election and a sample of the ballot, no less than ten (10) calendar days prior to the election, through a mass mailing. The Trust Enrollment Department shall be notified, by the Election Board Chairperson, no less than twenty (20) calendar days prior to the requested mailing.

102.7-4. Notice of the election shall be placed in the Nation's newspaper.

102.8. Registration of Voters*Section A. Requirements*

102.8-1. *Registration of Voters.* All enrolled members of the Nation, who are eighteen (18) years

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of age or over, are qualified voters of such election(s) as defined in Article III, Section 2 of the Oneida Nation Constitution.

Section B. Identification of Voters

102.8-2. All voters must present one of the following picture identifications in order to be able to vote:

- (a) Oneida Nation I.D.
- (b) Drivers License.
- (c) Other I.D. with name and photo.

Section C. Registration Procedures

102.8-3. Voters shall physically register, on the day of the election, at the polls.

102.8-4. Trust Enrollment Department personnel shall be responsible for verifying enrollment with the Nation. Conduct of Trust Enrollment Department personnel is governed by the Election 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

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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.

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102.10-2. At least three (3) 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

102.10-7. The Judges shall place together all ballots counted and secure them together so that they cannot be untied or tampered with without breaking the seal. The secured ballots, and the election totals with the signed tape, if applicable, shall then be secured by the Judges in a sealed container in such a manner that the container cannot be opened without breaking the seals or locks, or destroying the container. The Oneida Police Officer shall then deliver, on the day of the election, the sealed container to the Records Management Department for retaining.

102.11. Election Outcome and Ties

Section A. Election Results Announcement

102.11-1. The tentative results of an election shall be announced and posted by the Election Board within twenty-four (24) hours after the closing of the polls. Notices of election results shall contain the following statement:

"The election results posted here are tentative results. Final election results are forwarded by the Oneida Election Board to the Oneida Business Committee via a Final Report after time has lapsed for recount requests, or challenges or after all recounts or challenges have been completed, whichever is longer"

102.11-2. The Election Board shall post, in the prominent locations, and publish in the Nation's newspaper, the tentative results of an election.

Section B. Tie

102.11-3. In the event of a tie for any office, and where the breaking of a tie is necessary to determine the outcome of an election, the Election Board shall conduct an automatic recount of the votes for each candidate receiving the same number of votes. Any recount conducted shall be the only recount allowed for the tied candidates.

102.11-4. For Business Committee positions, a run-off election between the candidates with the same number of votes shall be held if there remains a tie after the recount. Said run-off election shall be held within twenty one (21) calendar days after the recount. For all other positions, if there remains a tie after the recount, the Election Board shall decide the winner of the tied positions

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at least two (2) business days after, but no more than five (5) business days after the recount through a lot drawing, which shall be open to the public.

(a) The Election Board shall notify each of the tied candidates and the public of the date, time, and place of the drawing at least one (1) business day before the drawing. Notice to the tied candidates shall be in writing. Notice to the public shall be posted by the Election Board in the prominent locations.

(b) On the date and at the time and place the drawing was noticed, the Election Board Chairperson shall clearly write the name of each tied candidate on separate pieces of paper in front of any witnesses present. The pieces of paper shall be the same, or approximately the same, color, size, and type. The papers shall be folded in half and placed in a container selected by the Election Board Chairperson.

(c) The Election Board Chairperson shall designate an uninterested party to draw a name from the container. The candidate whose name is drawn from the container first shall be declared the winner. An Election Board member other than the Chairperson shall remove the remaining pieces of paper from the container and show them to the witnesses present.

Section C. Recount Procedures

102.11-5. A candidate may request the Election Board to complete a recount, provided the margin between the requesting candidate's vote total and vote total for the unofficial winner was within two percent (2%) of the total votes for the office being sought or twenty (20) votes, whichever is greater. A candidate requests a recount by hand delivering a written request to the office of the Nation's Secretary, or noticed designated agent, within five (5) business days after the election. Requests shall be limited to one (1) request per candidate. The Nation's Secretary shall contact the Election Board Chairperson by the next business day after the request for recounts.

102.11-6. The Election Board shall respond by the close of business on the fifth (5th) day after the request regarding the results of the recount. Provided that, no recount request need be honored where there have been two (2) recounts completed as a result of a request either as a recount of the whole election results, or of that sub-section.

102.11-7. All recounts shall be conducted manually with, if possible, the original Election Officials and Oneida Police Officer present, regardless of the original type of counting process. Manual recounts may, at the discretion of the Election Officials, be of the total election results, or of the challenged sub-section of the election results.

102.11-8. The Oneida Police Officer shall be responsible for picking up the locked, sealed container with the ballots from the Records Management Department and transporting it to the ballot recounting location.

102.11-9. A recount shall be conducted by a quorum of the Election Board, including at least three (3) of the original Election Officials. The locked, sealed ballots shall be opened by the Election Board Chairperson and an Oneida Police Officer shall witness the recount.

102.11-10. Recounting of ballots may be performed manually or by computer. All ballots shall be counted until two (2) final tallies are equal in back to back counting and the total count of ballots reconciles with the total count from the ballot counting machine. Sub-sections of candidates may be recounted in lieu of a full recount.

(a) Manually counted ballots shall be recounted by the Election Board. Ballots shall be counted twice by different persons and certified by the Judges.

(b) Computer counted ballots shall be recounted twice and certified by the Judges. Prior

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to using an electronic ballot counting device, it shall be certified as correct either by the maker, lessor of the machine, or Election Board.

Section D. Challenges and Declaration of Results

102.11-11. *Challenges.* Any qualified voter may challenge the results of an election by filing a complaint with the Judiciary within ten (10) calendar days after the election. The Judiciary shall hear and decide a challenge to any election within two (2) business days after the challenge is filed. Any appeal to the appellate body of the Judiciary shall be filed within one (1) business day after the issuance of the lower body's decision and decided within two (2) business days after the appeal is filed.

(a) The person challenging the election results shall prove by clear and convincing evidence that the Election Law was violated or an unfair election was conducted, and that the outcome of the election would have been different but for the violation.

(b) If the Judiciary invalidates the election results, a Special Election shall be ordered by the Judiciary for the office(s) affected to be held on a date set by the Judiciary for as soon as the Election Law allows for a Special Election.

102.11-12. *The Final Report.* The Election Board shall forward a Final Report to the Nation's Secretary after time has lapsed for recount requests, or challenges or after all recounts or challenges have been completed, whichever is longer. The Final Report shall consist of the following information:

(a) Total number of persons voting.

(b) Total votes cast for each candidate by subsection of the ballot.

(c) List of any ties and final results of those ties, including the method of resolution.

(d) List of candidates elected and position elected to.

(e) Number of spoiled ballots.

(f) Cost of the election, including the compensation paid to each Election Board member.

102.11-13. *Declaration of Results.* The Business Committee shall declare the official results of the election and send notices regarding when the swearing in of newly elected officials shall take place within ten (10) business days after receipt of the Final Report.

102.11-14. Candidates elected to the Business Committee shall resign from any salaried position effective prior to taking a Business Committee oath of office

102.11-15. Except in the event of an emergency, as determined by the Business Committee, newly elected officials shall be sworn into office no later than thirty (30) calendar days after the official results of an election are declared by the Business Committee.

(a) If a newly elected official is not sworn in within thirty (30) calendar days, the seat shall be considered vacant and the Election Board shall declare the next highest vote recipient the winner. This procedure shall be repeated as necessary until a winner is declared.

(b) If all vote recipients decline or are otherwise unable to be declared the winner, then a Special Election shall be held.

102.11-16. The Election Board shall send notice to the Records Management Department to destroy the ballots thirty (30) calendar days after the election or after the final declaration of official election results occurs, whichever is longer.

102.12. Elections

Section A. Primary Elections; Business Committee

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102.12-1. When a primary is required under 102.12-2, it shall be held on a Saturday at least sixty (60) calendar days prior to the election.

102.12-2. There shall be a primary election for Business Committee positions whenever there are three (3) or more candidates for any officer positions or sixteen (16) or more candidates for the at-large council member positions.

(a) The two (2) candidates receiving the highest number of votes cast for each officer position shall be placed on the ballot.

(b) The fifteen (15) candidates receiving the highest number of votes cast for the at-large council member positions shall be placed on the ballot.

(c) Any position where a tie exists to determine the candidates to be placed on the ballot shall include all candidates where the tie exists.

102.12-3. The Election Board shall cancel the primary election if the Business Committee positions did not draw the requisite number of candidates for a primary by the petitioning deadline set for the primary.

102.12-4. In the event a candidate withdraws or is unable to run for office after being declared a winner in the primary, the Election Board shall declare the next highest primary vote recipient the primary winner. This procedure shall be repeated as necessary until the ballot is full or until there are no available candidates. If the ballot has already been printed, the procedures for notifying the Oneida public in section 102.5-11 and 102.5-12 shall be followed, including the requirement to print a notice in the Nation's newspaper if time lines allow.

Section B. Special Elections

102.12-5. Matters subject to a Special Election, i.e., referendum, vacancies, petitions, etc., as defined in this law, may be placed on the same ballot as the subject matter of an election.

102.12-6. Dates of all Special Elections shall be set, as provided for in this law, by the Business Committee as recommended by the Election Board or as ordered by the Judiciary in connection with an election challenge.

102.12-7. Notice of said Special Election shall be posted by the Election Board in the prominent locations, and placed in the Nation's newspaper not less than ten (10) calendar days prior to the Special Election.

102.12-8. In the event of an emergency, the Election Board may reschedule the election, provided that no less than twenty-four (24) hours notice of the rescheduled election date is given to the voters, by posting notices in the prominent locations.

Section C. Referendums

102.12-9. Registered voters may indicate opinions on any development, law or resolution, proposed, enacted, or directed by the Business Committee, or General Tribal Council, in a special referendum election.

(a) Referendum elections in which a majority of the qualified voters who cast votes shall be binding on the Business Committee to present the issue for action/decision at General Tribal Council.

(b) Referendum requests may appear on the next called for election.

(c) Referendum questions are to be presented to the Nation's Secretary, in writing, at the caucus prior to election, regarding issues directly affecting the Nation or general membership.

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Section D. Initiation of Special Elections

102.12-10. Special Elections may be initiated by a request or directive of the General Tribal Council or the Oneida Business Committee.

102.12-11. Special Election may be requested by a member of the Nation to the Business Committee or General Tribal Council.

102.12-12. All Special Elections shall follow rules established for all other elections. This includes positions for all Boards, Committees and Commissions.

102.13. Oneida Nation Constitution and By-law Amendments

102.13-1. Pursuant to Article VI of the Oneida Nation Constitution, amendments to the Oneida Nation Constitution and By-laws may be initiated by the Oneida Business Committee or a petition of qualified voters. The requirements for the Oneida Business Committee's initiation of Constitutional amendments are as provided in the Constitution and as further detailed in the supporting standard operating procedures which the Oneida Business Committee shall adopt. Qualified voters may petition to amend the Oneida Nation Constitution and By-laws by submitting a petition to the Office of the Nation's Secretary which includes the full text of the proposed amendments and signatures that are equal in number to at least ten percent (10%) of all members qualified to vote.

(a) Qualified voters may request a petition form from the Office of the Nation's Secretary.

(b) When a petition form is requested, the Nation's Secretary, or his or her designee, shall direct the Trust Enrollment Department to calculate the number of signatures currently required for a petition submittal, which shall be ten percent (10%) of all members qualified to vote on the date the petition form is requested from the Office of the Nation's Secretary. When the Nation's Secretary receives the calculation from the Trust Enrollment Department, the Nation's Secretary shall provide the requester with the petition form and the number of signatures that are currently required.

(c) Such petitions shall be circulated with all supporting materials and submitted a minimum of ninety (90) days prior to the election at which the proposed amendment is to be voted upon. If a petition includes supporting materials in addition to the petition form, each qualified voter signing the petition shall also acknowledge that the supporting materials were available for review at the time he or she signed the petition by initialing where required on the petition form.

(d) The Nation's Secretary shall forward submitted petitions to the Trust Enrollment Department for verification of signatures and to the Election Board to provide notice that the petition may need to be placed on an upcoming ballot.

(e) If the petition is verified by the Trust Enrollment Department to contain signatures from at least ten percent (10%) of all qualified voters, the Election Board shall make an official announcement of the proposed amendments to the Oneida Nation Constitution at least sixty (60) days prior to the election at which the proposed amendments are to be voted on.

102.13-2. The Election Board shall place any proposed amendments to the Oneida Nation Constitution that meet the requirements contained in 102.13-1 on the ballot at the next general election. Provided that, the Oneida Business Committee or General Tribal Council may order a special election be held to consider the proposed amendments. In such circumstances, the Election Board shall place any proposed amendments to the Oneida Nation Constitution on the ballot at the

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next special election.

102.13-3. The Election Board shall publish any proposed amendments by publishing a sample ballot no less than ten (10) calendar days prior to the election, through a mass mailing. The Trust Enrollment Department shall be notified, by the Election Board Chairperson, no less than twenty (20) calendar days prior to the requested mailing. Copies of such publications shall be prominently posted in each polling place and at administrative offices of the Nation and shall also be published in official Oneida media outlets, which the Oneida Business Committee shall identify by resolution. For the purposes of this section, Oneida administrative offices means the location where the Oneida Business Committee conducts business.

102.13-4. The Election Board shall ensure that the ballot contains a statement of the purpose of the proposed amendments prepared by the Oneida Law Office. The Oneida Law Office shall ensure that the statement of purpose is one hundred (100) words or less exclusive of caption, is a true and impartial statement and is written in such a manner that does not create prejudice for or against the proposed amendment.

102.13-5. Pursuant to Article VI, Section 3 of the Oneida Nation Constitution, proposed amendments that are approved by sixty-five percent (65%) of the qualified voters that vote on that amendment shall become part of the Constitution and By-laws, and shall abrogate or amend existing provisions of the Constitution and By-laws at the end of thirty (30) days after submission of the final election report.

102.13-6. If two (2) or more amendments approved by the voters at the same election conflict, the amendment receiving the highest affirmation vote prevails.

End.

Adopted - June 19, 1993

Amended - June 28, 1995 (Adopted by BC on Behalf of GTC, Completion of Agenda)

Presented for Adoption of 1997 Revisions - GTC-7-6-98-A

Amended- October 11, 2008 (General Tribal Council Meeting)

Amended-GTC-01-04-10-A

Amended – BC-02-25-15-C

Amended – GTC-04-23-17-A

Emergency Amended – BC-03-17-20-B (Expired)

Emergency Amended – BC-05-13-20-H (Expired)

Emergency Amended – BC-06-24-20-B (Expired at Conclusion of 2020 General Election)

Emergency Amended – BC-04-28-21-B (Expired)

Emergency Amended – BC-07-13-22-E (Expired)

Emergency Amended – BC-12-28-22-B (Expired)

Emergency Amended – BC-03-08-23-B (Expired)

Emergency Amended – BC-__-__-__-__



Legislative Operating Committee
June 18, 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.

5/21/25 LOC: Motion by Jennifer Webster to approve the updated draft and legislative analysis; seconded by Jonas Hill. Motion carried unanimously.

Next Steps:

- Approve the public meeting packet for the proposed amendments to the Hunting, Fishing, and Trapping law and schedule a public meeting to be held on July 30, 2025.

ONEIDA NATION PUBLIC MEETING NOTICE**WEDNESDAY, JULY 30, 2025, 12:15 pm**

Norbert Hill Center-Business Committee Conference Room
 N7210 Seminary Rd., Oneida, Wisconsin

Find Public Meeting Materials at
[Oneida-nsn.gov/government/register/public-meetings](https://oneida-nsn.gov/government/register/public-meetings)

**Send Public Comments to**

LOC@oneidanation.org

Ask Questions here

LOC@oneidanation.org

920-869-4417

HUNTING, FISHING, AND TRAPPING LAW AMENDMENTS

The purpose of the Hunting, Fishing, and Trapping law is to protect and conserve wildlife on the reservation and to promote respect among sportsmen, for both the environment and fellow sportsmen.

The Hunting, Fishing, and Trapping law amendments will:

- ♦ Eliminate the Environmental Resource Board (ERB) from the law and delegate all responsibilities of ERB provided in the law to the Conservation Department, except hearing authority, which is delegated to the Oneida Nation Judiciary.
- ♦ Revise what topics the Conservation Department is to draft rules for, including, but not limited to adding rules to identify designated seasons and/or hunting hours for elder, disabled, and youth hunts; regulate the use of recovery and retrieval services and methods; regulate the care and husbandry of animals used to hunt or animals used for private game hunting.
- ♦ Increase the allowable size of a hunting party from ten (10) to fifteen (15) persons.
- ♦ Allow designated hunters to hunt for an unlimited number of permittees, instead of being limited to the number authorized by the rules.
- ♦ And make other drafting changes to the law.

Individuals may attend the public meeting for the proposed Hunting, Fishing, and Trapping law amendments in person at the Norbert Hill Center, or virtually through Microsoft Teams. If you wish to attend the public meeting through Microsoft Teams please contact LOC@oneidanation.org.

PUBLIC COMMENT PERIOD CLOSES WEDNESDAY, AUGUST 13, 2025

During the public comment period, anyone may submit written comments, questions or input. Comments may be submitted to the Oneida Nation Secretary's Office or the Legislative Reference Office in person, by U.S. mail, interoffice mail, or e-mail.



For more information on the proposed Hunting, Fishing, and Trapping law amendments please review the public meeting packet at oneida-nsn.gov/government/register/public-meetings.



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	<ul style="list-style-type: none"> ▪ 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>

	<ul style="list-style-type: none"> ▪ 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.
 - On May 21, 2025, the Legislative Operating Committee approved an updated draft and the legislative analysis.
- 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.

E. ***Hunting and Trapping of Beavers.*** The current Law provides that 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: coyote, fox, raccoon, woodchuck, rabbit, squirrel, and any nuisance animal that is not an endangered or threatened species and is also not a regulated or protected species. [4 O.C. 406.6-1(a)(2)]. The current Law provides that landowners and lessees may remove wildlife considered a nuisance animal from land under their control and their associated structures, provided that they obtain a nuisance animal removal permit. [4 O.C. 406.8-1, 406.8-2]. The current Law also provides that a nuisance animal permit is not needed for landowners, lessees, or designee to hunt or trap beavers that are nuisance animals or to remove a beaver dam. [4 O.C. 406.8-3(a)]. The current Law then clarifies that only the landowner or the Department may set traps on a beaver dam on Tribal land, and this privilege may not be transferred to a designee. *Id.* The proposed amendments to the Law simply add beavers to the list of animals that landowners, lessees, and designees may hunt or trap on the property they own or lease, year-round, without a sportsman license. [4 O.C. 406.6-1(a)(2)].

- *Effect.* The proposed amendments allow for beavers to be hunted or trapped by landowner, lessee, or designee on the property they own or lease, year-round, without a sportsman license. The proposed amendments also eliminate the prohibition against designees setting traps on beaver dams on Tribal land.

F. ***Fishing Only Sportsman License.*** The current Law provides that a sportsman license may be issued which permits fishing only. [4 O.C. 406.6-1(b)(1)]. In those circumstances, successful completion of a certified hunter safety course is not required and the Department shall internally record such licenses as permitting fishing only. *Id.* A person issued a fishing only sportsman license is not allowed to hunt or trap until the licensee provides the Department with proof of successful completion of a hunter safety course. [4 O.C. 406.6-1(b)(1)(A)]. The current Law then allows 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. [4 O.C. 406.6-1(b)(1)(B)]. The proposed amendments to the Law eliminate the provision that allowed for 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. *Id.*

- *Effect.* The proposed amendments no longer allow a 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.

G. ***Ceremonial and/or Feast Permit.*** The current Law allows for Tribal members to apply for a ceremonial and/or feast permit to group hunt wildlife outside of the regular applicable seasons. [4 O.C. 406.6-2]. The current Law allows a ceremonial and/or feast permit to be issued to a group or organization that meets each of the following requirements: at least eighty-five percent (85%) of the group or organization members are Tribal members, the designee of the group is a Tribal member, and the hunt takes place on the reservation. [4 O.C. 406.6-2(b)]. 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. The current Law provides that all persons participating in the ceremonial or feast hunt shall be named hunters on the ceremonial or feast permit. [4 O.C. 406.6-2(c)]. The proposed

amendments to the Law maintain that requirement, which also adding the requirement that those participating in the hunt be tribal members, descendants, or a spouse to a Tribal member. [4 O.C. 406.6-2(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 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 requested a fiscal impact statement from the Finance Department.

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

406.1. Purpose and Policy
406.2. Adoption, Amendment, Repeal
406.3. Definitions
406.4. Jurisdiction
406.5. Administration and Supervision

406.6. Licenses and Permits
406.7. General Regulations
406.8. Wildlife Damage and Nuisance Control
406.9. Hunting
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.

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

~~(n)~~ (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.

~~(o)~~ (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.

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

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

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

~~(s)~~ (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.

~~(t)~~ (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

410 apply for the permit;

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

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

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

422 406.8-3. *Nuisance Animal Removal Permit Not Required.* A nuisance animal removal permit is
423 not required if the nuisance animal would otherwise be exempt from the license and permit
424 requirements under section 406.6-1(a)(2). Also, a nuisance animal removal permit is specifically
425 not required in following circumstances:

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

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

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

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

441 406.8-4. ~~Designated Agents.~~Nuisance Animal Removal Designees. A landowner may utilize ~~an~~
442 ~~agent~~as designee to remove a nuisance animal pursuant to the provisions of this law. ~~If~~ the
443 requirements of this law and corresponding rules are satisfied, the landowner's nuisance animal
444 removal permit and associated carcass tags, if applicable, may be utilized by the landowner's
445 assigned ~~agent~~designee.

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

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

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

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

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

455 (C) Any other information as may be required by the rules established
456 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,

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

³See 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

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-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-

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

417 406.8-6. *Officer or Warden's Access.* Any landowner or lessee pursuing the removal of a
418 nuisance animal shall grant the Oneida Police Department officers or wardens free and unrestricted
419 access to the premises on which the said removal is being conducted, is anticipated to be
420 conducted, or has been conducted. Further, the landowner or lessee, and the landowner's designee,
421 if applicable, shall promptly furnish any information requested by a Oneida Police Department
422 officer or warden relating to the said removal.

423 406.8-7. *Retaining Fur, Carcasses, and other Parts of Nuisance Animals.* The following applies
424 to nuisance animals removed in accordance with this section:

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

429 (1) Elders;

430 (2) Disabled persons; and

431 (3) Any other interested persons.

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

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

441 **406.9. Hunting**

442 406.9-1. *General Firearm and Archer Restrictions.* Persons may not:

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

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

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

450 (2) Across any roadway; or

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

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

454 406.9-2. *General Hunting Restrictions.* Persons may not, unless specifically authorized by a
455 permit, if applicable, do any of the following:

456 (a) Hunt with the use of aircraft;

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

458 (c) Hunt from a vehicle;

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

460 (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-__-__-__-__



Legislative Operating Committee
June 18, 2025

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

Submission Date: 5/7/25

LOC Sponsor: Jameson Wilson

Summary: *On March 17, 2025, the Petition S. Benton – Personnel Policies and Procedures Amendments was submitted. On March 24, 2025, the Oneida Trust Enrollment Department verified the signatures for the Petition. The Oneida Business Committee acknowledged receipt of this Petition on April 14, 2025.*

This petition calls for a special General Tribal Council (GTC) meeting to be called to consider the following: Proposed amendments to Personnel Policies and Procedures Including Code of Conduct, HR Orientation, and other policies relating to employee conduct:

- 1. Incorporate de-escalation training for employees to manage conflicts with difficult customers and high-stress situations. Include guidelines for co-workers to assist in de-escalation rather than being bystanders. Include or clarify employee's rights to refuse service to abusive or threatening customers.*
- 2. Ensure employees are not penalized for identifying complainants against them, as this could be construed as retaliation and grounds for appeal.*
- 3. Update job descriptions and SOPs to state: "Demonstrate a commitment to effective, professional communication with all stakeholders." Remove "ability to communicate with all..."*
- 4. Prohibit undisclosed audio and visual recording during investigations of employees. Require investigators to provide un-edited copies of all recordings and notes to employees before any disciplinary actions.*

4/14/25 OBC: Motion by Lisa Liggins to acknowledge receipt of petition # 2025-01 from Sherrole Benton regarding Amendments to the Personnel Policy and Procedures; to direct the BC Direct Report Offices to complete and submit their administrative impact statements of the petition to the Tribal Secretary mail box by April 30, 2025; and to direct the Law, Finance, and Legislative Reference Offices to complete, respectively, the legal review, fiscal impact statement, and statement of effect with status updates submitted to the May 14, 2025, regular Business Committee meeting agenda and the first Business Committee meeting of the month thereafter until the final documents are submitted, seconded by Jennifer Webster. Motion carried.

5/7/25 LOC: 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.

5/14/25 OBC: Motion by Lisa Liggins to accept the statement of effect regarding petition # 2025-01, to accept the legal review status update regarding petition # 2025-01, and to accept the fiscal impact statement status update regarding petition # 2025-01, seconded by Jennifer Webster. Motion carried.

6/11/25 OBC: Motion by Lisa Liggins to accept the statement of effect status update regarding petition # 2025-01, Liggins to accept the legal review status update regarding petition # 2025-01, and to accept the fiscal impact statement status update regarding petition # 2025-01, seconded by Jonas Hill. Motion carried.

Next Steps:

- Accept the statement of effect for the Petition: S. Benton – Personnel Policies and Procedures Amendments and forward to the Oneida Business Committee.



Statement of Effect

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

Summary

This petition requests the General Tribal Council to consider amending the Oneida Personnel Policies and Procedures.

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

Date: June 13, 2025

Analysis by the Legislative Reference Office

On March 17, 2025, the Petition: S. Benton – Personnel Policies and Procedures Amendments (“the Petition”) was submitted to the Government Administrative Office by Sherrole Benton and has since been verified by the Oneida Trust Enrollment Department on March 24, 2025. On April 14, 2025, the Oneida Business Committee acknowledged receipt of the Petition and directed that the Legislative Reference Office complete a statement of effect for the Petition with status updates to be submitted for the May 14, 2025, regular Business Committee meeting agenda and the first Business Committee meeting of the month thereafter or until the final documents are submitted. On May 7, 2025, the Legislative Operating Committee added the Petition to the Active Files List to be worked on by the Legislative Reference Office.

The purpose of this Petition is to call a special meeting of the General Tribal Council to consider the following:

Proposed amendments to Personnel Policies and Procedures Including Code of Conduct, HR Orientation, and other policies relating to employee conduct:

- 1. Incorporate de-escalation training for employees to manage conflicts with difficult customers and high-stress situations. Include guidelines for co-workers to assist in de-escalation rather than being bystanders. Include or clarify employee’s rights to refuse service to abusive or threatening customers.*
- 2. Ensure employees are not penalized for identifying complainants against them, as this could be construed as retaliation and grounds for appeal.*
- 3. Update job descriptions and SOPs to state: “Demonstrate a commitment to effective, professional communication with all stakeholders.” Remove “ability to communicate with all...”*
- 4. Prohibit undisclosed audio and visual recording during investigations of employees. Require investigators to provide un-edited copies of all recordings and notes to employees before any disciplinary actions.*

All applicable laws and policies of the Nation were reviewed in developing this statement of effect for the Petition.

The Legislative Process

Ultimately, this Petition is asking that the Oneida Personnel Policies and Procedures and other employment policies be amended to address a variety of concerns. The process for amending a law of the Nation is governed by the Legislative Procedures Act. The General Tribal Council adopted the Legislative Procedures Act in 2013 to set forth the process for the development and adoption of laws of the Nation by the Oneida Business Committee and General Tribal Council. [1 O.C. 109.1-1]. The Legislative Procedures Act intends to ensure that there is a standard process for developing legislation for the Nation. [1 O.C. 109.1-2]. Although the Legislative Procedures Act is not construed to impede the constitutional right of a member of the Nation under Article III, Section 4 of the Oneida Nation Constitution and Bylaws to petition for a special meeting of the General Tribal Council, the lawmaking requirements provided by the Legislative Procedures Act do apply to all legislation considered by the Oneida Business Committee or the General Tribal Council. [1 O.C. 109.1-3, 109.1-1].

The legislative process begins when any person who is interested in pursuing the development of or amendment to a law of the Nation submits a written request for legislation to the Legislative Reference Office, who then is responsible for placing the request for legislation on the agenda of the next duly called Legislative Operating Committee meeting. [1 O.C. 109.5-1, 109.5-2]. General Tribal Council delegated the Legislative Operating Committee the responsibility for the development of legislation of the Nation. [1 O.C. 109.4-2]. The Legislative Operating Committee is comprised of the five (5) Oneida Business Committee members who do not hold officer positions. [1 O.C. 110.4-1(b)]. Once the Legislative Operating Committee receives a request for legislation, the Legislative Operating Committee then either accepts or denies the request, except that the Legislative Operating Committee is not allowed to deny a request for legislation directed by a General Tribal Council law, resolution, or motion. [1 O.C. 109.5-2(a)-(b)].

Once the Legislative Operating Committee accepts a request for legislation and directs that legislation be developed in accordance with the Legislative Procedures Act, a draft of the legislation is created through research, review of other similar laws, collaboration with affected entities, and community engagement efforts. The Legislative Procedures Act provides guidance on how a law should be organized, such as different sections that need to be included in a law and what information needs to be addressed in each section, to ensure there is a consistent format amongst all laws of the Nation. [1 O.C. 109.11]. Once a draft of the proposed legislation is approved by the Legislative Operating Committee, a legislative analysis of the draft legislation is completed. [1 O.C. 109.7-1]. The purpose of the legislative analysis is to describe the important

features of the legislation being considered and factual information to enable the Legislative Operating Committee to make informed decisions regarding legislation. [1 O.C. 109.3-1(g)]. A legislative analysis includes a statement of the legislation's terms and substance; intent of the legislation; a description of the subject(s) involved, including any conflicts with Oneida or other law, key issues, potential impacts of the legislation and policy considerations. *Id.*

Once a draft and legislative analysis are completed for proposed legislation, the Legislative Operating Committee moves forward with obtaining public review of the proposed legislation. The Legislative Operating Committee determines a public meeting date and then a public meeting notice is created that contains the date, time and place of the public meeting, the time period for the public comment period, and the name, address, phone number, and other appropriate information on where to submit comments on the proposed legislation. [1 O.C. 109.8-2]. At least ten (10) business days before the public meeting is held, the public meeting notice is published in the Kalihwisaks, while the public meeting notice, proposed draft of the legislation, legislative analysis, and fiscal impact statement if available, are published on the Oneida Register on the Nation's webpage found at the following location: <https://oneida-nsn.gov/government/register/>, and electronically noticed to all managers and directors. [1 O.C. 109.8-2]. The managers and directors who receive the public meeting materials are then required by the Legislative Procedures Act to direct employees of the Nation who have special knowledge or expertise on the proposed legislation to provide public comments. [1 O.C. 109.8-4(a)].

The public meeting on the proposed legislation is required to be presided over by at least one (1) member of the Legislative Operating Committee. [1 O.C. 109.8-3(a)]. The purpose of the public meeting is to solicit oral comments from members of the community on the proposed legislation. [1 O.C. 109.8-3]. After the public meeting concludes, the Legislative Operating Committee holds open a public comment period for at least five (5) business days. [1 O.C. 109.8-1(a)]. During the public comment period individuals may submit written comments including data, views, arguments, or concerns to the Oneida Business Committee Secretary or the Legislative Reference Office in person or through United States mail, interoffice mail, e-mail, or fax. [1 O.C. 109.8-1(c), 109.4-4(b)].

Once the public comment period has concluded, the Legislative Operating Committee is required by the Legislative Procedures Act to fully consider all written comments and oral testimony received during the public comment period and any public meeting on the proposed legislation. [1 O.C. 109.8-4]. The Legislative Operating Committee accomplishes this responsibility through the development of a public comment review memorandum that provides the Legislative Operating Committee's consideration of every comment received, and demonstrates any changes made to the proposed legislation based on the public comments.

A fiscal impact statement is also required for all proposed legislation. [1 O.C. 109.6-1]. A fiscal impact statement provides an estimate of the total fiscal year financial effects associated with legislation and includes startup costs, personnel, office, documentation costs, as well as an estimate of the amount of time necessary for an individual or agency to comply with the law after implementation. [1 O.C. 109.3-1(c)]. The Legislative Operating Committee may direct that a fiscal impact statement be submitted by any agency who may receive funding if the legislation is enacted, may administer a program if the legislation is enacted, may have financial information concerning the subject matter of the legislation, or the Finance Department. [1 O.C. 109.6-1]. Oneida Business Committee resolution BC-10-28-20-A, *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 Legislative Operating Committee, the Legislative Operating Committee may direct the Finance Department or any agency who may receive funding if the legislation is enacted, may administer a program if the legislation is enacted, may have financial information concerning the subject matter of the legislation to provide a neutral and unbiased fiscal impact statement to the LOC within ten (10) business days for inclusion in adoption materials.

After all the requirements of the Legislative Procedures Act are met and the Legislative Operating Committee is satisfied with proposed legislation, the Legislative Operating Committee then forwards an adoption packet comprised of the proposed legislation, legislative analysis, fiscal impact statement, resolution, statement of effect, and an adoption memorandum to the Oneida Business Committee for consideration. [1 O.C. 109.9-1]. The Oneida Business Committee then either considers whether to approve or deny the adoption of the legislation or forwards the legislation to the General Tribal Council for consideration of adoption. [1 O.C. 109.9-1(a)-(b)]. A law is adopted, amended, or repealed upon the adoption of a resolution. [1 O.C. 109.9-2]. For those laws considered by the Oneida Business Committee a majority vote is required for the adoption of the law, while amendments and repeals of a law are handled in accordance with the laws governing Oneida Business Committee action. [1 O.C. 109.9-2(a)]. The Oneida Business Committee utilizes Robert's Rules of Order, current edition, for the procedural rules of its meetings except as specifically modified by the Constitution and Bylaws of the Oneida Nation. [1 O.C. 117.4-1]. For those laws considered by the General Tribal Council, adoption, amendment, and repeal of laws are done in accordance with the laws governing General Tribal Council action. [1 O.C. 109.9-2(b)]. Any action by the General Tribal Council to overrule previous passed motions or resolution requires a two-thirds (2/3) vote. [1 O.C. 113.3-1(a)(3)].

Once legislation is adopted through resolution by either the Oneida Business Committee or the General Tribal Council the law shall become effective ten (10) business days after the date of adoption unless a different effective date is specified. [1 O.C. 109.9-3]. The Legislative Operating Committee is then responsible for publishing the law in the Oneida Code of laws by the effective date. [1 O.C. 109.9-4]. The Oneida Code of Laws can be found on the Oneida Register on the

Nation's website at the following location: <https://oneida-nsn.gov/government/register/laws/>. Any law adopted in substantial compliance with the Legislative Procedures Act is considered valid. [1 O.C. 109.10-1]. No law can be contested based on non-compliance with the procedural requirements of the Legislative Procedures Act after one (1) year from the effective date of the law. [1 O.C. 109.10-2].

Oneida Personnel Policies and Procedures

The Oneida Personnel Policies and Procedures is the law of the Nation which provides for the Nation's employee related policies and procedures including topics such as recruitment, selection, compensation and benefits, employee relations, safety and health, program and enterprise rules and regulations, and record keeping. This Petition brings forward a variety of issues that the Petitioner believes should be addressed through amendments to the Oneida Personnel Policies and Procedures.

The Petition requests that the Oneida Personnel Policies and Procedures be amended to, *"Incorporate de-escalation training for employees to manage conflicts with difficult customers and high-stress situations. Include guidelines for co-workers to assist in de-escalation rather than being bystanders. Include or clarify employee's rights to refuse service to abusive or threatening customers."* In regard to training, Section V of the Oneida Personnel Policies and Procedures addresses the training of new employees of the Nation and requires that the Nation provide an orientation program designed to ease a new employee's transition into a job and enable the new employee to become effective and productive as quickly as possible. [OPPP Section V.A.]. The Human Resources Department is responsible for administering the general orientation program. [OPPP Section V.A.2.a]. The orientation provided by the Human Resources Department is required to include topics such as an overview; Tribal government and procedures; key policies and procedures; benefits; safety, health and security; and departmental orientation. [OPPP Section V.A.1.a-f]. The Human Resources Department is required to assist divisions of the Nation in administering departmental specific orientation programs. [OPPP Section V.A.2.a.1]. The Human Resources Department is required to annually review the general orientation program and each departmental orientation program to evaluate the effectiveness of each program and modify programs as necessary. [OPPP Section V.A.2.c.1-2]. The Oneida Personnel Policies and Procedures does not specifically address ongoing training requirements of current employees of the Nation. The Oneida Personnel Policies and Procedures also does not specifically address de-escalation training or provide information on an employee's rights to refuse service. Amendments to the Oneida Personnel Policies and Procedures would be necessary to address the training concerns brought forward by the Petitioner.

The Petition requests that the Oneida Personnel Policies and Procedures be amended to, *"Update job descriptions and SOPs to state: "Demonstrate a commitment to effective, professional*

communication with all stakeholders.” Remove “ability to communicate with all....” The Oneida Personnel Policies and Procedures does address job descriptions of employees. Section III of the Oneida Personnel Policies and Procedures provides that for existing positions, the Human Resources Department Manager or designee, the supervisor, and the Area Manager at their discretion, will review the job description to ensure compliance with the Nation’s job structure and the needs and requirements of the job. [OPPP Section III.B.2.c.2]. For new positions, the Human Resources Department Manager, the appropriate Area Manager, and the supervisor will develop the job description, ensuring that the new job description conforms to the Nation’s job structure, and that the new job description is reviewed by the General Manager. [OPPP Section III.B.2.c.3]. All job descriptions of the Nation are required to contain the following information: job title, division/department, location, supervisor’s title; posting date, application deadline, preferred starting date, date of job, description review; pay level (grade, step, hourly rate); a brief job summary; duties and responsibilities; qualifications; inquiry address; and statement of compliance with EEO and Indian Preference policies. [OPPP Section III.B.2.c.4.a-h]. The Oneida Personnel Policies and Procedures does not specifically address or require specific language that has to be included in all job descriptions regarding communication. Amendments to the Oneida Personnel Policies and Procedures would be necessary to address the concerns regarding revising communication requirements found in job descriptions brought forward by the Petitioner.

The Petition also requests that the Oneida Personnel Policies and Procedures be amended to, *“Ensure employees are not penalized for identifying complainants against them, as this could be construed as retaliation and grounds for appeal.”* The Oneida Personnel Policies and Procedures does address complaints made against an employee and provides that should an employee have a disagreement with another employee, they may lodge an informal (verbal) or formal (written) complaint with the employee’s supervisor. [OPPP Section V.D.1.a]. The supervisor is then responsible for investigating the complaint and attempting to resolve the disagreement. [OPPP Section V.D.1.b]. If the employee lodging the complaint is dissatisfied with the attempted resolution, they may ask the Area Manager to attempt a resolution. [OPPP Section V.D.1.c]. The Oneida Personnel Policies and Procedures allows for no further appeal of the complaint process. [OPPP Section V.D.1.d]. The Oneida Personnel Policies and Procedures does not address whether there is an expectation that the complainant remain anonymous, or what occurs if the employee for which the complaint is lodged against identifies the complainant. Amendments to the Oneida Personnel Policies and Procedures would be necessary to address the concerns regarding confidentiality expectations of complainants during the employee complaint process as brought forward by the Petitioner.

Finally, the Petition also requests that the Oneida Personnel Policies and Procedures be amended to, *“Prohibit undisclosed audio and visual recording during investigations of employees. Require investigators to provide un-edited copies of all recordings and notes to employees before any disciplinary actions.”* As provided above, the Oneida Personnel Policies and Procedures only

addresses the investigation of complaints to provide that the supervisor is responsible for investigating a complaint and attempting to resolve the disagreement. [OPPP Section V.D.1.b]. The Oneida Personnel Policies and Procedures then goes on to provide that when a supervisor becomes aware of unsatisfactory work performance or a violation, whether that comes from a complaint or not, the supervisor investigates through a meeting with the employees and determines whether disciplinary action is warranted. [OPPP Section V.D.5.a]. Disciplinary actions are always initiated by an immediate supervisor for the purpose of correcting unacceptable work performance, and the supervisor discusses the disciplinary action with the employee being disciplined to ensure that the employee understands the reason for the disciplinary action; understands the expected work performance in light of the disciplinary action; and understands the consequences of continued unacceptable behavior. [OPPP Section V.D.2.a]. The Oneida Personnel Policies and Procedures provides further detail on how disciplinary actions are processed. [OPPP Section V.D.5]. An employee who receives a disciplinary action that they believe is unfair is allowed to grieve the action, and the Oneida Personnel Policies and Procedures provides the process for how grievances are handled. [OPPP Section V.D.6]. The Oneida Personnel Policies and Procedures does not address how audio or video recording is handled during an investigation or what information is shared with employees prior to any disciplinary action being taken. Amendments to the Oneida Personnel Policies and Procedures would be necessary to address the concerns regarding audio and video recordings and general disclosure of evidence or information collected during an employee investigation as brought forward by the Petitioner.

Overall, the Petition is requesting that the Oneida Personnel Policies and Procedures be amended to address a variety of concerns as discussed above. The Oneida Personnel Policies and Procedures does not specifically address the concerns brought forward by the Petitioner, so amendments to the law would be necessary. Any amendments made to the Oneida Personnel Policies and Procedures would be required to comply with the process provided in the Legislative Procedures Act.

Other Employment Policies Relating to Employee Conduct

In addition to amending the Oneida Personnel Policies and Procedures, the Petition also requests amendments to the “*Code of Conduct, HR Orientation, and other policies relating to employee conduct*” to address its provided concerns. It is unclear what the Petitioner specifically means by “*Code of Conduct*” or “*other policies relating to employee conduct,*” and without further clarification, a proper review of other policies that may be impacted by this request cannot be completed. But any amendments to other legislation of the Nation would still be required to comply with the process provided in the Legislative Procedures Act.

Conclusion

After a review of all applicable laws and policies of the Nation, it has been determined that the adoption of the Petition: S. Benton – Personnel Policies and Procedures Amendments would have the following legislative effect:

1. The Petition is requesting that amendments be made to the Oneida Personnel Policies and Procedures to address a variety of issues. Any amendments made to the Oneida Personnel Policies and Procedures would be required to comply with the process and procedures for amending legislation of the Nation as provided in the Legislative Procedures Act.
2. The Petition also requests amendments to the “*Code of Conduct, HR Orientation, and other policies relating to employee conduct*” to address its provided concerns. It is unclear what the Petitioner specifically means by “*Code of Conduct*” or “*other policies relating to employee conduct,*” and without further clarification, a proper review of other policies that may be impacted by this request cannot be completed. But any amendments to other legislation of the Nation would still be required to comply with the process provided in the Legislative Procedures Act.

Requested Action

Accept the statement of effect for the Petition: S. Benton – Personnel Policies and Procedures Amendments.



Legislative Operating Committee
June 18, 2025

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

Submission Date: 5/7/25

LOC Sponsor: Jameson Wilson

Summary: *On March 17, 2025, the Petition S. Benton – Trial Court Rules Amendments was submitted. On March 24, 2025, the Oneida Trust Enrollment Department verified the signatures for the Petition. The Oneida Business Committee acknowledged receipt of this Petition on April 14, 2025.*

This petition calls for a special General Tribal Council (GTC) meeting to be called to consider the following: Amend Oneida Trial Court Rules to ensure fair treatment of employee cases. The Oneida Trial Court has issued inconsistent rulings on granting hearings for similar employee cases. This inconsistency undermines judicial integrity and creates uncertainty for affected parties. We propose:

1. Amend court rules to guarantee hearings for all Oneida Nation employee cases as its low bar for hearings should recognize “loss of income” and “harm to employee reputation” as definitions or criteria for how employees were harmed by disciplinary actions.

2. Require the Clerk of Court to:

a) Publicly display an updated list of attorneys and advocates admitted to practice before the Oneida Judiciary.

b) Provide a copy of the list of attorneys and advocates to employees filing for hearings.

These changes will ensure fair treatment and transparency in the judicial process.

4/14/25 OBC: Motion by Lisa Liggins to acknowledge receipt of the petition # 2025-02 from Sherrole Benton regarding Tribal Court Rules Amendments; to direct the BC Direct Report Offices to complete and submit their administrative impact statements of the petition to the Tribal Secretary mail box by April 30, 2025; and to direct the Law, Finance, and Legislative Reference Offices to complete, respectively, the legal review, fiscal impact statement, and statement of effect with status updates submitted to the May 14, 2025, regular Business Committee meeting agenda and the first Business Committee meeting of the month thereafter until the final documents are submitted, seconded by Jennifer Webster. Motion carried.

5/7/25 LOC: 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.

5/14/25 OBC: Motion by Lisa Liggins to accept the statement of effect regarding petition # 2025-02, to accept the legal review status update regarding petition # 2025-02, and to accept the fiscal impact statement status update regarding petition # 2025-02, seconded by Jennifer Webster. Motion carried.

6/11/25 OBC: Motion by Lisa Liggins to accept the statement of effect status update regarding petition # 2025-02, Liggins to accept the legal review status update regarding petition # 2025-02, and to accept the fiscal impact statement status update regarding petition # 2025-02, seconded by Jonas Hill. Motion carried.

Next Steps:

- Accept the statement of effect for the Petition: S. Benton – Trial Court Rules Amendments and forward to the Oneida Business Committee.



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Statement of Effect

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

Summary

This petition requests the General Tribal Council to consider amending “Oneida Trial Court Rules” to ensure fair treatment of employee cases, by amending laws to guarantee hearings for all Oneida Nation employee cases, and addressing listings of attorneys and advocates.

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

Date: June 17, 2025

Analysis by the Legislative Reference Office

On March 17, 2025, the Petition: S. Benton – Trial Court Rules Amendments (“the Petition”) was submitted to the Government Administrative Office by Sherrole Benton and has since been verified by the Oneida Trust Enrollment Department on March 24, 2025. On April 14, 2025, the Oneida Business Committee acknowledged receipt of the Petition and directed that the Legislative Reference Office complete a statement of effect for the Petition with status updates to be submitted for the May 14, 2025, regular Business Committee meeting agenda and the first Business Committee meeting of the month thereafter or until the final documents are submitted. On May 7, 2025, the Legislative Operating Committee added the Petition to the Active Files List to be worked on by the Legislative Reference Office.

The purpose of this Petition is to call a special meeting of the General Tribal Council to consider the following:

Amend Oneida Trial Court Rules to ensure fair treatment of employee cases. The Oneida Trial Court has issued inconsistent rulings on granting hearings for similar employee cases. This inconsistency undermines judicial integrity and creates uncertainty for affected parties. We propose:

- 1. Amend court rules to guarantee hearings for all Oneida Nation employee cases as its low bar for hearings should recognize “loss of income” and “harm to employee reputation” as definitions or criteria for how employees were harmed by disciplinary actions.*
- 2. Require the Clerk of Court to:*
 - a) Publicly display an updated list of attorneys and advocates admitted to practice before the Oneida Judiciary.*

b) Provide a copy of the list of attorneys and advocates to employees filing for hearings.

These changes will ensure fair treatment and transparency in the judicial process.

All applicable laws and policies of the Nation were reviewed in developing this statement of effect for the Petition.

What Constitutes the Oneida Trial Court Rules

The Petition calls for the “*Oneida Trial Court Rules*” to be amended to ensure fair treatment of employment cases by revising laws to guarantee hearings for all Oneida Nation employee cases and by addressing how listings of attorneys and advocates are handled.

It is unclear what the Petitioner means by “*Oneida Trial Court Rules*.” There are a variety of different laws, rules, and resolutions of the Nation that guide the Oneida Nation Judiciary that could be impacted by this Petition such as the Judiciary law, Judiciary law Rule No. 1 – Oneida Trial Court Rules, Oneida Tribal Judiciary Canons of Judicial Conduct, Oneida Judiciary Rules of Civil Procedure, Oneida Judiciary Rules of Evidence. Additionally, there are other laws of the Nation that address certain topics addressed by this Petition such as the Oneida Personnel Policies and Procedures, the Legal Resource Center law, and the Professional Conduct for Attorneys and Advocates law.

Briefly looking at each law that could be impacted by this Petition, the Judiciary law establishes a Judiciary for the Nation, and provides for the administration of law, justice, judicial procedures and practices by the Oneida 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 Judiciary law 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. [8 O.C. 801.1-2]. It is the Judiciary law that first addresses Clerks of Courts and provides that the Chief Judges shall each hire a person through the Nation’s Human Resources processes to serve as the clerk of his or her Court. [8 O.C. 801.406(b)]. The Judiciary law also provides that employment grievances shall be heard in accordance with the Nation’s personnel policies and procedures. [8 O.C. 801.4-6(c)].

The Judiciary law also delegates authority to the Judiciary to create rules of pleading, practice, and procedure to regulate all hearings conducted before it. [8 O.C. 801.10-1]. Prior to the Oneida Business Committee approval to adopt, amend, or repeal a rule, the Judiciary is required to provide public notice and an opportunity of at least ten (10) business days to submit written comments on the rule. *Id.* All submitted comments are required to be considered by the Judiciary prior to forwarding the rule to the Oneida Business Committee for final action on the rule. *Id.* The Oneida

Business Committee is responsible for adopting, amending, or repealing a rule from the Judiciary by majority vote. [8 O.C. 801.10-2]. Rules of pleading, practice, and procedure are required to be codified as part of the Oneida Code of Laws. [8 O.C. 801.10-3]. The Judiciary law clarifies that its provisions regarding rules does not abridge the right of the Oneida General Tribal Council or the Oneida Business Committee to adopt, amend, or repeal rules relating to pleading, practice, or procedure in accordance with the Tribe's lawmaking procedures. [8 O.C. 801.10-4].

One such rule of pleading, practice, and procedure is the Judiciary Law Rule No. 1 – Oneida Trial Court Rules. The purpose of this rule is to supplement the Oneida Judiciary Rules of Civil Procedure and other laws governing the Trial Court. [Rule 1.1-1]. This Rule addresses topics such as appearances, rules of decorum, default judgment, continuance, participation accommodations, scheduling a hearing, ex parte communication, peacemaking and mediation, contempt, cases with no action for sixty (60) days, witnesses, garnishments, closed hearings/records, temporary restraining orders, citation hearings, probate hearings, judge's signature defined, and notice of appearances.

The Oneida Tribal Judiciary Canons of Judicial Conduct governs the conduct of judges. [8 O.C. 802]. The Oneida Tribal Judiciary Canons of Judicial Conduct provides that a judge shall ensure that all court proceedings are conducted impartially and respectfully, and that due regard is given to each party's rights; and shall strive to resolve cases in an atmosphere of reason, rather than contention. [8 O.C. 802 1.7].

The Oneida Judiciary Rules of Civil Procedure governs all civil actions that fall under the jurisdiction of the Oneida Nation. [8 O.C. 803.1-1]. The Oneida Judiciary Rules of Civil Procedures provides that it is the policy of the Nation that there should be a consistent set of rules governing the process for civil claims, in order to ensure equal and fair treatment to all persons who come before the Tribal Courts to have their disputes resolved. [8 O.C. 803.1-2].

The Oneida Judiciary Rules of Evidence establishes rules of evidence to apply in proceedings held in the trial courts of the Oneida Judiciary and the Family Court of the Nation. [8 O.C. 804.1-1]. It is the policy of the Oneida Judiciary Rules of Evidence to administer Court proceedings fairly, eliminate unjustifiable expense and delay, and promote the development of evidence law, by obtaining the truth and securing a just determination. [8 O.C. 804.1-2].

The Legal Resource Center law establishes a Legal Resource Center to provide legal advice and representation to both Tribal members and employees in cases before the Judiciary and to represent the Oneida General Tribal Council at General Tribal Council meetings. [8 O.C. 811.1-1]. It is the policy of the Legal Resource Center law to provide legal assistance to its members and employees in an effort to protect individual rights. [8 O.C. 811.1-1]. The Legal Resource Center consists of one (1) attorney and two (2) advocates. [8 O.C. 811.5-1, 811.6-1]. An advocate is defined by this

law to mean a person elected by the membership who is a non-attorney admitted to practice law before the Judiciary and presented to the Court as the representative or advisor to a party. [8 O.C. 811.3-1(a)].

The Oneida Personnel Policies and Procedures is the law of the Nation which provides for the Nation's employee related policies and procedures including topics such as recruitment, selection, compensation and benefits, employee relations, safety and health, program and enterprise rules and regulations, and record keeping. The Oneida Personnel Policies and Procedures governs how employment complaints, disciplinary actions, and grievances are handled. [OPPP Section V.D].

Without further clarification from the Petition regarding what is intended by “*Oneida Trial Court Rules*” we cannot properly review what laws, policies, or rules of the Nation may be affected by the requests of this Petition, and therefore we cannot accurately determine the legislative impact of this Petition.

Guaranteed Hearings for Employment Cases

The Petition requests that the General Tribal Council consider taking action to “*Amend court rules to guarantee hearings for all Oneida Nation employee cases as its low bar for hearings should recognize “loss of income” and “harm to employee reputation” as definitions or criteria for how employees were harmed by disciplinary actions.*”

The Oneida Personnel Policies and Procedures is the law of the Nation which provides for the Nation's employee related policies and procedures including topics such as recruitment, selection, compensation and benefits, employee relations, safety and health, program and enterprise rules and regulations, and record keeping. The Oneida Personnel Policies and Procedures governs how employment complaints, disciplinary actions, and grievances are handled.

The Oneida Personnel Policies and Procedures addresses complaints made against an employee and provides that should an employee have a disagreement with another employee, they may lodge an informal (verbal) or formal (written) complaint with the employee's supervisor. [OPPP Section V.D.1.a]. The supervisor is then responsible for investigating the complaint and attempting to resolve the disagreement. [OPPP Section V.D.1.b]. If the employee lodging the complaint is dissatisfied with the attempted resolution, they may ask the Area Manager to attempt a resolution. [OPPP Section V.D.1.c]. The Oneida Personnel Policies and Procedures allows for no further appeal of the complaint process. [OPPP Section V.D.1.d]. The Oneida Personnel Policies and Procedures then goes on to provide that when a supervisor becomes aware of unsatisfactory work performance or a violation, whether that comes from a complaint or not, the supervisor investigates through a meeting with the employees and determines whether disciplinary action is warranted. [OPPP Section V.D.5.a]. Disciplinary actions are always initiated by an immediate supervisor for

the purpose of correcting unacceptable work performance, and the supervisor discusses the disciplinary action with the employee being disciplined to ensure that the employee understands the reason for the disciplinary action; understands the expected work performance in light of the disciplinary action; and understands the consequences of continued unacceptable behavior. *[OPPP Section V.D.2.a]*. The Oneida Personnel Policies and Procedures provides further detail on how disciplinary actions are processed. *[OPPP Section V.D.5]*.

An employee who receives a disciplinary action that they believe is unfair is allowed to grieve the action, and the Oneida Personnel Policies and Procedures provides the process for how grievances are handled. *[OPPP Section V.D.6]*. The Judiciary law provides that employment grievances shall be heard in accordance with the Nation's personnel policies and procedures. *[8 O.C. 801.4-6(c)]*. For all disciplinary actions, regardless of severity, the employee (petitioner) must file an appeal in writing. *[OPPP Section V.D.6.a.1]*. The employee is allowed the opportunity to seek the assistance of a spokesperson or advocate at any time after the disciplinary action has been issued in order to aid in the resolution of the grievance process. *[OPPP Section V.D.6.a.1.a]*. The employee must file the appeal with the Area Manager and the Human Resources Department Manager within ten (10) working days from the day the employee receives the disciplinary action. *[OPPP Section V.D.6.a.1.b]*. The Area Manager, for all disciplinary action investigations, has ten (10) working days from the receipt of the employee's appeal to complete the investigation. *[OPPP Section V.D.6.a.2]*. One extension of no more than five (5) working days may be requested of and granted by the HRD Manager at their discretion. *Id.* The Area Manager is then responsible for doing one of the following: upholding the disciplinary action; modifying the disciplinary action; or overturning the disciplinary action. *[OPPP Section V.D.6.a.3]*. If a suspension or termination is overturned, the employee is reinstated with full back pay. *Id.* The Area Manager is then required to file a decision with the employee and the Human Resources Department Manager that includes a reason for the decision, an explanation of the decision and the action to be taken as a result of it. *[OPPP Section V.D.6.a.4]*.

The Oneida Personnel Policies and Procedures then provides that an employee may appeal the Area Manager's decision to the Oneida Personnel Commission by filing a complaint with the Human Resources Department on behalf of the Oneida Personnel Commission within ten (10) working days from the employee's receipt of the Area Manager's decision. *[OPPP Section V.D.6.b.1]*. The Human Resources Department shall provide the information obtained to the Oneida Personnel Commission members selected to serve as the hearing body for the complaint, and the Oneida Personnel Commissioners then review all the information submitted by the Petitioner and the Human Resources Department to determine if one or both conditions exist: The decision of the Area Manager is clearly against the weight of the evidence; and/or procedural irregularities were exhibited during the appeal process that were harmful to one of the parties to the grievance. *[OPPP Section V.D.6.d.1]*. If the Oneida Personnel Commission members selected to serve as the hearing body for the complaint find one or both conditions exist, the Human

Resources Department then convenes the Oneida Personnel Commission to hear the grievance. [OPPP Section V.D.6.d.2]. If the Oneida Personnel Commission members find that neither condition exists, the Oneida Personnel Commission denies the appeal for a hearing and affirms the decision of the Area Manager. [OPPP Section V.D.6.d.3].

Although the Oneida Personnel Policies and Procedures references the Oneida Personnel Commission, it is important to note that resolution BC-09-26-18-F, *Rescission of the Dissolution of the Oneida Personnel Commission and Related Emergency Amendments in Accordance with General Tribal Council's August 27, 2018 Directive*, provides that the Judiciary – Trial Court shall continue to hear employee grievance matters until the Oneida Personnel Commission is prepared to begin exercising hearing authority. This resolution then goes on to provide that the Oneida Personnel Commission shall be prepared to exercise hearing authority over employee grievance matters when the Oneida Personnel Commission informs the Oneida Business Committee that the minimum number of Oneida Personnel Commission members have been appointed and have obtained all required trainings. This resolution also delegated the responsibility to the Nation's Human Resources Department to draft an interpretation of Section V.D. of the Oneida Personnel Policies and Procedures which clarifies that in regard to employee grievance matters the term "Oneida Personnel Commission" shall be interpreted to mean the "Judiciary – Trial Court" until such time that the Oneida Personnel Commission informs the Oneida Business Committee that they are prepared to begin exercising hearing authority. To date, the Oneida Personnel Commission has not again exercised hearing authority, and it has been the Judiciary-Trial Court that hears all employee grievance matters.

Therefore, an employee is guaranteed to have their grievance complaint heard before the Judiciary Trial Court if their appeal of the Area Manager's decision is filed within ten (10) working days, and they can show one or both conditions exist: the decision of the Area Manager is clearly against the weight of the evidence; and/or procedural irregularities were exhibited during the appeal process that were harmful to one of the parties to the grievance. [OPPP Section V.D.6.b.1, V.D.6.d.1]. The Oneida Personnel Policies and Procedures does not provide any further detail or clarification on what "harmful to one of the parties of the grievance" means. If the Petitioner desires that the law specifically recognizes "loss of income" or "harm to employee reputation" as ways an employee was harmed by disciplinary actions, then amendments to the Oneida Personnel Policies and Procedures would be necessary. Any amendments to the Oneida Personnel Policies and Procedures would be required to comply with the Legislative Procedures Act, and a two-thirds (2/3) majority vote would be required to adopt any amendments to the Oneida Personnel Policies and Procedures. [1 O.C. 110.3-1(a)(3)].

Lists of Advocates and Attorneys

The Petition calls for the Clerk of Courts to be required to: “*Publicly display an updated list of attorneys and advocates admitted to practice before the Oneida Judiciary. And Provide a copy of the list of attorneys and advocates to employees filing for hearings.*”

In regard to the Clerk of Courts, the Judiciary law provides that the Chief Judges shall each hire a person through the Nation’s Human Resources processes to serve as the clerk of his or her Court. [8 O.C. 801.406(b)]. The Clerk of Courts is supervised by the Trial Court Chief Judge. [8 O.C. 801.5-8(c)]. The Oneida Judiciary Rules of Civil Procedure provides various responsibilities and duties of the Clerk of Courts throughout the law. [8 O.C. 803]. None of the responsibilities or duties listed in the Oneida Judiciary Rules of Civil Procedure reference any responsibilities in regard to providing a list of attorneys or advocates admitted to practice before the Judiciary. There are no laws of the Nation that require the Clerk of Courts to be responsible to provide a list of attorney or advocates admitted to practice before the Judiciary to the general public or to employees filing grievance complaints.

If the Petitioner desires that a law of the Nation specifically require the Clerk of Courts to be responsible for providing a list of attorney or advocates who are admitted to practice before the Judiciary to the general public or to employees filing grievance complaints, then an amendment would be necessary. Any amendments made to a law of the Nation is required to follow the process and procedures of the Legislative Procedures Act.

The Legislative Process

Ultimately, this Petition is asking that the “*Oneida Trial Court Rules*” be amended to address a variety of concerns. The Petition is not clear as to what law exactly is being referred to as the “Oneida Trial Court Rules,” but the process for amending a law of the Nation is governed by the Legislative Procedures Act.

The General Tribal Council adopted the Legislative Procedures Act in 2013 to set forth the process for the development and adoption of laws of the Nation by the Oneida Business Committee and General Tribal Council. [1 O.C. 109.1-1]. The Legislative Procedures Act intends to ensure that there is a standard process for developing legislation for the Nation. [1 O.C. 109.1-2]. Although the Legislative Procedures Act is not construed to impede the constitutional right of a member of the Nation under Article III, Section 4 of the Oneida Nation Constitution and Bylaws to petition for a special meeting of the General Tribal Council, the lawmaking requirements provided by the Legislative Procedures Act do apply to all legislation considered by the Oneida Business Committee or the General Tribal Council. [1 O.C. 109.1-3, 109.1-1].

The legislative process begins when any person who is interested in pursuing the development of or amendment to a law of the Nation submits a written request for legislation to the Legislative

Reference Office, who then is responsible for placing the request for legislation on the agenda of the next duly called Legislative Operating Committee meeting. [1 O.C. 109.5-1, 109.5-2]. General Tribal Council delegated the Legislative Operating Committee the responsibility for the development of legislation of the Nation. [1 O.C. 109.4-2]. The Legislative Operating Committee is comprised of the five (5) Oneida Business Committee members who do not hold officer positions. [1 O.C. 110.4-1(b)]. Once the Legislative Operating Committee receives a request for legislation, the Legislative Operating Committee then either accepts or denies the request, except that the Legislative Operating Committee is not allowed to deny a request for legislation directed by a General Tribal Council law, resolution, or motion. [1 O.C. 109.5-2(a)-(b)].

Once the Legislative Operating Committee accepts a request for legislation and directs that legislation be developed in accordance with the Legislative Procedures Act, a draft of the legislation is created through research, review of other similar laws, collaboration with affected entities, and community engagement efforts. The Legislative Procedures Act provides guidance on how a law should be organized, such as different sections that need to be included in a law and what information needs to be addressed in each section, to ensure there is a consistent format amongst all laws of the Nation. [1 O.C. 109.11]. Once a draft of the proposed legislation is approved by the Legislative Operating Committee, a legislative analysis of the draft legislation is completed. [1 O.C. 109.7-1]. The purpose of the legislative analysis is to describe the important features of the legislation being considered and factual information to enable the Legislative Operating Committee to make informed decisions regarding legislation. [1 O.C. 109.3-1(g)]. A legislative analysis includes a statement of the legislation's terms and substance; intent of the legislation; a description of the subject(s) involved, including any conflicts with Oneida or other law, key issues, potential impacts of the legislation and policy considerations. *Id.*

Once a draft and legislative analysis are completed for proposed legislation, the Legislative Operating Committee moves forward with obtaining public review of the proposed legislation. The Legislative Operating Committee determines a public meeting date and then a public meeting notice is created that contains the date, time and place of the public meeting, the time period for the public comment period, and the name, address, phone number, and other appropriate information on where to submit comments on the proposed legislation. [1 O.C. 109.8-2]. At least ten (10) business days before the public meeting is held, the public meeting notice is published in the Kalihwisaks, while the public meeting notice, proposed draft of the legislation, legislative analysis, and fiscal impact statement if available, are published on the Oneida Register on the Nation's webpage found at the following location: <https://oneida-nsn.gov/government/register/>, and electronically noticed to all managers and directors. [1 O.C. 109.8-2]. The managers and directors who receive the public meeting materials are then required by the Legislative Procedures Act to direct employees of the Nation who have special knowledge or expertise on the proposed legislation to provide public comments. [1 O.C. 109.8-4(a)].

The public meeting on the proposed legislation is required to be presided over by at least one (1) member of the Legislative Operating Committee. [1 O.C. 109.8-3(a)]. The purpose of the public meeting is to solicit oral comments from members of the community on the proposed legislation. [1 O.C. 109.8-3]. After the public meeting concludes, the Legislative Operating Committee holds open a public comment period for at least five (5) business days. [1 O.C. 109.8-1(a)]. During the public comment period individuals may submit written comments including data, views, arguments, or concerns to the Oneida Business Committee Secretary or the Legislative Reference Office in person or through United States mail, interoffice mail, e-mail, or fax. [1 O.C. 109.8-1(c), 109.4-4(b)].

Once the public comment period has concluded, the Legislative Operating Committee is required by the Legislative Procedures Act to fully consider all written comments and oral testimony received during the public comment period and any public meeting on the proposed legislation. [1 O.C. 109.8-4]. The Legislative Operating Committee accomplishes this responsibility through the development of a public comment review memorandum that provides the Legislative Operating Committee's consideration of every comment received, and demonstrates any changes made to the proposed legislation based on the public comments.

A fiscal impact statement is also required for all proposed legislation. [1 O.C. 109.6-1]. A fiscal impact statement provides an estimate of the total fiscal year financial effects associated with legislation and includes startup costs, personnel, office, documentation costs, as well as an estimate of the amount of time necessary for an individual or agency to comply with the law after implementation. [1 O.C. 109.3-1(c)]. The Legislative Operating Committee may direct that a fiscal impact statement be submitted by any agency who may receive funding if the legislation is enacted, may administer a program if the legislation is enacted, may have financial information concerning the subject matter of the legislation, or the Finance Department. [1 O.C. 109.6-1]. Oneida Business Committee resolution BC-10-28-20-A, *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 Legislative Operating Committee, the Legislative Operating Committee may direct the Finance Department or any agency who may receive funding if the legislation is enacted, may administer a program if the legislation is enacted, may have financial information concerning the subject matter of the legislation to provide a neutral and unbiased fiscal impact statement to the LOC within ten (10) business days for inclusion in adoption materials.

After all the requirements of the Legislative Procedures Act are met and the Legislative Operating Committee is satisfied with proposed legislation, the Legislative Operating Committee then forwards an adoption packet comprised of the proposed legislation, legislative analysis, fiscal impact statement, resolution, statement of effect, and an adoption memorandum to the Oneida Business Committee for consideration. [1 O.C. 109.9-1]. The Oneida Business Committee then

either considers whether to approve or deny the adoption of the legislation or forwards the legislation to the General Tribal Council for consideration of adoption. [1 O.C. 109.9-1(a)-(b)]. A law is adopted, amended, or repealed upon the adoption of a resolution. [1 O.C. 109.9-2]. For those laws considered by the Oneida Business Committee a majority vote is required for the adoption of the law, while amendments and repeals of a law are handled in accordance with the laws governing Oneida Business Committee action. [1 O.C. 109.9-2(a)]. The Oneida Business Committee utilizes Robert's Rules of Order, current edition, for the procedural rules of its meetings except as specifically modified by the Constitution and Bylaws of the Oneida Nation. [1 O.C. 117.4-1]. For those laws considered by the General Tribal Council, adoption, amendment, and repeal of laws are done in accordance with the laws governing General Tribal Council action. [1 O.C. 109.9-2(b)]. Any action by the General Tribal Council to overrule previous passed motions or resolution requires a two-thirds (2/3) vote. [1 O.C. 113.3-1(a)(3)].

Once legislation is adopted through resolution by either the Oneida Business Committee or the General Tribal Council the law shall become effective ten (10) business days after the date of adoption unless a different effective date is specified. [1 O.C. 109.9-3]. The Legislative Operating Committee is then responsible for publishing the law in the Oneida Code of laws by the effective date. [1 O.C. 109.9-4]. The Oneida Code of Laws can be found on the Oneida Register on the Nation's website at the following location: <https://oneida-nsn.gov/government/register/laws/>. Any law adopted in substantial compliance with the Legislative Procedures Act is considered valid. [1 O.C. 109.10-1]. No law can be contested based on non-compliance with the procedural requirements of the Legislative Procedures Act after one (1) year from the effective date of the law. [1 O.C. 109.10-2].

The Administrative Rulemaking Process

This Petition is asking that the “*Oneida Trial Court Rules*” be amended to address a variety of concerns. The Petition is not clear as to what exactly is being referred to as the “*Oneida Trial Court Rules*,” but if an administrative rule of the Nation would need to be amended, the process for amending a rule of the Nation is governed by the Administrative Rulemaking law.

The Administrative Rulemaking law provides an efficient, effective, and democratic process for the adoption and amendment of administrative rules. [1 O.C. 106.1-1, 106.1-2]. The Administrative Rulemaking law provides authorized agencies the opportunity to promulgate rules interpreting the provisions of any law enforced or administered by it; provided that, a rule may not exceed the rulemaking authority granted under the law for which the rule is being promulgated. [1 O.C. 106.4-1]. An authorized agency is any board, committee, commission, department, program, or officer of the Nation that has been granted rulemaking authority. [1 O.C. 106.3-1(a)]. A rule is a set of requirements enacted by an authorized agency in order to implement, interpret and/or enforce a law of the Nation, which may include citation fee and penalty schedules. [1 O.C. 106.3-

1(h)]. A rule developed in accordance with the Administrative Rulemaking law has the same force and effect as the law which delegated the authorized agency rulemaking authority, and cannot conflict or supersede a law, policy, or rule of the Nation or a resolution adopted by the Oneida Business Committee or General Tribal Council. *[1 O.C. 106.4-1(a)-(b)]*.

When amending a rule in accordance with the Administrative Rulemaking law, the authorized agency is first responsible for drafting the proposed amendments to the Rule. The proposed amendments have to comply with the template for rules as developed by the Legislative Operating Committee. *[1 O.C. 106.5-1]*. The authorized agency is then responsible for preparing a summary report regarding each proposed rule, which includes the name of the proposed rule, a reference to the law that the proposed rule interprets, along with a list of any other related laws, rules, or resolutions that may be affected by the proposed rule; a brief summary of the proposed rule; any changes made to the proposed rule based on the public comment period required by section 106.6, if applicable; a statement of effect for the rule prepared by the Legislative Reference Office upon request by the authorized agency; and the financial analysis. *[1 O.C. 106.5-2]*.

The authorized agency is responsible for preparing the financial analysis and must send a written request to each entity that may be affected by the proposed rule soliciting information on how the proposed rule would financially affect the entity. *[1 O.C. 106.5-2(f)(1)]*. Each entity's response indicating its financial affects are required to be included in the financial analysis. *Id.* If an authorized agency does not receive a response from one (1) or more entities regarding its request for the financial effects of the rule on the entity within ten (10) business days of the date of the request, the authorized agency may submit a financial analysis noting which entities were non-responsive to its request. *[1 O.C. 106.5-2(f)(2)]*.

Once the authorized agency has completed the summary report, they can then move onto the next stage in the administrative rulemaking process which is obtaining public review of the proposed rule through a public meeting and public comment period. *1 O.C. 106.6-1]*. This is the opportunity for members of the Nation to provide their input or suggestions on proposed rules.

The authorized agency determines a public meeting date and then a public meeting notice is created that contains the date, time and place of the public meeting; the time period for the public comment period; the name, address, phone number, and other appropriate information on where to submit comments on the proposed legislation; and information for electronically accessing the proposed rule and summary report and a statement that hard copies of the materials will be available with the authorized agency. *[1 O.C. 106.6-2(b)]*. At least ten (10) business days before the public meeting is held, the public meeting notice is published in the Kalihwisaks and on the Oneida Register¹. *[1 O.C. 106.6-2(a)]*.

¹ The Oneida Register can be found on the Nation's webpage found at the following location: <https://oneida-nsn.gov/government/register/>

The public meeting is then held at the date, time and place designated in the meeting notice. [1 O.C. 106.6-2(c)]. The authorized agency holding the public meeting on the proposed rule is required to have a representative to preside over the public meeting and briefly describe the rule which is the subject of the public meeting and the nature of the rule's requirements, and then open the meeting for comments. [1 O.C. 106.6-2(d)]. The authorized agency's presiding representative is not required to comment or respond to comments at the meeting, but may at their discretion. [1 O.C. 106.6-2(d)(1)]. After the public meeting concludes, the authorized agency is required to hold open a public comment period for at least five (5) business days. [1 O.C. 106.6-2(h)]. During the public comment period individuals may submit written comments including data, views, arguments, concerns, or questions. The authorized agency may extend the public comment period as it deems appropriate by posting an amended public meeting notice prior to the close of the original public comment period. [1 O.C. 106.6-3].

Once the public comment period has concluded, the authorized agency is then required by the Administrative Rulemaking law to fully consider all comments received during the public comment period and during any public meeting held regarding a proposed rule. [1 O.C. 106.6-4]. The authorized agency accomplishes this responsibility by drafting a memorandum containing all public comments received and the authorized agency's response to each comment. [1 O.C. 106.6-5]. If substantial changes are made to the proposed rule after all public comments are considered, then the authorized agency is required to hold an additional public meeting. [1 O.C. 106.6-6].

After the public comment period has expired and the authorized agency has considered all public comments received, the authorized agency then submits the proposed rule and all items contained in the administrative record to the Legislative Operating Committee for certification. [1 O.C. 106.7-1]. The proposed rule must be submitted for certification by the Legislative Operating Committee within six (6) months after the public comment period has expired, unless the Legislative Operating Committee determines there is good cause to go outside the time limits. [1 O.C. 106.7-1(a)]. The Legislative Operating Committee is then responsible for certifying the proposed rule meets the following requirements: that promulgation of the rule complies with the procedural requirements contained in the Administrative Rulemaking law; that the administrative record is complete; and that the rule does not exceed its rulemaking authority or conflict with any other law, policy, rule, or resolution of the Nation. [1 O.C. 106.7-2].

The Legislative Operating Committee then either determines the authorized agency has complied with the requirements for certification and certifies the proposed rule or determines that the authorized agency has not complied with the certification requirements and denies certification of the proposed rule. [1 O.C. 106.7-3]. If the Legislative Operating Committee denies the certification of a proposed rule, the proposed rule is returned to the authorized agency with specific feedback as to which requirements were not fulfilled, and the authorized agency may resubmit the proposed rule for certification by the Legislative Operating Committee once all requirements for

certification have been met. [1 O.C. 106.7-3(b)]. If the Legislative Operating Committee certifies the proposed rule, then the Legislative Operating Committee forwards the administrative record to the Oneida Business Committee. [1 O.C. 106.7-3(a)(1)].

Once the Oneida Business Committee receives an administrative record for a proposed rule from the Legislative Operating Committee, the Oneida Business Committee reviews and considers the proposed rule, the administrative record, and the Legislative Operating Committee's certification of compliance. [1 O.C. 106.8-1]. After review of all materials submitted and consideration of the proposed rule, the Oneida Business Committee either adopts the proposed rule, or denies the adoption of the proposed rule. [1 O.C. 106.8-2]. A majority vote is required for the adoption of a rule by the Oneida Business Committee. [1 O.C. 106.8-2(a)]. The Legislative Operating Committee is responsible for publishing the rule on the Oneida Register upon adoption by the Oneida Business Committee. [1 O.C. 106.8-2(a)(1)]. The Oneida Business Committee may deny adoption of the proposed rule if the Oneida Business Committee has any concerns and/or requested revisions to the rule. [1 O.C. 106.8-2(b)]. Upon the denial of the adoption of a proposed rule the Oneida Business Committee may request that the authorized agency work with the Oneida Business Committee to address any concerns. *Id.* The authorized agency is responsible for determining a rule's effective date, provided that a rule may not become effective until the Oneida Business Committee adopts the proposed rule. [1 O.C. 106.9-1]. Any rule adopted in substantial compliance with the Administrative Rulemaking law is considered valid. [1 O.C. 106.4-3]. No rule may be contested based on non-compliance with the procedural requirements of the Administrative Rulemaking law after one (1) year has elapsed from the effective date of the rule. [1 O.C. 106.13-1].

Any amendments made to the rule of the Nation would need to follow the process as described above and required by the Administrative Rulemaking law.

Conclusion

After a review of all applicable laws and policies of the Nation, it has been determined that the adoption of the Petition: S. Benton – Trial Court Rules Amendments would have the following legislative effect:

1. ***Amendment of Oneida Trial Court Rules.*** The Petition calls for the “*Oneida Trial Court Rules*” to be amended to ensure fair treatment of employment cases by revising laws to guarantee hearings for all Oneida Nation employee cases and by addressing how listings of attorneys and advocates are handled by the Clerk of Courts. There are a variety of different laws, rules, and resolutions of the Nation that guide the Oneida Nation Judiciary that could be impacted by this Petition. Without further clarification from the Petition regarding what is intended by “*Oneida Trial Court Rules*” we cannot properly review what laws, policies, or rules of the Nation may be affected by the requests of this Petition, and therefore we cannot accurately determine the legislative impact of this Petition.

- a. An amendment of any law of the Nation, or the adoption of a new law, would be required to follow the process and procedures provided for in the Legislative Procedures Act.
 - b. An amendment of any rule of the Nation, or the adoption of a new rule, would be required to follow the process and procedures provided for in the Administrative Rulemaking law.
2. ***Guaranteed Hearings for Employment Cases.*** The Petition requests that the General Tribal Council consider taking action to “*Amend court rules to guarantee hearings for all Oneida Nation employee cases as its low bar for hearings should recognize “loss of income” and “harm to employee reputation” as definitions or criteria for how employees were harmed by disciplinary actions.*” An employee is guaranteed to have their grievance complaint heard before the Judiciary Trial Court if their appeal of the Area Manager’s decision is filed within ten (10) working days, and they can show one or both conditions exist: the decision of the Area Manager is clearly against the weight of the evidence; and/or procedural irregularities were exhibited during the appeal process that were harmful to one of the parties to the grievance. [OPPP Section V.D.6.b.1, V.D.6.d.1]. The Oneida Personnel Policies and Procedures does not provide any further detail or clarification on what “harmful to one of the parties of the grievance” means. If the Petitioner desires that the law specifically recognizes “loss of income” or “harm to employee reputation” as ways an employee was harmed by disciplinary actions, then amendments to the Oneida Personnel Policies and Procedures would be necessary. Any amendments to the Oneida Personnel Policies and Procedures would be required to comply with the Legislative Procedures Act, and a two-thirds (2/3) majority vote would be required to adopt any amendments to the Oneida Personnel Policies and Procedures. [1 O.C. 110.3-1(a)(3)].
3. ***List of Advocates and Attorneys.*** The Petition calls for the Clerk of Courts to be required to: “*Publicly display an updated list of attorneys and advocates admitted to practice before the Oneida Judiciary. And Provide a copy of the list of attorneys and advocates to employees filing for hearings.*” There are no laws of the Nation that require the Clerk of Courts to be responsible to provide a list of attorney or advocates admitted to practice before the Judiciary to the general public or to employees filing grievance complaints. If the Petitioner desires that a law of the Nation specifically require the Clerk of Courts to be responsible for providing a list of attorney or advocates who are admitted to practice before the Judiciary to the general public or to employees filing grievance complaints, then an amendment would be necessary. Any amendments made to a law of the Nation is required to follow the process and procedures of the Legislative Procedures Act.

Requested Action

Accept the statement of effect for the Petition: S. Benton – Trial Court Rules Amendments.

June 2025

June 2025						
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MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY
Jun 2	3	4	5	6 10:00am Elder Protection/Research Review Law Discussion 11:00am Code of Ethics (Microsoft Teams Meeting) - Grace L. 3:00pm UCC Secured Transaction Draft Code
9	10	11	12 10:00am Elder Protection Law - Investigation Section Discussion (Microsoft Teams Meeting; BC_Exec_Conf_Room) - Grace L. Elliott	13 12:15pm PUBLIC MEETING: Sanctions and Penalties Law (Microsoft Teams 1:30pm Oneida Worker's Compensation Law amendments - work meeting (Microsoft
16	17	18 8:30am LOC Prep Meeting (Microsoft Teams 9:00am Legislative Operating Committee 1:30pm LOC Work Session (Microsoft 5:30pm LOC Community Meeting: Ten Day	19	20 10:00am Independent Contractor Policy amendments -work meeting (Microsoft Teams Meeting) - Carolyn A. Salutz
23 10:00am Conflict of Interest amendments - work meeting (Microsoft Teams Meeting) - Carolyn A. Salutz	24	25	26	27
30	Jul 1	2	3	4