



LEGISLATIVE OPERATING COMMITTEE MEETING AGENDA

Business Committee Conference Room-2nd Floor Norbert Hill Center

February 6, 2019

9:00 a.m.

- I. Call to Order and Approval of the Agenda**

- II. Minutes to be Approved**
 1. January 16, 2019 LOC Meeting Minutes (pg. 2)

- III. Current Business**
 1. Employee Protection Policy Amendments (pg. 4)
 2. Domestic Animals Amendments (pg. 30)
 3. Sanctions and Penalties Law (pg. 100)

- IV. New Submissions**
 1. Sexual Harassment and Workplace Violence Investigations (pg. 108)

- V. Additions**

- VI. Administrative Updates**
 1. Legislative Operating Committee FY19 First Quarter Report (pg. 142)
 2. Boards, Committees and Commissions Bylaw Amendments Update (pg. 148)

- VII. Executive Session**

- VIII. Recess/Adjourn**



LEGISLATIVE OPERATING COMMITTEE MEETING MINUTES
Oneida Business Committee Conference Room-2nd Floor Norbert Hill Center
January 16, 2019
9:00 a.m.

Present: Kirby Metoxen, Jennifer Webster, Ernest Stevens III, Daniel Guzman King

Excused: David P. Jordan (funeral leave)

Others Present: Maureen Perkins, Brandon Wisneski, Clorissa Santiago, Jennifer Falck, Kristen Hooker, Leyne Orosco, Michelle Myers, Lee Cornelius, James Petitjean

I. Call to Order and Approval of the Agenda

Kirby Metoxen called the January 16, 2019 Legislative Operating Committee meeting to order at 9:00 a.m.

Motion by Ernest Stevens III to approve the agenda; seconded by Jennifer Webster. Motion carried unanimously.

II. Minutes to be Approved

1. January 2, 2019 LOC Minutes

Motion by Jennifer Webster to approve the January 2, 2019 Legislative Operating Committee meeting minutes and forward to the Oneida Business Committee for consideration; seconded by Ernest Stevens III. Motion carried unanimously.

2. January 7, 2019 LOC Special Meeting Minutes

Motion by Jennifer Webster to approve the January 7, 2019 Legislative Operating Committee meeting minutes and forward to the Oneida Business Committee for consideration; seconded by Ernest Stevens III. Motion carried unanimously.

III. Current Business

1. Domestic Animals Amendments (1:36-20:57)

Motion by Jennifer Webster to accept the draft and the legislative analysis of the amendments to the Domestic Animals law and defer these items to a work meeting for further consideration; seconded by Ernest Stevens III. Motion carried unanimously.

2. Children's Code (21:01-32:25)

Motion by Jennifer Webster to accept the Children's Code Implementation Quarterly Update and forward to the Oneida Business Committee; seconded by Ernest Stevens III. Motion carried unanimously.



IV. New Submissions

V. Additions

VI. Administrative Updates (32:35-35:57)

1. Oneida Personnel Commission Update

Motion by Ernest Stevens III to accept the Oneida Personnel Commission update and forward to the Oneida Business Committee; seconded by Jennifer Webster. Motion carried unanimously.

VII. Executive Session

VIII. Adjourn

Motion by Ernest Stevens III to adjourn the January 16, 2019 Legislative Operating Committee meeting at 9:37 a.m.; seconded by Daniel Guzman King. Motion carried unanimously.



Legislative Operating Committee
February 6, 2019

Employee Protection Policy Amendments

Submission Date: 12/20/17	Public Meeting: 12/3/18
LOC Sponsor: David P. Jordan	Emergency Enacted: 4/25/18

Summary: *The purpose of the Employee Protection Policy is to give protection to employees who give information that is intended to protect the Nation. The processes set forth in the Personnel Policies & Procedures may be sufficient protection for employees who act to protect the Nation's interests. The request is the LOC consider amendments or rescinding the law.*

12/20/17LOC: Motion by Jennifer Webster to add Employee Protection Policy to the Active Files List with a high priority and David P. Jordan as the sponsor; seconded by Daniel Guzman King. Motion carried unanimously.

2/21/18LOC: Motion by Jennifer Webster to reprioritize the active files list lowering the Drug and Alcohol Free Law for Elected and Appointed Officials to medium, Employee Protection to medium, removing Hall of Fame Repeal, and to bump up Wellness Court, UCC Codes, and Industrial Hemp to High Priority; seconded by Daniel Guzman King. Motion carried unanimously.

4/18/18 LOC: Motion by Jennifer Webster to change the status to Emergency Amendments; seconded by Daniel Guzman King. Motion carried unanimously.

4/18/18: *Work Meeting.* Present: David P. Jordan, Jennifer Webster, Daniel Guzman King, Kirby Metoxen, Jennifer Falck, Clorissa Santiago, Brandon Wisneski, Jo Anne House, Tani Thurner, Laura Laitinen-Warren. The purpose of this work meeting was to discuss an update and plan for the emergency amendments.

4/20/18: E-Poll conducted.

4/25/18 OBC: Motion by Kirby Metoxen to adopt resolution 04-25-18-G Employee Protection Policy Emergency Amendments, seconded by Brandon Stevens. Motion carried unanimously.

5/2/18 LOC: Motion by Kirby Metoxen to enter the Employee Protection Emergency Amendments E-poll into the record; seconded by Ernest Stevens III. Motion carried unanimously.

5/16/18: *Work Meeting.* Present: David P. Jordan, Jennifer Webster, Daniel Guzman King, Kirby Metoxen, Ernest Stevens III, Jennifer Falck, Clorissa Santiago, Brandon Wisneski, Laura Laitinen-Warren. The purpose of this work meeting was to review and discuss the drafted permanent amendments. Drafting attorney will update the draft.

6/15/18: *Work Meeting.* Present: Clorissa Santiago, Brandon Wisneski, Matthew J. Denny. The purpose of this work meeting was to discuss HRD's potential involvement in the disclosure portion of the Employee Protection Policy.

- 6/22/18:** *Work Meeting.* Present: David P. Jordan, Kirby Metoxen, Brandon Stevens, Clorissa Santiago, Brandon Wisneski, Cathy Bachhuber, Laura Laitinen-Warren. The purpose of this work meeting was to review potential options for revisions to the law – specifically the disclosure section. The LRO will conduct further research, and the drafting attorney will update the draft.
- 7/11/18:** *Work Meeting.* Present: David P. Jordan, Kirby Metoxen, Jennifer Falck, Clorissa Santiago, Brandon Wisneski, Maureen Perkins. The purpose of this work meeting was to review requested research on other Tribal Employee Protection/Whistleblower laws and to review potential models for the draft.
- 8/23/18:** *Work Meeting.* Present: Clorissa Santiago, Brandon Wisneski, Matthew J. Denny, Nic Reynolds. Due to a majority of the meeting attendees not making the meeting, this work meeting was spent answering some questions regarding the draft, and discussing next steps.
- Work Meeting.* Present: Clorissa Santiago, Brandon Wisneski, Loucinda Conway, Man from Hotline Development Company. Audit provided information on the Whistleblower hotline and how it will work.
- 9/5/18:** *Work Meeting.* Present: David P. Jordan, Jennifer Webster, Daniel Guzman, Jennifer Falck, Clorissa Santiago, Kristen Hooker, Brandon Wisneski, Maureen Perkins. The purpose of this work meeting was to obtain more direction from the LOC on how to proceed with this law now that more information on Audit’s Whistleblower hotline was obtained.
- 9/5/18 LOC:** Motion by Jennifer Webster to approve the memo [*Regarding 8/27 GTC Directive*] and forward to the Oneida Business Committee: seconded by Daniel Guzman King. Motion carried unanimously.
- 9/27/18:** *Work Meeting.* Present: David P. Jordan, Kirby Metoxen, Jennifer Webster, Ernest Stevens III, Jennifer Falck, Clorissa Santiago, Kristen Hooker, Brandon Wisneski, Maureen Perkins, Fawn Billie. The purpose of this work meeting was to review research and statistics on the Employee Protection law, and then discuss and decide on an option to move this law forward. Drafting attorney and analyst will move forward with finalizing draft and analysis and bring back to LOC.
- 9/26/18/ OBC:** Motion by Lisa Summers to adopt resolution 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 with one amendment [to include language which requires bimonthly updates to the Oneida Business Committee at the second regular meeting of the month], seconded by Kirby Metoxen. Motion carried.
- 10/3/18 LOC:** Motion by Kirby Metoxen to remove the emergency designation from the Employee Protection Policy amendments; seconded by Ernest Stevens III. Motion carried unanimously.
- 10/9/18:** *Work Meeting.* Present: Clorissa N. Santiago, Brandon Wisneski, Loucinda Conway, Jackie Johnson, Mary Graves. The purpose of this work meeting was to obtain Internal Audit’s comments on the proposed draft, and find out if it is consistent with the Hotline policies.
- 10/17/18 LOC:** Motion by Jennifer Webster to accept the draft and legislative analysis of the amendments to the Employee Protection Policy and defer to a work meeting; seconded by Ernest Stevens III. Motion carried unanimously.

10/17/18: *Work Meeting.* Present: David P. Jordan, Jennifer Webster, Daniel Guzman, Ernest Stevens III, Jennifer Falck, Clorissa N. Santiago, Brandon Wisneski, Rosa Laster. The purpose of this work meeting was to begin reviewing the legislative analysis and making policy considerations. LRO will prepare a public meeting packet for the next LOC meeting.

12/3/18: Public Meeting Held.

12/19/18 LOC: Motion by Jennifer Webster to accept the public comments and public comment review memorandum and defer to a work meeting for consideration; seconded by Ernest Stevens III. Motion carried unanimously.

12/19/18: *Work Meeting.* Present: David P. Jordan, Jennifer Webster, Kirby Metoxen, Ernest Stevens III, Jennifer Falck, Clorissa N. Santiago, Brandon Wisneski. The purpose of this work meeting was to review and consider the public comments that were received during the public comment period.

1/2/19 LOC: Motion by Jennifer Webster to accept the updated public comment review memorandum; seconded by Daniel Guzman King. Motion carried unanimously.

Subsequent motion by Jennifer Webster to approve the fiscal impact statement memorandum and forward to the Finance Department directing that a fiscal impact statement of the proposed Whistleblower Protection law be prepared for inclusion on the February 6, 2019 Legislative Operating Committee meeting agenda; seconded by Ernest Stevens III. Motion carried unanimously.

Next Steps:

- Approve the adoption packet for the Whistleblower Protection law and forward to the Oneida Business Committee for consideration.



TO: Oneida Business Committee
FROM: David P. Jordan, LOC Chairperson
DATE: February 13, 2019
RE: Whistleblower Protection Law

Please find the following attached backup documentation for your consideration of the proposed Whistleblower Protection law:

1. Resolution: Whistleblower Protection Law
2. Statement of Effect: Whistleblower Protection Law
3. Whistleblower Protection Law Legislative Analysis
4. Whistleblower Protection Law
5. Whistleblower Protection Law Fiscal Impact Statement

Overview

On December 20, 2017, the Legislative Operating Committee decided to pursue amendments to the Nation's Employee Protection Policy. The purpose of the Employee Protection Policy is to protect employees who give information that is intended to protect the Nation from fraud, theft or other detrimental effects.

Through the development of amendments to the Employee Protection Policy the Legislative Operating Committee determined that due to the substantial amount of proposed amendments, and the change in title of the law, the Whistleblower Protection law should be considered the adoption of a new law that repeals and replaces the Employee Protection Policy instead of amendments to the Employee Protection Policy.

Although the proposed Whistleblower Protection law simplifies the process and procedure contained in the Employee Protection law, the Whistleblower Protection law maintains the Employee Protection Policy's original intent to give protection to employees who provide information intended to protect the Nation from detrimental effects.

This resolution adopts the proposed Whistleblower Protection law which will give protection to employees who give information that is intended to protect the Nation from fraud, theft, or other detrimental effects. The Whistleblower Protection law will:

- Provide that whistleblowing occurs when an employee discloses information that the employee reasonably believes provides evidence that protects the Nation from any adverse actions of its employees that may result in a detrimental effect to the Nation [2 O.C. 211.4-1];
- Protect an employee from any retaliatory action that results from making a disclosure of information [2 O.C. 211.4-2];

- Provide that an employee shall make a disclosure of information through the use of the anonymous Fraud hotline or submission of a written disclosure to the Nation's Internal Audit Department [2 O.C. 211.4-3];
- Grant authority to the Internal Audit Department to review the disclosure and conduct an investigation and/or an internal audit into the disclosure, if deemed appropriate, in addition to requiring the Internal Audit Department to report their findings to an appropriate entity for action to address the findings if necessary [2 O.C. 211.4-5];
- Allow an employee who alleges retaliatory action has been threatened or taken based on the employee's disclosure of information to file a complaint for the retaliatory action in accordance with the grievance procedures provided in the Nation's Personnel Policies and Procedures [2 O.C. 211.5-1];
- Protect the employee from retaliatory action if it is found that the employee made a disclosure of information, the individual alleged to have taken retaliatory action against the disclosing employee was aware or became aware the disclosing employee had disclosed information, and the action taken against the disclosing employee was retaliatory as a result of the disclosure of information [2 O.C. 211.5-2];
- Provide enforcement for an individual who is found to have retaliated against an employee who made a disclosure of information pursuant to this law [2 O.C. 211.5-3]; and
- Repeal and replace the Nation's current Employee Protection Policy.

The Legislative Operating Committee developed the proposed Whistleblower Protection law through the review of various laws of the Nation, as well as a review of laws providing whistleblower protection from five (5) other tribal nations. The Legislative Operating Committee consulted with the Internal Audit Department, the Human Resources Department's Equal Opportunity Department and Training and Development Department, Oneida Personnel Commission, Oneida Nation School Board, Oneida Nation Gaming Commission, and Oneida Nation Police Commission.

In accordance with the Legislative Procedures Act, a public meeting on the proposed Whistleblower Protection law was held on December 3, 2018. Five (5) people attended the public meeting with one (1) person providing oral comments. The public comment period closed on December 10, 2018. The Legislative Operating Committee received one (1) written comment during the public comment period. The two (2) public comments received were accepted, reviewed, and considered by the Legislative Operating Committee on December 19, 2018. Any changes made based on those comments have been incorporated into this draft.

The proposed Whistleblower Protection law is intended to work in conjunction with the Nation's new anonymous Fraud Hotline, which became effective on December 1, 2018. The intent of the anonymous Fraud Hotline is to provide a centralized way for employees to report fraud, unlawful, unethical, or other types of inappropriate behavior without fear of retaliation. The Fraud Hotline is administered by a third party and is available twenty-four (24) hours per day, seven (7) days per week.

Requested Action

Approve the Resolution: Whistleblower Protection law.

Oneida Nation

Post Office Box 365

Phone: (920)869-2214

Oneida, WI 54155



BC Resolution # _____
Whistleblower Protection Law

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- WHEREAS,** the Oneida Nation is a federally recognized Indian government and a treaty tribe recognized by the laws of the United States of America; and
- WHEREAS,** the Oneida General Tribal Council is the governing body of the Oneida Nation; and
- WHEREAS,** the Oneida Business Committee has been delegated the authority of Article IV, Section 1, of the Oneida Tribal Constitution by the Oneida General Tribal Council; and
- WHEREAS,** the purpose of the Whistleblower Protection law (“the Law”) is to provide protection to employees of the Nation who give information that is intended to protect the Nation from fraud, theft, or other detrimental effects; and
- WHEREAS,** whistleblowing occurs when an employee discloses information that the employee reasonably believes provides evidence that protects the Nation from any adverse actions of its employees that may result in a detrimental effect to the Nation; and
- WHEREAS,** the Law protects an employee from any retaliatory action that results from making a disclosure of information; and
- WHEREAS,** an employee can make a disclosure of information through the use of the Nation’s anonymous Fraud hotline or submission of a written disclosure to the Nation’s Internal Audit Department; and
- WHEREAS,** the Internal Audit Department is granted the authority to review the disclosure and conduct an investigation and/or an internal audit into the disclosure, if deemed appropriate, in addition to requiring the Internal Audit Department to report their findings to an appropriate entity for action to address the findings if necessary; and
- WHEREAS,** an employee who alleges retaliatory action has been threatened or taken based on the employee’s disclosure of information is allowed the opportunity to file a complaint for the retaliatory action in accordance with the grievance procedures provided in the Nation’s laws governing employment; and
- WHEREAS,** the Law protects the employee from retaliatory action if it is found that the employee made a disclosure of information, the individual alleged to have taken retaliatory action against the disclosing employee was aware or became aware the disclosing employee had disclosed information, and the action taken against the disclosing employee was retaliatory as a result of the disclosure of information; and
- WHEREAS,** enforcement for an individual who is found to have retaliated against an employee who made a disclosure of information is provided by this Law; and

51 **WHEREAS,** a public meeting on the proposed Law was held on December 3, 2018, in accordance with
52 the Legislative Procedures Act, and the public comments were reviewed and accepted by
53 the Legislative Operating Committee on December 19, 2018.
54

55 **NOW THEREFORE BE IT RESOLVED,** that the Whistleblower Protection law is hereby adopted and shall
56 become effective on February 27, 2019.
57

58 **BE IT FURTHER RESOLVED,** that the Whistleblower Protection law hereby repeals and replaces the
59 Nation's Employee Protection Policy which was adopted by emergency pursuant to BC-04-20-95-B,
60 permanently adopted pursuant to BC-12-06-95-B and subsequently amended pursuant to BC-01-20-99-B,
61 BC-06-30-04-J, and BC-02-25-15-C.
62

63 **BE IT FINALLY RESOLVED,** that any individual who has been granted protected status under the
64 Employee Protection Policy shall maintain his or her protected status, but shall use the provisions found in
65 section 211.5 of the Whistleblower Protection law for protection from retaliation.
66
67



Statement of Effect

Whistleblower Protection Law

Summary

This resolution adopts the Whistleblower Protection law which provides protection to employees of the Nation who give information that is intended to protect the Nation from fraud, theft, or other detrimental effects.

Submitted by: Clorissa N. Santiago, Staff Attorney, Legislative Reference Office
Date: February 6, 2019

Analysis by the Legislative Reference Office

The Legislative Procedures Act (“the LPA”) was adopted by the General Tribal Council through resolution GTC-01-07-13-A for the purpose of providing a process for the adoption of laws of the Nation. [1 O.C. 109.1-1]. This resolution adopts the Whistleblower Protection law, which complies 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 proposed Whistleblower Protection law will provide protection to employees of the Nation who give information that is intended to protect the Nation from fraud, theft, or other detrimental effects.

In accordance with the LPA, a public meeting on the proposed Whistleblower Protection law was held on December 3, 2018. Five (5) members of the community attended the public meeting with one (1) person providing oral comments. The public comment period closed on December 10, 2018. The Legislative Operating Committee received one (1) written comment during the public comment period. The two (2) public comments received were accepted, reviewed, and considered by the Legislative Operating Committee on December 19, 2018. Any changes made based on those comments have been incorporated into this draft.

The Whistleblower Protection law will become effective ten (10) business days after the adoption of this resolution in accordance with the LPA. [1 O.C. 109.9-3].

Adoption of the Whistleblower Protection law will repeal the Nation’s current Employee Protection Policy which was adopted by emergency pursuant to BC-04-20-95-B, permanently adopted pursuant to BC-12-06-95-B and subsequently amended pursuant to BC-01-20-99-B, BC-06-30-04-J, and BC-02-25-15-C. The LPA states that a majority vote is required for the adoption of a law by the Oneida Business Committee, and laws shall be repealed in accordance with the laws governing Oneida Business Committee action. [1 O.C. 109.9-2(a)].

Additionally, this resolution provides a grandfather clause for those individuals who have previously been granted employee protection under the Employee Protection Policy, which clarifies that any individual who has been granted protected status under the Employee Protection Policy shall maintain his or her protected status but shall use the provisions found in section 211.5 of the Whistleblower Protection law for protection from retaliation.

Conclusion

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



WHISTLEBLOWER PROTECTION LAW LEGISLATIVE ANALYSIS

SECTION 1. EXECUTIVE SUMMARY

REQUESTER: LOC	SPONSOR: David P. Jordan	DRAFTER: Clorissa N. Santiago	ANALYST: Brandon Wisneski
Intent of the Amendments	To repeal the Employee Protection Policy and replace it with a Whistleblower Protection Law that incorporates the Nation’s new anonymous Fraud Hotline; to ban retaliation against employees; to direct all whistleblower disclosures to the Fraud Hotline or Internal Audit Department; to provide a grievance and complaint process for employees who have been retaliated against; and to provide disciplinary actions and other consequences for employees and officials who retaliate against whistleblowers.		
Purpose	To give protection to employees who give information that is intended to protect the Nation from fraud, theft or other detrimental effects [see 211.1-1].		
Affected Entities	All employees of the Nation. All elected and appointed officials of the Nation. Internal Audit Department, Audit Committee, Human Resources Department, Personnel Commission, Judiciary, Oneida Business Committee, Oneida Law Office, Oneida Police Commission, Oneida Nation School Board, Oneida Gaming Commission.		
Affected Legislation	Employee Protection Policy; Personnel Policies and Procedures (Blue Book); Boards; Committees and Commissions Law, Removal Law and Internal Audit Law.		
Enforcement/Due Process	Employees of the Nation who retaliate against an employee may be subject to disciplinary action, up to and including termination. Elected and appointed officials of the Nation who retaliate against an employee may be subject to sanctions and penalties, removal from office or termination of appointment [see 211.5-3].		
Public Meeting	A public meeting was held on December 3, 2018.		
Fiscal Impact	See fiscal impact statement prepared by Finance Dept. in accordance with the Legislative Procedures Act.		

SECTION 2. LEGISLATIVE DEVELOPMENT

- 1
- 2 **A.** The Employee Protection Policy was first adopted by the Oneida Business Committee on April 20,
- 3 1995. The purpose of the law is to protect employees who give information that is intended to protect
- 4 the Nation from fraud, theft or other detrimental effects. The current Employee Protection Policy
- 5 provides a process for how employees make disclosures, a process to request “protected status” that
- 6 allows protected employees to bypass the normal complaint and grievance process in the Personnel
- 7 Policies and Procedures, and the ability of protected employees to receive a “protective order” from the
- 8 Personnel Commission if they are retaliated against.
- 9 **B.** Amendments to the Employee Protection Policy were added to the Legislative Operating Committee’s
- 10 Active Files List on December 20, 2017. Over the course of developing amendments, the LOC
- 11 determined that the proposed changes to the law were substantial enough that the Whistleblower
- 12 Protection Policy should be considered a new law that repeals and replaces the Employee Protection
- 13 Policy.
- 14 **C.** The proposed Whistleblower Protection Law is intended to work in conjunction with the Nation’s new
- 15 anonymous Fraud Hotline, which became effective on December 1, 2018. The anonymous Fraud
- 16 Hotline is intended to be a centralized way for employees to report fraud, unlawful, unethical or other
- 17 types of inappropriate behavior without fear of retaliation. The Fraud Hotline is administered by a third

18 party and is available 24 hours per day, seven days per week. Reports from the Fraud Hotline are sent
19 to the Internal Audit Department for follow-up and potential investigations.

- 20 **D.** This proposed law repeals the Employee Protection Policy and replaces it with a new Whistleblower
21 Protection Law. The intent of the law is to ban retaliation against employees; to direct all whistleblower
22 disclosures to the Fraud Hotline or Internal Audit Department; to provide a grievance and complaint
23 process for employees who have been retaliated against; and to provide disciplinary actions and other
24 consequences for employees and officials who retaliate against whistleblowers.

25 26 **SECTION 3. CONSULTATION AND OUTREACH**

- 27 **A.** The Legislative Operating Committee (LOC) held work meetings with Internal Audit, Human
28 Resources Equal Employment Opportunity (EEO) and HRD Training and Development in the
29 development of this law and analysis. In addition, representatives from the Gaming Commission,
30 School Board and Police Commission were invited to attend a work meeting to provide input regarding
31 the Employee Protection Policy. The LOC received data regarding historical Employee Protection
32 Policy caseload from staff of the following entities: Oneida Personnel Commission, Oneida Nation
33 School Board, Oneida Nation Gaming Commission, and Oneida Nation Police Commission.
- 34 **B.** The following Oneida laws were reviewed in the drafting of this analysis: Personnel Policies and
35 Procedures, Boards, Committees and Commissions Law, Removal Law, Internal Audit Law, and Code
36 of Ethics. In addition, the following laws were reviewed in drafting this analysis:
- 37 ▪ Ho Chunk Nation Employment Relations Act
 - 38 ▪ Mashantucket Pequot Tribal Whistleblower Law
 - 39 ▪ Little Traverse Band of Odawa Indians Whistleblower Protection
 - 40 ▪ Seminole Nation Whistleblower Protection
 - 41 ▪ Osage Nation Whistleblower Protection Law

42 43 **SECTION 4. PROCESS**

- 44 **A.** Thus far, this law has followed the process set forth in the Legislative Procedures Act (LPA).
- 45 **B.** The law was added to the Active Files List under Employee Protection Policy on 12/20/2017.
- 46 **C.** At the time this legislative analysis was developed, the following work meetings were held/scheduled
47 regarding the development of this law and legislative analysis:
- 48 ▪ April 18, 2018: LOC Work Meeting.
 - 49 ▪ May 16, 2018: LOC Work Meeting.
 - 50 ▪ June 15, 2018: Work Meeting with HRD EEO.
 - 51 ▪ June 22, 2018: LOC Work Meeting.
 - 52 ▪ July 11, 2018: LOC Work Meeting.
 - 53 ▪ August 23, 2018: Work Meeting with HRD EEO and HRD Training and Development.
54 Representatives from the Gaming Commission, Police Commission and School Board were also
55 invited to this meeting.
 - 56 ▪ August 23, 2018: Work Meeting with Internal Audit Department.
 - 57 ▪ September 27, 2018: LOC Work Meeting.
 - 58 ▪ October 9, 2018: Work Meeting with Internal Audit Department.
 - 59 ▪ October 17, 2018: LOC Work Meeting.
 - 60 ▪ December 19, 2018: LOC Work Meeting.

61 62 **SECTION 5. CONTENTS OF THE LEGISLATION**

- 63 **A. *Repeal of Employee Protection Policy.*** Adoption of the proposed Whistleblower Protection Law will
64 repeal and replace the current Employee Protection Policy [see 211.2-4(a)]. This analysis provides
65 comparisons between the current Employee Protection Policy and the proposed Whistleblower
66 Protection Law.

- 67 **B. What is “Whistleblowing”?** A whistleblower is an employee who shares evidence or provides
 68 information that protects the Oneida Nation from adverse actions of its employees [see 211.4-1].
 69 ▪ Examples in the law include: any dishonest or fraudulent act, deceptive business practices,
 70 theft, extortion, bribery, embezzlement, blackmail, tampering and or falsifying records,
 71 forgery, misappropriation or misuse of the Nation’s funds, disclosure of confidential
 72 information, destruction, removal or inappropriate use of property of the Nation, unsafe
 73 working conditions, poor management, or unethical conduct or violation of a law or policy of
 74 the Nation.
- 75 **C. Ban on Retaliation.** Employees who make whistleblower disclosures under this law are protected from
 76 retaliation [see 211.4-2]. Examples of retaliation listed in this law include:
 77 ▪ *Disciplinary Actions* such as dismissal, demotion, transfer, removal of duty, refusal to restore,
 78 layoff, furlough, suspension, and/or reprimand.
 79 ▪ *Non-Disciplinary Actions* such as loss of hours, rescheduling shifts outside of normal shift
 80 changes, change of job requirements without notice, verbal or physical harassment, reduction
 81 of pay, denial of educational benefits, reassignment, and/or failure to increase base pay.
- 82 **D. Where to Submit Whistleblower Disclosures.** Employees will now submit all whistleblower
 83 disclosures using the Fraud Hotline or by submitting in writing to the Internal Audit Department [see
 84 211.4-3]. Previously, employees also had the option of submitting their disclosures to the Personnel
 85 Commission, Oneida Nation School Board, Oneida Police Commission, Oneida Gaming Commission,
 86 or to a supervisor, law enforcement official, attorney, or employee advocate. Now, all employees will
 87 submit whistleblower disclosures to one centralized location.
 88

89 **Chart 1. Comparison of Where to Submit Whistleblower Disclosures.**

Employee Protection Policy (current)	Whistleblower Protection Law (proposed)
<p><i>Employee Submits to one of the following:</i></p> <ul style="list-style-type: none"> ▪ Internal Audit, ▪ Gaming Commission, ▪ School Board, ▪ Police Commission, ▪ Personnel Commission, or ▪ Supervisor, Law Enforcement Agency, Attorney retained by employee, or Employee Advocate, who will direct the disclosure to one of the “appropriate agencies” listed above. 	<p><i>Employee Submits to one of the following:</i></p> <ul style="list-style-type: none"> ▪ Anonymous Fraud Hotline ▪ Internal Audit

- 90
- 91 ▪ **Anonymous Fraud Hotline.** An Anonymous Fraud Hotline has been developed by the
 92 Internal Audit Department. The hotline is operated by a third-party vendor and is available 24
 93 hours per day, seven days per week. The purpose of the hotline is to provide a centralized and
 94 anonymous way to report fraud, unlawful, unethical and other types of improper behavior. For
 95 more details regarding the hotline, see Section 9 “Other Considerations.”
- 96 ▪ **Contents of Disclosure.** The proposed Whistleblower Protection Law does not describe any
 97 specific information that must be included in the disclosure. In comparison, the current
 98 Employee Protection Policy requires employees to submit a written, dated, signed disclosure
 99 that is hand carried, mail certified or delivered by law enforcement. The current Employee
 100 Protection Policy also requires employees to identify themselves in the disclosure and identify
 101 the person and persons against whom the claim is made, and provide date, times and summary
 102 of the misconduct.
- 103 **E. Receipt of Disclosure.** After submitting their disclosure, employees will receive an incident number.
 104 This incident number confirms that the employee’s disclosure was received. This will allow employees

to provide evidence of their disclosure should they be retaliated against and need to file a complaint or grievance in the future [see 211.4-4].

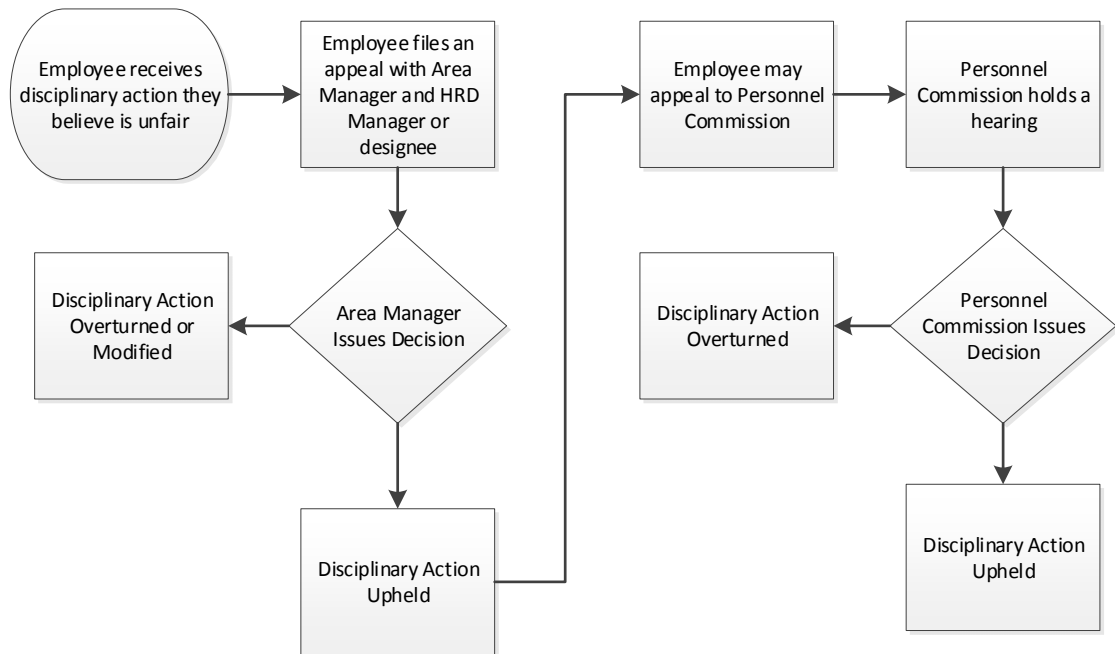
- **Comparison to Employee Protection Policy.** The current Employee Protection Policy requires the agency to provide a signed and dated receipt to the employee when they submit their disclosure. In contrast, the proposed Whistleblower Protection Law requires the employee be provided with an incident number.

F. Investigation. After receiving a disclosure from the Fraud Hotline or directly from the employee, Internal Audit has the authority to review and conduct an investigation and/or an audit. Once Internal Audit’s investigation is complete, they will report their findings to the appropriate entity for further action, if necessary. For example, the findings could be reported to the Oneida Business Committee, Oneida Law Office, Human Resources Department, Oneida Police Department or other law enforcement agency, the Audit Committee, or any other entity of the Nation [see 211.4-5].

G. Protection from Retaliation. If an employee feels they have been retaliated against, they can file a complaint using the complaint and grievance processes in the Nation’s Personnel Policies and Procedures, also known as “the Blue Book” [see 211.5-1].

- **Disciplinary Actions.** Chart 2 illustrates the grievance process in the Personnel Policies and Procedures for disciplinary actions, such as suspensions or termination of employment. If a disciplinary action is overturned, the employee can be reinstated with back pay. [See *Personnel Policies and Procedures - Section V Employee Relations, 5. Complaints, Disciplinary Actions and Grievances*].

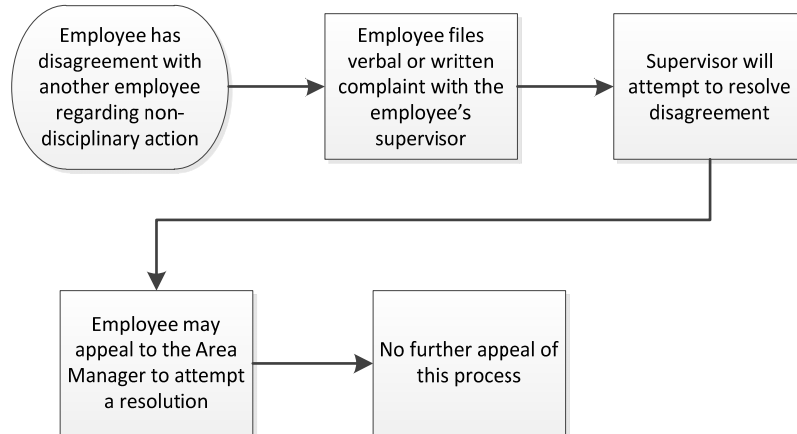
Chart 2. Grievance Process for Disciplinary Actions in Personnel Policies and Procedures



- o **Comparison to Employee Protection Policy.** The current Employee Protection Policy allows employees who have been granted protection to skip a step in the grievance process and go straight to the Personnel Commission if they feel they have been retaliated against. This ability to skip a step in the grievance process is removed in the proposed Whistleblower law [see current *Employee Protection Policy, 2 O.C. 211.5-2(b)*].

- 136 ■ **Non-Disciplinary Actions.** Chart 3 depicts the complaint process in the Personnel Policies and
137 Procedures for non-disciplinary complaints, such as loss of hours or change of schedule. [See
138 *Personnel Policies and Procedures - Section V Employee Relations, 5. Complaints,*
139 *Disciplinary Actions and Grievances*].

141 **Chart 3. Complaint Process for Non-Disciplinary Actions in Personnel Policies and**
142 **Procedures**



- 143 ○ **Comparison to Employee Protection Policy.** The current Employee Protection Policy
144 allows employees who have been granted protection to skip the Complaint Process in the
145 Personnel Policies and Procedures and go straight to their Division Director if they have
146 received a non-disciplinary action that is retaliatory. This ability to skip the complaint
147 process and go to the division director is removed in the proposed Whistleblower
148 Protection law [see current *Employee Protection Policy, 2 O.C. 211.5-2(a)*].
- 149
- 150 **H. Requirements for Protection:** To be protected from retaliation under this law, the employee must
151 have made a whistleblower disclosure and provide proof of the disclosure in the form of the incident
152 number provided by the Fraud Hotline or Internal Audit. In addition, the individual who retaliated
153 against the whistleblower must have been aware the whistleblower disclosed information. Finally,
154 the action taken against the whistleblower must be retaliatory as a result of the disclosure [see 211.5-
155 2].
- 156 **I. Punishment for Retaliation.** Individuals who retaliate against employees of the Nation in violation
157 of this law will be subject to the following consequences [see 211.5-3].
- 158 ■ *Employees of the Nation.* Employees who retaliate against another employee for making a
159 whistleblower disclosure will be subject to disciplinary action, up to and including
160 termination, in accordance with the Personnel Policies and Procedures.
 - 161 ■ *Appointed officials.* May have their appointment terminated, in accordance with the Nation's
162 Boards, Committees and Commissions Law, or may receive sanctions and penalties in
163 accordance with the Nation's laws.
 - 164 ■ *Elected officials.* May be subject to removal from office in accordance with the Nation's
165 Removal Law. Elected officials may also be subject to sanctions and penalties in accordance
166 with the Nation's laws.

168 SECTION 6. EFFECT ON EXISTING LEGISLATION

- 169 **A. Employee Protection Policy.** This law repeals the current Employee Protection Policy and replaces it
170 with a new Whistleblower Protection Law.
- 171 **B. References to Other Laws.** The following laws of the Nation are referenced in this law. This law does
172 not conflict with any of the referenced laws.

- 173 ▪ *Personnel Policies and Procedure.* Reference to the Nation’s grievance procedure [see 211.5-1]
174 and disciplinary process [see 211.5-3(a)] in the Personnel Policies and Procedures.
- 175 ▪ *Boards, Committees and Commissions Law.* Reference to the termination of appointed officials in
176 the Boards, Committees and Commissions Law [see 211.5-3(d)].
- 177 ▪ *Removal Law.* Reference to the removal process for elected officials in the Removal Law [see
178 211.5-3(c)].

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

- 181 **A. *Elimination of “Protected Status” and Ability to Skip a Step in the Complaint and Grievance Process.***
182 Under the current Employee Protection Policy, employees can receive a formal “protected status” upon
183 making their disclosure to one of the five appropriate agencies. Once an employee is granted protected
184 status, it allows the employee to skip a step in the complaint and grievance process and go directly to
185 the Personnel Commission or their Division Director if they are retaliated against [see current
186 *Employee Protection Policy, 2 O.C. 211.5-2*]. The proposed Whistleblower Protection Law eliminates
187 this formal “protected status” and the right to skip a step in the complaint and grievance process. If an
188 employee is retaliated against, they must file a complaint or grievance using the standard complaint and
189 grievance process in the Personnel Policies and Procedures. At the time this analysis was developed,
190 the LOC determined that the process in the Personnel Policies and Procedures is sufficient for
191 whistleblower protection.
- 192 **B. *Elimination of Protective Orders to Human Resources Department.*** Under the current Employee
193 Protection Policy, a protected employee who has been retaliated against may request a “protective
194 order” from the Personnel Commission. This protective order directs the Human Resources Department
195 to monitor the actions of that employee’s supervisor. Under the proposed Whistleblower Protection
196 Law, employees will no longer be able to request protective orders from the Personnel Commission. If
197 an employee is retaliated against, they must file a complaint or grievance using the standard complaint
198 and grievance process in the Personnel Policies and Procedures. At the time this analysis was
199 developed, the LOC determined the process in the Personnel Policies and Procedures is sufficient for
200 whistleblower protection.
- 201 **C. *Impact on Boards, Committees, Commissions and Entities.*** Under the proposed Whistleblower
202 Protection Law, the following entities listed in the Employee Protection Policy will no longer be
203 responsible for receiving employee protection or whistleblower disclosures: Personnel Commission,
204 Gaming Commission, School Board, and Police Commission. All whistleblower disclosures under
205 this law will now be reported to the Fraud Hotline or Internal Audit department, which will
206 investigate disclosures and forward findings to relevant entities for further action, if needed.

208 **SECTION 9. OTHER CONSIDERATIONS**

209 *The following is provided for information:*

- 210
- 211 **A. *Data on Employee Protection Requests from Personnel Commission.*** The following information
212 shows how often the current Employee Protection Policy has been used by employees in recent years.
213 Note that as of June 2018, the Oneida Nation employed approximately 2,880 people [Source: HRD 3rd
214 *Quarter Report*].
- 215 ▪ **Number of Disclosures.** Chart 4 depicts the number of employee protection disclosures made by
216 employees to the Personnel Commission (OPC). In other words, the number of times employees
217 disclosed information to the Personnel Commission and requested employee protection.

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Chart 4. Number of Employee Protection Disclosures Submitted to Personnel Commission

YEAR	Number of Employee Protection Disclosures
2012	2
2013	1
2014	3
2015	0
2016	1
2017	4
2018 (January-April)	1
TOTAL, 2012-2018	12

o SOURCE: Personnel Commission, communication with staff via email 9/17/2018

- **Number of Employees Granted Protection.** Of the twelve (12) requests for Employee Protection between 2012-2018, two (2) employees were granted employee protection. In addition, two (2) additional employees were granted “interim protection” at the time the OPC was dissolved in April 2018. “Interim protection” was granted during the Personnel Commission’s initial investigation.

B. Data on Employee Protection Requests from Other Entities.

- **Internal Audit Department** estimates the department received a total of two or three requests for Employee Protection from employees of the Nation over the last five years. *[Source: Internal Audit staff.]*
- **Oneida Nation School Board** reports they have not received any Employee Protection requests from School System employees in recent years. *[Source: Oneida Nation School Board, communication with staff via email 10/9/18.]*
- **Oneida Police Commission** reports they received one (1) request for Employee Protection over the last two years. *[Source: Oneida Police Commission, communication with staff via email 10/31/18.]*
- **Oneida Gaming Commission** reports they have no record of receiving any Employee Protection requests in the last five years. It was reported that Gaming employees likely submitted their requests to the Personnel Commission. *[Source: Oneida Gaming Commission, communication with staff via email 10/31/18.]*
- **Oneida Judiciary.** As of January 31, 2019, the Oneida Judiciary reports that there are no active Employee Protection Policy cases pending in the Judiciary Trial Court. *[Source: Oneida Judiciary, communication with staff via email 1/31/19].*

C. Data on Retaliation and Protective Orders from Personnel Commission.

- **Number of Retaliation Grievances Filed by Employees with Protected Status.** One (1) retaliation grievance was filed by a protected employee between 2012 and April 2018. This means that of the employees who requested and received employee protection, only one employee later alleged they were retaliated against. *[Source: Personnel Commission, communication with staff via email 9/17/2018].*
- **Number of Protective Orders issued by Personnel Commission.** Two (2) protective orders were issued by the Personnel Commission between 2012 and April 2018. An employee may request a protective order if they have made a disclosure, have been granted protection, and later have been found to be retaliated against. A protective order directs the Nation’s Human Resources Department to monitor the actions of the employee’s supervisor. *[Source: Personnel Commission, communication with staff via email 9/17/2018].*

- 264 **D. Grandfather Clause for Current Protected Employees.** Based on data received from the Judiciary and
 265 Personnel Commission, there are a small number of employees who currently have protected status
 266 under the Employee Protection Policy. Therefore, the LOC intends to include a grandfather clause in
 267 the adopting resolution to ensure the following:
- 268 ■ Any individual who has been granted protected status under the Employee Protection Policy shall
 269 maintain his or her protected status, but shall use the provisions found in section 211.5 of the
 270 Whistleblower Protection law for protection from retaliation [*see adopting resolution*].
- 271
- 272 **E. Comparison Between Employee Protection Policy and Whistleblower Policy.** This law repeals and
 273 replaces the Employee Protection Policy with a new Whistleblower Protection Law. Chart 5 illustrates
 274 some of the differences and similarities between the two laws:
 275

276 **Chart 5. Comparison Between Employee Protection Policy and Whistleblower Policy.**

	Employee Protection Policy (Current)	Whistleblower Protection Law (Proposed)
<i>Defines and prohibits retaliation?</i>	Yes.	Yes.
<i>Directs employees where and how to make their disclosures?</i>	Yes, employees are directed to make their disclosures to one of several appropriate agencies.	Yes, employees are directed to make disclosures using the anonymous Fraud Hotline or to Internal Audit
<i>Allows employees to report anonymously?</i>	No, employees must disclose their identity in their written complaint.	Yes, employees can choose to remain anonymous using the Fraud Hotline.
<i>Provides employees with documentation (proof) that they made a disclosure?</i>	Yes, employees receive a signed and dated receipt.	Yes, employees will receive an incident number from the hotline or Internal Audit.
<i>Employees may be granted a formal “protected status” from the agency after submitting their disclosure?</i>	Yes, employees may be granted formal “protected status” from an agency.	No, employees do not receive a formal designation of “protected status” from the agency.
<i>Allows protected employees to skip a step in the complaint and grievance process if they are retaliated against?</i>	Yes, employees who have been granted protection may appeal directly to the Personnel Commission or Division Director if they feel they have been retaliated against.	No, if an employee feels they have been retaliated against, they must use the normal complaint and grievance process in the Personnel Policies and Procedures.
<i>Employees who have been retaliated against can request a “protective order” from the Personnel Commission?</i>	Yes, employees who have been granted protection and are later retaliated against may request a “protective order” directing HRD to monitor the actions of their supervisor.	No, employees cannot request a “protective order.” Employees will need to use the normal grievance process in the Personnel Policies and Procedures if they are retaliated against.

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- 279 **F. *Comparison to other Tribal Nations.*** A review of whistleblower protection laws from other tribal
280 nations indicates whistleblower laws are generally brief, one to two documents that include a few basic
281 provisions. Some laws, such as those from the Ho Chunk Nation and Seminole Nation, are only one
282 paragraph long. The Whistleblower laws reviewed typically include the following core components:
283
 - 284 ■ Ban on retaliation against employees for whistleblowing.
 - 285 ■ Direct employees where to make whistleblower disclosures. (For example: Attorney General,
286 Human Resources Department, Office of Inspector General).
 - 287 ■ In addition, some whistleblower laws describe remedies for employees that have been retaliated
288 against, such as job reinstatement, back pay for lost wages, and damages.
 - 289 ○ Oneida’s proposed Whistleblower Law directs employees to use the grievance process in
290 the Personnel Policies and Procedures, which allows the Area Manager or Personnel
291 Commission to overturn disciplinary actions, reinstate employees who have been
292 terminated, and award back pay.
- 292 **G. *Fraud Hotline.*** The anonymous Fraud Hotline is administered by a third-party vendor (Lighthouse
293 Services) and is available 24 hours per day, seven days per week. The purpose of the hotline is to
294 provide a centralized, anonymous way to report issues of fraud, unlawful, unethical and other types of
295 improper behavior.
 - 296 ■ **Hotline Process.** A report of the call is generated by the third-party vendor, who sends the report
297 to Internal Audit. Internal Audit reviews all hotline reports and determines whether an investigation
298 is needed. If necessary, Internal Audit will conduct a confidential investigation. Once Internal
299 Audit’s investigation is complete, they report their findings to the appropriate entity for further
300 action, if necessary. For example, the findings could be reported to the Oneida Business Committee,
301 Oneida Law Office, Human Resources Department, Oneida Police Department or other law
302 enforcement agency, the Audit Committee, or any other entity of the Nation.
 - 303 ■ **Hotline Implementation.** The Fraud Hotline became effective on December 1, 2018. Training was
304 provided to employees of the Nation between November 19 – 30, 2018. In addition, Internal Audit
305 reports that refresher trainings will be offered in the future.
- 306 **H. *Whistleblower Law in Absence of Hotline.*** This law has been drafted so that if the Fraud Hotline is
307 ever eliminated in the future, the Whistleblower Protection Law and the protections it provides will still
308 function. For example, if the hotline is unavailable, employees will still be able to submit disclosures
309 directly to Internal Audit in writing.
- 310 **I. *Reference to Sanctions and Penalties.*** This law references sanctions and penalties. The LOC is
311 currently drafting a Sanctions and Penalties Law to increase accountability among elected and
312 appointed officials of the Nation. Currently, the only reprimand available for appointed and elected
313 officials is termination of appointment or removal from office. However, there may be instances of
314 misconduct that do not rise to the level of removal. In these cases, other sanctions such as verbal
315 warnings, written warnings, suspension or fines may be more appropriate. The proposed Sanctions and
316 Penalties law will create a formal complaint process and allow for corrective actions against officials
317 who violate laws, bylaws and SOPs of the Nation. At the time this analysis was drafted, the LOC intends
318 to present a Sanctions and Penalties Law to GTC for consideration in the near future.
- 319 **J. *Fiscal Impact.*** Please refer to the fiscal impact statement for any fiscal impacts.
 - 320 ■ Under the Legislative Procedures Act, a fiscal impact statement is required for all legislation except
321 emergency legislation [see *Legislative Procedures Act 1 O.C. 109.6-1*].
 - 322 ■ A fiscal impact statement shall be submitted by agencies as directed by the Legislative Operating
323 Committee and may be prepared by any agency who may receive funding if the legislation is
324 enacted; who may administer a program if the legislation is enacted; who may have financial
325 information concerning the subject matter of the legislation; or by the Finance Office, upon request
326 of the Legislative Operating Committee [see *Legislative Procedures Act 1 O.C. 109.6-1(a&b)*].

327

**Title 2. Employment – Chapter 211
WHISTLEBLOWER PROTECTION**

ʌshakotiyá'tanunhe? Lotiyó'tahse? Aolihwá'ke
They will watch over them they the workers on this issue

211.1 Purpose and Policy

211.2 Adoption, Amendment, Repeal

211.3 Definitions

211.4 Disclosure of Information

211.5 Protection from Retaliation

1

2 **211.1. Purpose and Policy**

3 211.1-1. The purpose of this law is to give protection to employees who give information that is
4 intended to protect the Nation from fraud, theft or other detrimental effects.

5 211.1-2. It is the policy of the Oneida Nation to extend protection to employees who act within
6 this law to protect the Nation's interests.

7

8 **211.2. Adoption, Amendment, Repeal**

9 211.2-1. This law was adopted by the Oneida Business Committee by resolution BC-__-__-__-
10 __.

11 211.2-2. This law may be amended or repealed by the Oneida Business Committee and/or the
12 General Tribal Council pursuant to the procedures set out in the Legislative Procedures Act.

13 211.2-3. Should a provision of this law or the application thereof to any person or circumstances
14 be held as invalid, such invalidity shall not affect other provisions of this law which are considered
15 to have legal force without the invalid portions.

16 211.2-4. In the event of a conflict between a provision of this law and a provision of another law,
17 the provisions of this law shall control, provided that this law repeals the following:

18 (a) The Employee Protection Policy adopted by emergency pursuant to BC-04-20-95-B,
19 permanently adopted pursuant to BC-12-06-95-B and subsequently amended pursuant to
20 BC-01-20-99-B, BC-06-30-04-J, and BC-02-25-15-C.

21 211.2-5. This law is adopted under authority of the Constitution of the Oneida Nation.

22

23 **211.3. Definitions**

24 211.3-1. This section shall govern the definitions of words as phrases used within this law. All
25 words not defined herein shall be used in their ordinary and everyday sense.

26 (a) "Employee" means any individual hired by the Nation and on the Nation's payroll and
27 encompasses all forms of employment, including but not limited to: full-time, part-time,
28 at-will, political appointees, and contracted persons.

29 (b) "Entity" means a department, program, service, board, committee, or commission of
30 the Nation.

31 (c) "Nation" means the Oneida Nation.

32 (d) "Official" means an individual elected or appointed to serve on a board, committee, or
33 commission of the Nation, including the Oneida Business Committee.

34

35 **211.4. Disclosure of Information**

36 211.4-1. Whistleblowing occurs when an employee discloses information that the employee
37 reasonably believes provides evidence that protects the Nation from any adverse actions of its
38 employees that may result in a detrimental effect to the Nation. Adverse action that may result in
39 a detrimental effect to the Nation includes, but is not limited to:

40 (a) Any dishonest or fraudulent act;

- 41 (b) Deceptive business practices;
- 42 (c) Theft;
- 43 (d) Extortion;
- 44 (e) Bribery;
- 45 (f) Embezzlement;
- 46 (g) Blackmail;
- 47 (h) Tampering and/or falsifying records, contracts, or reports;
- 48 (i) Forgery;
- 49 (j) Misappropriate and/or misuse of the Nation's funds;
- 50 (k) Disclosure of confidential information;
- 51 (l) Destruction, removal, or inappropriate use of property of the Nation;
- 52 (m) Unsafe working conditions;
- 53 (n) Poor management;
- 54 (o) Unethical conduct and conduct that violates a law and/or policy of the Nation.

55 211.4-2. An employee shall be protected from retaliatory action that results from making a
56 disclosure of information as directed within this law. Retaliatory action includes all action whether
57 disciplinary or otherwise.

58 (a) Disciplinary action that may be retaliatory includes, but is not limited to:

- 59 (1) dismissal;
- 60 (2) demotion;
- 61 (3) transfer;
- 62 (4) removal of duty;
- 63 (5) refusal to restore;
- 64 (6) layoff;
- 65 (7) furlough;
- 66 (8) suspension; and/or
- 67 (9) reprimand.

68 (b) Action other than disciplinary action that may be retaliatory may include, but is not
69 limited to:

- 70 (1) loss of hours;
- 71 (2) rescheduling shifts outside of normal shift changes;
- 72 (3) change of job requirements without notice;
- 73 (4) verbal or physical harassment;
- 74 (5) reduction of pay;
- 75 (6) denial of educational benefits;
- 76 (7) reassignment; and/or
- 77 (8) failure to increase base pay.

78 (c) Any action that can be reasonably justified as taken in good faith based on documented
79 employee performance shall be excluded from classification as retaliatory action.

80 211.4-3. An employee shall make a disclosure of information through the:

- 81 (a) use of the anonymous Fraud hotline; or
- 82 (b) submission of a written disclosure to the Nation's Internal Audit Department.

83 211.4-4. Once a disclosure of information is made, the disclosing employee shall be provided an
84 incident number confirming receipt of the disclosure.

85 211.4-5. The Internal Audit Department shall then have the authority to review the disclosure and
86 conduct an investigation and/or an internal audit into the disclosure, if deemed appropriate. Upon
87 the conclusion of the investigation the Internal Audit Department shall, where necessary, report

88 their findings to an appropriate entity for action to address the findings, including, but not limited
89 to, the:

- 90 (a) Oneida Business Committee;
- 91 (b) Oneida Law Office or other legal prosecuting agency;
- 92 (c) Human Resources Department;
- 93 (d) Oneida Police Department or other law enforcement agency;
- 94 (e) Audit Committee; and/or
- 95 (f) any other entity of the Nation.

96

97 **211.5. Protection from Retaliation**

98 211.5-1. If an employee alleges retaliatory action has been threatened or taken based on the
99 employee's disclosure of information under this law, the employee may file a complaint for the
100 retaliatory action in accordance with the grievance procedures provided in the Nation's laws and
101 policies governing employment.

102 211.5-2. The employee shall be protected from the retaliatory action if the following is found:

- 103 (a) the employee made a disclosure of information;
 - 104 (1) The confirmation of disclosure that is provided when information is disclosed,
 - 105 as well as any resulting findings by the Internal Audit Department, shall be used as
 - 106 a reference to prove a disclosure of information.
- 107 (b) the individual alleged to have taken retaliatory action against the disclosing employee
- 108 was aware or became aware the disclosing employee had disclosed information;
- 109 (c) the action taken against the disclosing employee was retaliatory as a result of the
- 110 disclosure of information.

111 211.5-3. An individual who is found to have retaliated against an employee who made a disclosure
112 of information pursuant to this law shall be subject to:

- 113 (a) disciplinary action, up to and including termination, pursuant to the Nation's laws and
- 114 policies governing employees, if an employee of the Nation;
- 115 (b) sanctions and penalties pursuant to the Nation's laws and policies governing sanctions
- 116 and penalties, if an official of the Nation;
- 117 (c) removal pursuant to the Nation's laws and policies governing removal, if an elected
- 118 official; and/or
- 119 (d) termination of appointment pursuant to the Nation's laws and policies governing
- 120 boards, committees, and commissions, if an appointed official.

121

122 *End.*

123

124 Adopted - BC-__-__-__-__

125

126

FINANCE ADMINISTRATION

Fiscal Impact Statement



MEMORANDUM

TO: Larry Barton, Chief Financial Officer
 Ralinda Ninham-Lamberies, Assistant Chief Financial Officer

FROM: Rae Skenandore, Financial Management Analyst

DATE: January 17, 2019

RE: **Fiscal Impact of the Whistleblower Protection Law**

I. Estimated Fiscal Impact Summary

Law: Whistleblower Protection Law		Draft 2
Implementing Agency	Human Resources Department Internal Audit	
Estimated time to comply	In compliance with the Legislative Procedure Act	
Estimated Impact	Current Fiscal Year	Ten Year Estimate
Total Estimated Fiscal Impact	None	\$34,250

II. Background

Legislative History

This is a new Law that will repeal and replace the Employee Protection Policy that was adopted with resolution BC-04-20-95-B, permanently adopted with BC-12-06-95-B and amended by BC-01-20-99-B, BC-06-30-04-J, and BC-02-25-15-C. The Law was originally placed on the Legislative Operating Committee active files list on December 20, 2017. A public meeting was held on December 3, 2018.

Summary of Content

A summary of the Law is as follows;

A. The purpose of this law is to give protection to employees who give information that is intended to protect the Nation from fraud, theft or other detrimental effects.

B. The Law applies to all employees and all elected or appointed officials of the Nation.

C. It is unclear if this Law applies to the Nation's corporate entities. The corporations are not specifically included or excluded in the language of the Law.

D. The definition of whistleblowing is described as when an employee discloses information that the employee reasonably believes provides evidence that protects the Nation from any adverse actions of its employees that may result in a detrimental effect to the Nation. These include, but are not limited to the following:

1. Any dishonest or fraudulent act;
2. Deceptive business practices;
3. Theft;
4. Extortion;
5. Bribery;
6. Embezzlement;
7. Blackmail;
8. Tampering and/or falsifying records contracts, or reports;
9. Forgery;
10. Misappropriate and/or misuse of the Nation's funds;
11. Disclosure of confidential information;
12. Destruction, removal, or inappropriate use of property of the Nation;
13. Unsafe working conditions;
14. Poor management;
15. Unethical conduct and conduct that violates a Law and/or policy of the Nation.

E. The Law protects employees from retaliatory actions which include but are not limited to the following:

1. Dismissal;
2. Demotion;
3. Transfer;
4. Removal of duty;

5. Refusal to restore;
6. Layoff;
7. Furlough;
8. Suspension; and/or
9. Reprimand;
10. Loss of hours;
11. Rescheduling shifts outside of normal shift changes;
12. Change of job requirements without notice;
13. Verbal or physical harassment;
14. Reduction of pay;
15. Denial of educational benefits;
16. Reassignment; and/or
17. Failure to increase base pay.
18. Any action that can be reasonably justified as taken in good faith based on documented employee performance shall be excluded from classification as retaliatory action.

F. Whistleblowing Process

1. An employee discloses the information to the Fraud Hotline or submits it to the Nations Internal Audit Department.
2. The employee is issued an incident number.
3. Internal Audit then has the authority to review and investigate.
4. Internal Audit Department will report their findings to an appropriate entity. This includes, but is not limited to the following;
 - a) Oneida Business Committee;
 - b) Oneida Law Office or other legal prosecuting agency;
 - c) Human Resources Department;
 - d) Oneida Police Department or other law enforcement agency;
 - e) Audit Committee; and/or
 - f) any other entity of the Nation.

G. Retaliation

1. Employees are protected from retaliation by following the grievance procedures of the Nation.
2. Individuals found to have retaliated against an employee who made a disclosure are subject to:
 - a) Disciplinary action
 - b) Sanctions and penalties
 - c) Removal
 - d) Termination of appointment.

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.

III. Executive Summary of Findings

The hotline listed in the law has already been implemented and therefore some of the costs listed are sunk costs as they are already expended. These include the following:

Hotline

October 1, 2018 – September 30, 2019 \$ 3,425

Annual thereafter \$ 3,425

Training for 3 days: \$11,000

E-learning development: \$ 2,000

There may be additional training as needed. The separation of the complaint process duplicates this function within two areas of the Nation. However, aside from the additional duties, there are no other apparent startup, personnel, office, or documentation costs associated with duplicating this function with the approval of this legislation.

III. Financial Impact

Year one startup costs are sunk cost. Expenditures were approximately \$16,425 for the first year of operations and include the contract for the hot line, training, and e-learning design. If the contract for the hot line remains the same, the total costs over the next 10 years is approximately \$47,250.

IV. Recommendation

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



Legislative Operating Committee
February 6, 2019

Domestic Animals Law Amendments

Submission Date: 9/19/18	Public Meeting: n/a
LOC Sponsor: Jennifer Webster	Emergency Enacted: n/a

Summary: *This is a request to make necessary changes and updates to the law in regard to issues with violations, enforcement and appeals, procedure at hearings, restitution, citations, and vicious and dangerous dogs.*

9/19/18 LOC: Motion by Jennifer Webster to add the Domestic Animals Ordinance to the active files list and assign Jennifer Webster as the Sponsor; seconded by Daniel Guzman King. Motion carried unanimously.

10/5/18: *Work Meeting.* Present: Clorissa N. Santiago, Brandon Wisneski, Kelly McAndrews, Eric Boulanger, Michelle Myers, Jeff Mears, Vanessa Miller, Steve Linskens, Laura Manthe. The purpose of this work meeting was to begin identifying potential amendments that can be made to the law, and discussing areas that could benefit from further discussion.

10/23/18: *Work Meeting.* Present: Clorissa N. Santiago, Brandon Wisneski, Kelly McAndrews, Jeff Mears, Vanessa Miller, Steve Linskens, Laura Manthe, Brenda Haen, Eric Krawczyk. The purpose of this work meeting was to finish reviewing the law and discussing potential amendments that could be made.

11/9/18: *Work Meeting.* Present: Clorissa N. Santiago, Brandon Wisneski, Jeff Mears, Vanessa Miller, Steve Linskens, Jennifer Falck, Eric Boulanger, Michelle Myers. The purpose of this work meeting was to review research that was completed, and discuss parking lot issues. The LRO will update the draft and schedule another work group meeting before the draft is presented to the LOC.

12/13/18: *Work Meeting.* Present: Clorissa N. Santiago, Brandon Wisneski, Eric Boulanger, Chad Wilson, Laura Manthe, Steve Linskens, Shad Webster, Patrick Pelky. The purpose of this work meeting was to review and discuss the proposed draft of the amendments before the draft is presented to the LOC for consideration.

12/19/18: *Work Meeting.* Present: David P. Jordan, Jennifer Webster, Kirby Metoxen, Ernest Stevens III, Jennifer Falck, Clorissa N. Santiago, Brandon Wisneski. The purpose of this work meeting was to review the proposed draft created by the work group, and determine the next steps for moving forward. Attorney will update the draft, and a legislative analysis will be completed.

1/16/18 LOC: Motion by Jennifer Webster to accept the draft and the legislative analysis of the amendments to the Domestic Animals law and defer these items to a work meeting for further consideration; seconded by Ernest Stevens III. Motion carried unanimously.

1/16/18: *Work Meeting.* Present: Jennifer Webster, Kirby Metoxen, Daniel Guzman, Ernest Stevens III, Clorissa N. Santiago, Brandon Wisneski. The purpose of this work meeting was to review the policy considerations contained in the legislative analysis.

1/25/18: *Work Meeting.* Present: Clorissa N. Santiago, Brandon Wisneski, Jennifer Falck, Shad Webster, Eric Boulanger, Steve Linskens, Michelle Meyers, Vanessa Miller, Jeff Mears. The purpose of this work meeting was to review and discuss the fine, penalty, and licensing fee schedule resolution, discuss complaints received from the community, and discuss fiscal impacts.

Next Steps:

- Approve the public meeting packet and direct that a public meeting for the amendments to the Domestic Animals law be held on Monday, March 11, 2018.

Title 3. Health and Public Safety - Chapter 304
DOMESTIC ANIMALS
Kátse?na Olihwá'ke
matters concerning the pet animals

304.1. Purpose and Policy	304.8. Livestock
304.2. Adoption, Amendment, Conflicts	304.9. Hens
304.3. Definitions	304.10. Prohibited Animals
304.4. Jurisdiction	304.11. Dangerous Animals
304.5. Authority	304.12. Owner Liability
304.6. Treatment of Animals	304.13. Enforcement of Violations
304.7. Dogs and Cats	

304.1. Purpose and Policy

- 304.1-1. *Purpose.* The purpose of this law is to:
- (a) protect the health, safety, and welfare of the community by requiring certain basic measures to prevent the spread of disease carried by domestic animals;
 - (b) set minimum standards for the treatment of animals;
 - (c) prohibit certain species of animals from being brought onto the Reservation;
 - (d) regulate the keeping of livestock on lots zoned residential within the Reservation; and
 - (e) establish consequences for damages caused by domestic animals.
- 304.1-2. *Policy.* It is the policy of the Nation to protect the health, safety, and welfare of the community by:
- (a) requiring certain basic measures to prevent the spread of disease carried by domestic animals;
 - (b) establishing requirements for licensing domestic animals, and
 - (c) regulating the types of animals which may be kept as domestic animals.

304.2. Adoption, Amendment, Repeal

- 304.2-1. This law was adopted by Oneida Business Committee by resolution BC-03-13-96-B and amended by resolutions BC-06-22-11-G, BC-06-28-17-B, and BC-__-__-__-__.
- 304.2-2. This law may be amended or repealed by the Oneida Business Committee and/or General Tribal Council pursuant to the procedures set out in the Legislative Procedures Act.
- 304.2-3. Should a provision of this law or the application thereof to any person or circumstances be held as invalid, such invalidity ~~does~~shall not affect other provisions of this law which are considered to have legal force without the invalid portions.
- 304.2-4. 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.
- 304.2-5. This law is adopted under the authority of the Constitution of the Oneida Nation.

304.3. Definitions

- 304.3-1. This section ~~governs~~shall govern the definitions of words and phrases used within this law. All words not defined herein ~~are to~~shall be used in their ordinary and everyday sense.
- (a) “District Quarantine” means a rabid or otherwise diseased domestic animal is suspected or known to be within a discernible area and all such animals reasonably suspected of being infected are subject to enforced isolation for a period of time to limit or prevent the spread of disease or infection and during which time said animals are tested for diseases, including rabies.
 - (b) “Fine” means a monetary punishment issued to a person violating this law.
 - (c) “Hen” means a female chicken (*Gallus gallus domesticus*).
 - (d) “Livestock” means any equine (i.e. horse, donkey, etc.), bovine (i.e. cow, steer,

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40 heifer, etc.), sheep, goat, pig.

41 (e) “Nation” means the Oneida Nation.

42 (f) “Owner” means any person who owns, harbors, keeps, controls or acts as a caretaker
43 for an animal. Absent evidence of alternative adult ownership, this law presumes that
44 domestic animals are owned by the adult homeowner or renter.

45 (g) “Penalty” means a punishment, other than a fine, imposed on a person violating this
46 law and/or the rules created pursuant to this law and may include, but is not limited to,
47 the confiscation of wildlife with return of the same at the discretion of the Trial Court and
48 restitution.

49 (h) “Reservation” means all the property within the exterior boundaries of the
50 Reservation of the Oneida Nation, as created pursuant to the 1838 Treaty with the Oneida
51 7 Stat. 566, and any lands added thereto pursuant to federal law.

52 (i) “Residential household” means a residential lot, except for those residential lots
53 designed as multi-family lots, in which each family unit within the lot constitutes a
54 separate household.

55 (j) “Tethering” means the act of fastening an animal to a stationary object while
56 unattended so that the animal can only range within a set radius. Tethering does not
57 include the use of a leash to walk an animal.

58 ~~(j)~~ (k) “Trial Court” means the Trial Court of the Oneida Nation Judiciary, which is the
59 judicial system that was established by Oneida General Tribal Council resolution GTC-
60 01-07-13-B to administer the judicial authorities and responsibilities of the Nation.

61 ~~(k)~~ (l) “Quarantine” means the act of keeping an animal in enforced isolation for a period of
62 time to limit or prevent the spread of disease or infection and during which time said
63 animal is tested for diseases, including rabies.

64

65 **304.4. Jurisdiction**

66 304.4-1. *Personal Jurisdiction.* This law applies to:

67 (a) All members of the Nation; the Nation’s entities and corporations; and members of
68 other federally-recognized tribes.

69 (b) Individuals and businesses leasing, occupying or otherwise using fee land owned by
70 the Nation or by individual members of the Nation; and/or lands held in trust on behalf of
71 the Nation or individual members of the Nation.

72 (c) Individuals who have consented to the jurisdiction of the Nation or as otherwise
73 consistent with federal law. An individual shall be considered to have consented to the
74 jurisdiction of the Nation:

75 (1) By entering into a consensual relationship with the Nation, or with the
76 Nation’s entities, corporations, or members of the Nation, including but not
77 limited to contracts or other agreements; or

78 (2) By other facts which manifest an intent to consent to the authority of the
79 Nation, including failure to raise an objection to the exercise of personal
80 jurisdiction in a timely manner.

81 304.4-2. *Territorial Jurisdiction.* This law extends within the Reservation to all land owned by
82 the Nation and individual trust and/or fee land of a member of the Nation.

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304.5. Authority

304.5-1. *General.* This law governs the keeping of all domestic animals which are commonly owned as household pets. Domestic animals include, but are not limited to dogs, cats, ferrets, rabbits, guinea pigs, turtles, birds, pigeons, hamsters, non-venomous reptiles, amphibians, and arachnids.

(a) Domestic animals do not include prohibited exotic animals as identified in section 304.10-2.

304.5-2. *Authority of the Oneida Police Department and Conservation Department.* Oneida Police Officers and Conservation Wardens shall have the authority to:

(a) investigate complaints involving domestic animals;

(b) enforce the provisions of this law through appropriate means, including but not limited to:

(1) seizing any animal that is taken, employed, used, or possessed in violation of this law and/or mistreated, rabid or otherwise in danger or dangerous;

(2) issuing citations consistent with the fine and penalty schedule developed in accordance with this law; and

(3) using force, up to and including lethal force, to stop an immediate threat to public safety caused by an animal.

(A) Where lethal force is used, such execution shall be conducted in as humane manner as possible and, to the extent feasible, avoids damage to the animal's head for the purpose of rabies testing.

304.5-3. *Fine, Penalty, and Licensing Fee Schedule.* The Environmental, Health, Safety, and Land Division and the Environmental Resource Board are hereby delegated joint authority to develop a fine, penalty, and licensing fee schedule. The fine, penalty, and licensing fee schedule shall be adopted by the Oneida Business Committee by resolution.

304.5-4. *Disease Investigation and Quarantine.* The Environmental, Health, Safety, and Land Division, the Emergency Management Coordinator, and the Comprehensive Health Division are hereby delegated joint authority to establish standard operating procedures related to disease investigations and quarantines.

304.5-5. *Issuance of Licenses.* The Environmental, Health, Safety, and Land Division shall make all decisions related to the issuance of a license and/or permit in accordance with this law, unless otherwise noted.

304.6. Treatment of Animals

304.6-1. *Food and Water.* An owner shall provide an animal with a daily supply of food and water sufficient to maintain the animal in good health.

304.6-2. *Shelter.* An owner shall meet the minimum standards for indoor and outdoor shelter for an animal. All shelter shall be structurally sound and maintained in good repair to protect the animal from injury and to contain the animal.

(a) *Minimum indoor standards of shelter.* Minimum standards for indoor shelter include the following:

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125 (1) *Temperature.* The ambient temperature of the indoor shelter shall be
126 compatible with the health of the animal.

127 (2) *Ventilation.* Indoor shelter facilities shall be adequately ventilated by natural
128 or mechanical means to provide for the health of the animal at all times.

129 (b) *Minimum outdoor standards of shelter.* Minimum standards for outdoor shelter
130 include the following:

131 (1) *Shelter from Sunlight.* When sunlight is likely to cause heat exhaustion of an
132 animal tied or caged outside, sufficient shade by natural or artificial means shall
133 be provided to protect the animal from direct sunlight. Caged does not include
134 farm fencing used to confine livestock.

135 (2) *Climatic Conditions.* Natural or artificial shelter appropriate to the local
136 climatic conditions for the animal concerned shall be provided as necessary for
137 the health of the animal.

138 (3) *Adverse Weather.* If an animal is tied or confined unattended outdoors under
139 weather conditions which adversely affect the health of the animal, a weather
140 appropriate shelter of suitable size to accommodate the animal shall be provided.

141 (c) *Space Standards.* Enclosures shall be constructed and maintained so as to provide
142 sufficient space to allow each animal adequate freedom of movement. Inadequate space
143 may be indicated by evidence of debility, stress, or abnormal behavior patterns.

144 (1) *Dog Kennels.* Dog kennels shall meet the following space requirements
145 where, if there are multiple dogs in the same kennel, the base kennel space
146 requirement is based on the size of the largest dog and the additional kennel space
147 requirements are based on the size of each additional dog kept in the kennel:

148 (A) *Dog Size Between One and Thirty-Five Pounds.* A dog that weighs
149 between one (1) and thirty-five (35) pounds shall have a required base
150 kennel space of sixty (60) square feet. Required additional kennel space
151 per additional dog of this size is twelve (12) square feet.

152 (B) *Dog Size Between Thirty-Six and Seventy-Five Pounds.* A dog that
153 weighs between thirty-six (36) and seventy-five (75) pounds shall have a
154 required base kennel space of eighty (80) square feet. Required additional
155 kennel space per additional dog of this size is eighteen (18) square feet.

156 (C) *Dog Size Seventy-Six Pounds or Greater.* A dog that weighs seventy-
157 six (76) pounds or more shall have a required base kennel space of one
158 hundred (100) square feet. Required additional kennel space per additional
159 dog of this size is twenty-four (24) square feet.

160 (d) *Sanitation Standards.* An owner shall meet the minimum standards of sanitation for
161 both indoor and outdoor shelter. Minimum sanitation standards require waste matter from
162 the animal to be removed within twenty-four (24) hours of its deposit.

163 (e) *Shelter Exception for Livestock.* In the case of livestock kept on farms on land zoned
164 agricultural, nothing in this section shall be construed as imposing shelter requirements or
165 standards more stringent than normally accepted husbandry practices.

166 304.6-3. *Tethering.* If a kennel or enclosed yard is not available, an owner may tether an
167 unsupervised animal as long as the owner meets the following conditions:

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168 (a) the tether is connected to the animal with a buckle type collar or body harness made
169 of nylon or leather not less than one inch (1”) in width and at least two inches (2”) greater
170 in diameter than the animal’s neck or torso;

171 (1) The use of a choke collar, prong collar head harness, or other similar type of
172 head harness or collar shall be prohibited for the use of tethering.

173 (b) the tether is at least twelve feet (12’) long and allows the animal to move in all
174 directions unimpeded;

175 (c) the total weight of the tether does not exceed ten percent (10%) of the animal’s body
176 weight;

177 (d) the animal is tethered so as to prevent injury, strangulation, or entanglement, and
178 allows the animal access to water and shelter;

179 (e) the tethered animal is not sick, injured, or nursing;

180 (f) the animal is not tethered on any vacant property or land or with an unoccupied
181 dwelling; and

182 (g) the animal is not tethered in a manner that allows the animal to cross onto public
183 space or property of others.

184 304.6-4. *Mistreatment of Animals.* No person may treat any animal in a manner which causes
185 harm, injury or death. This section does not apply to:

186 (a) normal and accepted veterinary and/or care practices; or

187 (b) teaching, research or experimentation conducted at a facility regulated under federal
188 or applicable state law.

189 304.6-5. *Mandatory Reporting.* An employee of the Nation shall report any animal
190 mistreatment witnessed during the regular course of his or her employment with the Nation to
191 the Oneida Police Department and any other appropriate entity.

192 193 **304.7. Dogs and Cats**

194 304.7-1. *License Required.* An owner shall be required to obtain a license for any dog or cat
195 five (5) months of age or older on an annual basis.

196 (a) *License Period.* The license year shall commence on January 1st and end on
197 December 31st of every year.

198 (b) *License Eligibility.* To be eligible for a license, the owner shall provide:

199 (1) the licensing fee; and

200 (2) proof of current rabies vaccination.

201 (c) *Placement of License Tag.* Upon the receipt of a license the owner shall be provided
202 a license tag for the dog or cat. The owner shall securely attach the license tag to the
203 animal’s collar and shall require the animal wear the collar at all times.

204 (1) *Exception.* A dog or cat shall not be required to wear the collar if the dog or
205 cat is:

206 (A) hunting or actively involved in herding or controlling livestock if the
207 animal is under control of its owner;

208 (B) within the owner’s residence and/or securely confined in a fenced
209 area; and/or

210 (C) being shown during a competition.

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211 304.7-2. *Rabies Vaccinations Required.* An owner shall be required to obtain a rabies
212 vaccination for any dog or cat five (5) months of age or older.

213 304.7-3. *Limit on the Number of Dogs and Cats.* An individual may keep no more than two (2)
214 dogs or three (3) cats; and a total of no more than four (4) dogs and cats combined; in a single
215 residential household.

216 (a) *Exception.* The limit on the number of dogs and cats a person may keep or possess
217 does not apply to a person who:

218 (1) is eligible for any grandfather provisions included in this law's adopting
219 resolution;

220 (2) keeps or possesses a litter of pups or kittens, or a portion of a litter, for a
221 period not exceeding five (5) months from birth;

222 (3) resides on property zoned agricultural; and/or

223 (4) obtains a permit for the additional dog or cat.

224 (b) *Permit for Additional Dogs or Cats.* A person may keep more than two (2) dogs or
225 three cats (3) in a single residential household if the owner obtains a permit from the
226 Environmental, Health, Safety, and Land Division for the additional animal. The
227 application for the permit must be signed by the owner and contain the signature of the
228 landowner of the residential household if the landowner is not the applicant.

229 (1) By seeking a permit for an additional dog or cat the owner agrees that he or
230 she shall reduce the number of licensed dogs or cats on the premises if there are
231 two (2) or more nuisance complaints against the residential household within one
232 (1) calendar year caused by, or related to, the number of dogs or cats housed on
233 the premises.

234 (2) If two (2) or more nuisance complaints are received against the residential
235 household due to the number of dogs or cats housed on the premises, the owner
236 shall reduce the number of animals within thirty (30) days.

237 304.7-4. *Running at Large.* An owner shall not allow a dog or cat to run at large by being any
238 place except upon the premises of the owner, unless the dog or cat is crated, penned, or on a
239 leash under the control of a person physically able to control the animal.

240 (a) A stray dog or cat running at large may be referred to the Oneida Police Department
241 or Oneida Conservation Department.

242 (b) When an Oneida Police Officer or Oneida Conservation Warden finds a dog or cat
243 running at large, the officer and/or warden shall, if possible, pick up and impound such
244 animal.

245 (c) Whenever any impounded animal bears an identification mark, such as a collar with
246 identification tags or license tag, the owner shall be notified as soon as reasonably
247 possible.

248 304.7-5. *Nuisance.* An Oneida Police Officer or Oneida Conservation Warden may pick up and
249 impound a dog or cat that has been found to be a nuisance. A dog or cat shall be found to be a
250 nuisance if the actions of the dog or cat:

251 (a) resulted in two (2) or more verified disturbances due to excessive barking and/or
252 other noise by the animal, or the animal running at large; and/or

253 (b) resulted in one (1) or more verified disturbance due to threatening behavior by the

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254 animal running at large.

255 304.7-6. *Investigations for Suspected Animal Bites.* The owner shall notify the Oneida Police
256 Department in the event the owner's cat or dog bites a human or another domestic animal.

257 (a) The responding Oneida Police Officer or Oneida Conservation Warden shall:

258 (1) Ascertain whether the domestic animal is properly licensed and has current
259 vaccinations.

260 (2) Ensure all information provided is correct.

261 (3) Contact the Environmental, Health, Safety and Land Division to provide
262 notification of the domestic animal bite.

263 (4) If the cat or dog has current rabies vaccinations, order the owner to:

264 (A) Quarantine the animal for ten (10) days; and

265 (B) Present the animal for examination by a veterinarian within twenty-
266 four (24) hours of the bite, on the last day of quarantine and on one (1) day
267 in between the first twenty-four (24) hours and the tenth (10th) day.

268 (5) If the cat or dog does not have current rabies vaccination, order the owner to:

269 (A) Quarantine the animal for ten (10) days or deliver the animal to an
270 isolation facility at the owner's expense. If a home quarantine is ordered,
271 the owner shall present the domestic animal for examination by a
272 veterinarian within twenty-four (24) hours of the bite, on the last day of
273 quarantine and on one (1) day in between the first twenty-four (24) hours
274 and the tenth (10th) day; or

275 (B) Euthanize the animal and send the specimen for analysis at the
276 owner's expense, if the animal has exhibited any signs of rabies.

277 (b) Upon expiration of a quarantine period, a veterinarian may extend the quarantine
278 period. Upon expiration of all quarantine periods, if the veterinarian certifies that the
279 animal has not exhibited any signs of rabies, the animal may be released from quarantine.

280 (c) If the veterinarian certifies that the animal has exhibited any signs of rabies the
281 following shall occur:

282 (1) If the animal has current rabies vaccinations, the Oneida Police Officer or
283 Oneida Conservation Warden may order the animal to be euthanized and send the
284 specimen for analysis, to be paid for by the Nation.

285 (2) If the animal does not have current rabies vaccinations, the Oneida Police
286 Officer or Oneida Conservation Warden may order the animal to be euthanized
287 and send the specimen for analysis at the owner's expense.

288 304.7-7. *District Quarantine.* A district quarantine may be initiated by staff designated by the
289 Environmental, Health, Safety, and Land Division, an Oneida Police Officer, an Oneida
290 Conservation Warden, and/or a Public Health Officer.

291 (a) If an area is subject to a district quarantine for rabies, all dogs and cats within the
292 district shall be kept securely confined, tied, leashed or muzzled. Any dog or cat not
293 confined, tied, leashed or muzzled is a public nuisance and may be impounded. All
294 Oneida Police Officers and Oneida Conservation Wardens shall cooperate in the
295 enforcement of the quarantine.

296 (b) An animal that is immunized against rabies as evidenced by a valid certificate of

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297 rabies vaccination or other evidence is exempt from the district quarantine provisions of
298 this section.

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300 **304.8. Livestock**

301 304.8-1. An owner shall obtain a conditional use permit from the Oneida Land Commission in
302 order to keep livestock on land zoned residential.

303 304.8-2. *Limitations on Livestock.* Livestock kept on land zoned residential are subject to the
304 following limitations:

305 (a) One (1) large animal per one (1) acre. Examples of large animals include, but are not
306 limited to, horses, cows, and pigs.

307 (b) One (1) small animal per one-half (½) acre. Examples of small animals include, but
308 are not limited to, goats, and sheep.

309 (c) One (1) goat or sheep per recorded lot under one-half (½) acre when setback
310 requirements can be met.

311 304.8-3. *Liability for Damage Caused by Livestock at Large.* Any person whose livestock
312 escapes from its normal confined area and becomes at large is responsible for any and all damage
313 to persons and property caused by such livestock while it is away from its normal confined area.

314

315 **304.9. Hens**

316 304.9-1. *Hen Permit.* An owner shall obtain a conditional use permit from the Oneida Land
317 Commission Division in order to keep hens on land zoned residential.

318 *304.9-2. Prohibition of Roosters.* An owner shall not keep a rooster on land zoned residential.

319 *304.9-~~2~~3.* *Limit on the Number of Hens Allowed.* The number of hens an owner may keep is
320 dependent on the size of the residential lot.

321 (a) An owner may to keep up to four (4) hens on a residential lot that is two (2) acres in
322 size or smaller.

323 (b) An owner may keep up to eight (8) hens on a residential lot two (2) acres in size or
324 larger.

325 *304.9-~~3~~4.* *Standards for Keeping Hens.* An owner shall keep hens in the following manner:

326 (a) No person shall keep a hen over eight (8) weeks of age in a principal structure.

327 (b) Hens shall be kept within a structure such as a coop or fenced area used exclusively to
328 keep hens and shall provide at least four (4) square feet of space per hen.

329 (c) No accessory structure used to keep hens shall be located within twenty-five feet
330 (25') of any principal structure which is not owned by the person permitted to keep the
331 hens.

332 (d) No accessory structure used to keep hens shall be located in a front or side yard.

333 (e) All hens shall be kept and handled in a sanitary manner to prevent the spread of
334 communicable diseases amongst birds or to humans.

335 *304.9-~~4~~5.* *Prohibition of Nuisance Hens.* No owner may keep hens that cause any other
336 nuisance associated with unhealthy conditions, create a public health threat, or otherwise
337 interfere with the normal use of property or enjoyment of life by humans or animals.

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339 **304.10. Prohibited Animals**

340 304.10-1. No person shall bring into, keep, harbor, maintain, offer for sale or barter, act as a
341 custodian, have custody or control of, or release to the wild on the Reservation a prohibited
342 animal.

343 304.10-2. *Prohibited Animals*. Prohibited animals include the following orders and families,
344 whether bred in the wild or in captivity, and any or all hybrids. The animals listed are intended to
345 act as examples and are not to be construed as an exhaustive list or limit the generality of each
346 group of animals, unless otherwise specified:

347 (a) *Class Mammalia*.

348 (1) Order Chiroptera. This includes all bat species.

349 (2) Order Artiodactyla. This includes hippopotamuses, giraffes, camels, and deer,
350 but does not include domestic cattle, swine, sheep, goats, alpaca, and llama as
351 exotic animals.

352 (3) Order Carnivora.

353 (A) Family Felidae. This includes lions, tigers, cougars, leopards, ocelots,
354 and servals, but does not include domestic cats as exotic animals.

355 (B) Family Canidae. This includes wolves, wolf hybrids, coyotes, coyote
356 hybrids, foxes, and jackals, but does not include domestic dogs as exotic
357 animals.

358 (C) Family Ursidae. This includes all bears.

359 (D) Family Mustelidae. This includes weasels, skunks, martins, and
360 minks, but does not include ferrets as exotic animals.

361 (E) Family Procyonidae. This includes raccoons, and coatis.

362 (F) Family Hyaenidae. This includes hyenas.

363 (G) Family Viverridae. This includes civets, genets, and mongooses.

364 (4) Order Edentata. This includes anteaters, armadillos, and sloths.

365 (5) Order Marsupialia. This includes opossums, kangaroos, wallabies, and sugar
366 gliders.

367 (6) Order Perissodactyla. This includes rhinoceroses, and tapirs, but does not
368 include horses, goats, and mules as exotic animals.

369 (7) Order Primates. This includes lemurs, monkeys, chimpanzees, and gorillas.

370 (8) Order Proboscidea. This includes elephants.

371 (9) Order Rodentia. This includes squirrels, beavers, porcupines, and prairie
372 dogs, but does not include guinea pigs, rats, mice, gerbils, and hamsters as exotic
373 animals.

374 (b) *Class Reptilia*.

375 (1) Order Squamata.

376 (A) Family Helodermatidae. This includes Gila monsters and Mexican
377 beaded lizards.

378 (B) Family Varanidae. This includes any monitor lizard which will
379 normally grow over two feet in length.

380 (C) Family Iguanidae. This includes green iguanas and rock iguanas, but
381 does not include all other types of iguanas which are not green or rock

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- 382 iguanas.
- 383 (D) Family Boidae. This includes all species whose adult length may
384 exceed eight (8) feet.
- 385 (E) Family Colubridae. This includes boomslangs and African twig
386 snakes.
- 387 (F) Family Elapidae. This includes coral snakes, cobras, and mambas.
- 388 (G) Family Nactricidae. This includes keelback snakes, but does not
389 include all other snakes not keelback.
- 390 (H) Family Viperidae. This includes copperheads, cottonmouths, and
391 rattlesnakes.
- 392 (2) Order Crocodylia. This includes crocodiles, alligators, caimans, and gavials.
- 393 (c) *Class Aves*.
- 394 (1) Order Falconiformes. This includes eagles, hawks, and vultures.
- 395 (2) Order Rheiformes. This includes rheas.
- 396 (3) Order Struthioniformes. This includes ostriches.
- 397 (4) Order Casuariiformes. This includes cassowaries and emus.
- 398 (5) Order Strigiformes. This includes owls.
- 399 (d) *Class Arachnida*.
- 400 (1) Order Scorpiones,
- 401 (A) Family Buthidae. This includes scorpions.
- 402 (2) Order Araneae,
- 403 (A) Family Therididae. This includes the Argentina red widow spider,
404 brown widow spider, red-black widow spider, red widow spider, southern
405 black widow spider, and Western widow spider.
- 406 (B) Family Laxoscelidae, This includes the brown recluse spider.
- 407 (e) *Class Chilopoda*.
- 408 (1) Order Scolopendromorpha,
- 409 (A) Family Scolopendridae. This includes centipedes.
- 410 (f) Any Federal or State endangered or threatened species.
- 411 304.10-3. *Prohibited Animals Exception*. The prohibition of certain animals shall not apply to:
- 412 (a) Individuals who are eligible for any grandfather provisions included in this law's
413 adopting resolution.
- 414 (b) A zoological park and/or sanctuary, an educational or medical institution, and/or a
415 specially trained entertainment organization who receives a permit from the
416 Environmental, Health, Safety, and Land Division to own, harbor or possess the
417 prohibited animal.
- 418 304.10-4. *Prohibited Animal Permit*. The Environmental, Health, Safety, and Land Division
419 may issue a prohibited animal permit if:
- 420 (a) the animal and animal quarters are kept in a clean and sanitary condition and
421 maintained to eliminate objectionable odors; and
- 422 (b) the animal is maintained in quarters so constructed as to prevent its escape.
- 423 304.10-5. *Release of Prohibited Animals*. The Environmental, Health, Safety, and Land
424 Division, may approve a wildlife refuge and/or sanctuary to release prohibited animals within the

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425 Reservation without applying for and receiving a prohibited animal permit.

426 304.10-6. *Seizure of Prohibited Animals.* An unpermitted prohibited animal may be seized by
427 the Oneida Police Department and/or the Oneida Conservation Department.

428 (a) A prohibited animal that is seized shall be held by the Oneida Police Department, the
429 Oneida Conservation Department, or its designee until it can be determined if the animal
430 is an endangered or threatened species.

431 (b) At any time after such identification, the Oneida Police Department and/or Oneida
432 Conservation Department may seek an order from the Trial Court as to the care, custody
433 and control of the animal.

434 (c) If the Trial Court finds the animal has been taken, employed, used or possessed in
435 violation of this section, the owner shall be responsible for reimbursing the Oneida Police
436 Department and/or the Oneida Conservation Department for the cost of holding the
437 animal and any costs incurred in identifying the animal.

438 304.10-7. *Notice of Release or Escape.* The owner of a prohibited animal that has been released
439 or escapes shall immediately notify the Oneida Police Department and/or the Oneida
440 Conservation Department and shall be liable for any cost of recapture of the animal.

441 304.10-8. *Forfeiture of the Prohibited Animal.* An owner found in violation of this section shall
442 forfeit or surrender the prohibited animal to the Oneida Police Department, Oneida Conservation
443 Department, or designee. Upon such forfeiture or surrender, the Trial Court may direct
444 destruction or transfer of the animal to a qualified zoological, educational, or scientific institution
445 or qualified private propagator for safekeeping, with costs assessed against the owner.

446

447 **304.11. Dangerous Animals**

448 304.11-1. *Dangerous Animals.* No person shall own, keep, possess, return to or harbor a
449 dangerous animal. An animal shall be presumed to be dangerous if the animal:

450 (a) approaches or chases a human being or domestic animal in a menacing fashion or
451 apparent attitude of attack;

452 (b) bites, inflicts injury, attacks, or otherwise endangers the safety of a human being or
453 domestic animal;

454 (c) is suspected to be owned, trained or harbored for the purpose of dog fighting; and/or

455 (d) has been declared to be a dangerous animal and/or ordered to be destroyed in any
456 other jurisdiction.

457 304.11-2. *Dangerous Animal Determination.* An Oneida Police Officer or Oneida Conservation
458 Warden may determine an animal to be dangerous whenever, upon investigation, the officer
459 finds that the animal meets the definition of dangerous animal provided in section 304.11-1.

460 (a) Upon making a determination that an animal is dangerous, the Oneida Police Officer
461 or Oneida Conservation Warden shall issue a written order with an accompanying
462 citation declaring the animal to be dangerous.

463 (b) The citation and order shall be personally delivered to the apparent owner or
464 custodian of the dangerous animal.

465 (c) Upon receipt of the written order and accompanying citation the owner shall remove
466 the dangerous animal from the Reservation within three (3) business days.

467 304.11-3. *Contesting a Dangerous Animal Determination.* If the owner wishes to contest the

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468 dangerous animal determination, he or she shall file with the Trial Court a written objection to
469 the order within three (3) business days of receipt of the order.

470 (a) The written objection shall include specific reasons for objecting to or contesting the
471 order. An owner may argue an animal should not be deemed dangerous due to the animal
472 biting, attacking or menacing any person and/or domestic animal because the animal was
473 acting to:

474 (1) defend its owner or another person from an attack by a person or animal;

475 (2) protect its young or another animal;

476 (3) defend itself against any person or animal which has tormented, assaulted or
477 abused it; and/or

478 (4) defend its owner's property against trespassers.

479 (b) Pending the outcome of the hearing, the animal shall be securely confined in a
480 humane manner either on the premises of the owner or caretaker, or with a licensed
481 veterinarian. If confined on the premises of the owner or caretaker, the following
482 requirements shall apply:

483 (1) *Leash and Muzzle.* No owner shall permit a dangerous animal to go outside its
484 kennel or pen unless the animal is securely restrained with a leash no longer than
485 four feet (4') in length by a person who is at least sixteen (16) years of age who is
486 in physical control of the leash, competent to govern the animal and capable of
487 physically controlling and restraining the animal. The owner shall not leash an
488 animal to inanimate objects such as a tree, post, or building. When the animal is
489 on a leash outside the animal's kennel, the owner shall muzzle the animal in a
490 humane way by a commercially available muzzling device sufficient to prevent
491 the animal from biting a person or other animal.

492 (2) *Confinement.* Except when leashed and muzzled the owner shall ensure the
493 dangerous animal is securely confined indoors or in a securely enclosed and
494 locked pen or kennel that is located on the premises of the owner and constructed
495 in a manner that does not allow the animal to exit the pen or kennel on its own
496 volition. The owner shall not permit an animal to be kept on a porch, patio, or in
497 any part of a house or structure on the premises of the owner that would allow the
498 animal to exit the building on its own volition. The owner shall not permit the
499 animal to be kept in a house or structure when the windows are open or when
500 screen windows or screen doors are the only obstacle preventing the animal from
501 exiting the structure.

502 (3) *Signs.* The owner of a dangerous animal shall display, in prominent places on
503 his or her premises near all entrances to the premises, signs in letters of not less
504 than two inches (2") high warning that there is a dangerous animal on the
505 property. A similar sign shall be posted on the kennel or pen of the animal. In
506 addition, the owner shall conspicuously display a sign with a symbol warning
507 children of the presence of a dangerous animal.

508 (4) *Notification.* The owner of a dangerous animal shall notify the Oneida Police
509 Department and/or the Oneida Conservation Department immediately if the
510 animal is at large, is unconfined, has attacked another animal, or has attacked a

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511 person.

512 (c) If an owner or caretaker fails to follow the requirements for harboring a dangerous
513 animal pending a hearing, the animal may be impounded by the Oneida Police Officer or
514 Oneida Conservation Warden issuing the dangerous animal determination.

515 304.11-4. *Dangerous Animal Determination Hearing.* A hearing on the dangerous animal
516 determination shall be held within fourteen (14) days of submission of the written objection with
517 the Trial Court. At the hearing, the Trial Court shall determine whether the determination that the
518 animal is dangerous should be substantiated.

519 (a) If the Trial Court concludes that the determination that the animal is dangerous is
520 substantiated, then the Trial Court shall issue an order that mandates the animal be
521 removed from the Reservation within forty-eight (48) hours of the determination.

522 (1) The order shall contain the requirement that the owner notify the Oneida
523 Police Department within twenty-four (24) hours if the dangerous animal has
524 been sold or been given away. If the dangerous animal has been sold or given
525 away, the owner shall also provide the name, address and telephone number of the
526 new owner of the dangerous animal. If the dangerous animal is sold or given
527 away to a person residing outside the Reservation or to a person or entity that falls
528 outside of the jurisdiction of this law, the owner shall present evidence to the
529 Oneida Police Department showing that he or she has notified the police
530 department or other law enforcement agency of the animal's new residence,
531 including the name, address and telephone number of the new owner. The Oneida
532 Police Department shall forward all such notifications to the Environmental,
533 Health, Safety and Land Division within a reasonable amount of time.

534 (b) The Trial Court may order a dangerous animal to be destroyed. If such an order is
535 issued, the Trial Court shall require the owner submit proof of destruction within five (5)
536 business days from a licensed veterinarian. If the owner does not satisfy these
537 requirements, an Oneida Police Officer and/or an Oneida Conservation Warden shall
538 seize the animal and enforce compliance at the cost of the owner.

539 (c) The Trial Court may mandate attendance at an additional Trial Court hearing if
540 restitution is appropriate.

541 304.11-5. *Appeal of the Trial Court's Decision.* An appeal of the Trial Court's decision on the
542 dangerous animal determination may be appealed to the Nation's Court of Appeals.

543 (a) An appeal shall be submitted to the Court of Appeals within five (5) business days
544 from the date of the Trial Court's decision.

545 (b) Upon an appeal to the Court of Appeals, the order to remove the animal from the
546 Reservation or any order to destroy an animal is stayed pending the outcome of the
547 appeal.

548 604.11-6. *Dangerous Animal Exception.* The Trial Court may provide an exception to the
549 dangerous animal provisions of this law for a law enforcement or military animal upon
550 presentation by the animal's owner or handler of a satisfactory arrangement for safe keeping of
551 the animal.

552
553 **304.12. Owner Liability**

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554 304.12-1. An owner shall be liable for damages caused by his or her domestic animal.
555 (a) *First Offense.* The owner is liable for the full amount of damages caused by the
556 domestic animal.
557 (b) *Subsequent Offenses.* The owner shall be liable for two (2) times the full amount of
558 damages caused by the domestic animal if the owner knew or should have known that the
559 domestic animal previously caused damages.

560

561 **304.13. Enforcement of Violations**

562 304.13-1. *Citations.* Citations for the violation of this law and/or orders issued pursuant to this
563 law may include fines, penalties and conditional orders in accordance with the fine, penalty, and
564 licensing fee schedule.

565 304.13-2. *Citation Pre-Hearing.* All citations shall include a pre-hearing date with the Trial
566 Court which shall be set for the next scheduled monthly prehearing date that is at least thirty (30)
567 days after the citation was issued, excluding dangerous animal citations which shall follow the
568 process contained in section 304.11.

569 (a) Persons wishing to contest a citation shall appear at the prehearing, at which time the
570 Trial Court shall accept pleas which either contest or admit committing the act for which
571 the citation was issued.

572 (b) In addition to scheduling requested hearings, the Trial Court may also make
573 conditional orders at the prehearing which are effective until the matter is resolved.

574 304.13-3. *Citation Hearing.* The Trial Court shall schedule a hearing as expeditiously as
575 possible, provided that it shall be scheduled within ninety (90) days of the date of the prehearing,
576 for all persons entering a plea contesting the fact that they committed the act for which a citation
577 was issued.

578 304.13-4. *Appeals of the Trial Court's Determinations.* Any person wishing to contest the
579 determination of the Trial Court may appeal to the Nation's Court of Appeals in accordance with
580 the Rules of Appellate Procedure.

581 304.13-5. *Fines.* All fines shall be paid to the Trial Court. Cash shall not be accepted for
582 payment of fines. Money received from fines shall be contributed to the General Fund.

583 (a) Fines shall be paid within ninety (90) days after the order is issued or upheld on final
584 appeal, whichever is later. If the fine is not paid by this deadline, the Trial Court may
585 seek to collect the money owed through the Nation's garnishment and/or per capita
586 attachment process.

587 (1) The ninety (90) day deadline for payment of fines may be extended if an
588 alternative payment plan is approved by the Trial Court.

589 (b) Community service may be substituted for part or all of any fine at the minimum
590 wage rate of the Nation for each hour of community service.

591

592 *End.*

593

594 Adopted - BC-03-13-96-B

595 Amended - BC-06-22-11-G

596 Amended - BC-06-28-17-B

597 Amended - BC-__-__-__-__

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598

ONEIDA NATION PUBLIC MEETING NOTICE

LEGISLATIVE OPERATING COMMITTEE
WWW.ONEIDA-NSN.GOV/GOVERNMENT

Monday, March 11, 2019, 12:15pm

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

DOMESTIC ANIMALS LAW

AMENDMENTS

The purpose of this law is to protect the health, safety, and welfare of the community by requiring certain basic measures to prevent the spread of disease carried by domestic animals, set minimum standards for the treatment of animals, prohibit certain species of animals from being brought onto the Reservation, regulate the keeping of livestock on lots zoned residential, and establish consequences for damages caused by domestic animals.



This proposed amendments to the Domestic Animals law will:

1. Eliminate administrative rulemaking authority delegated to the Environmental, Health, Safety, and Land Division and the Environmental Resource Board, and instead requires a jointly developed fine, penalty, and licensing fee schedule to be adopted by resolution.
2. Eliminate administrative rulemaking authority delegated to the Environmental, Health, Safety, and Land Division, the Emergency Management Coordinator, and the Comprehensive Health Division, and instead require standard operating procedures to be created related to disease investigations and quarantines.
3. Reduce the space requirements for dog kennels.
4. Provide guidelines and requirements for tethering an animal.
5. Reduce the limit on the number of dogs and cats allowed in a residential household, but allow those who wish to seek an additional animal over the limit the ability to apply for a permit to do so.
6. Require a person to obtain a conditional use permit to keep hens, and limit the number of hens allowed on a residential lot.
7. Eliminate the vicious animal designation, and create a single dangerous animal designation, with a requirement that any animal declared dangerous be removed from the Reservation or destroyed, pending the opportunity to contest the dangerous declaration.

PUBLIC COMMENTS PERIOD CLOSSES MONDAY, MARCH 18, 2019

During the Public Comment Period, all interested persons may submit written comments. 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.



-PUBLIC MEETING PACKETS ARE AVAILABLE AT-

www.oneida-nsn.gov/Register/PublicMeetings or contact Oneida Nation Legislative Reference Office located in the Norbert Hill Center, PO Box 365, Oneida, Wisconsin 54155
Email: LOC@oneidanation.org Phone: 920-869-4376



AMENDMENTS TO DOMESTIC ANIMALS LAW LEGISLATIVE ANALYSIS

SECTION 1. EXECUTIVE SUMMARY

REQUESTER: Environmental Health, Safety and Land Division	SPONSOR: Jennifer Webster	DRAFTER: Clorissa N. Santiago	ANALYST: Brandon Wisneski
Intent of the Amendments	<p>To eliminate rulemaking authority within this law and instead adopt changes to the Domestic Animals fine, penalty and fee schedule by BC Resolution;</p> <p>To place new guidelines and restrictions on the use of tethers,</p> <p>To lower the space requirements for dog kennels;</p> <p>To reduce the limit on number of dogs allowed on a residential lot from three (3) to two (2);</p> <p>To reduce the limit on total number of cats and dogs allowed on a residential lot from five (5) to four (4);</p> <p>To create a permit process for individuals who wish to own additional dogs or cats in excess of the limit;</p> <p>To require a conditional use permit to keep hens on residential lots, to be approved by the Land Commission;</p> <p>To limit the number of hens allowed on a residential lot to between four (4) and eight (8) hens, depending on lot size;</p> <p>To update the process for OPD, Conservation and the Judiciary to declare an animal a “Dangerous Animal”;</p> <p>To eliminate the separate “Vicious Animal” designation and replace it with a single “Dangerous Animal” category;</p> <p>To revise the “Dangerous Animal” designation so that animals declared “dangerous” must be removed from the reservation or euthanized, pending appeal;</p> <p>To revise the timelines and requirements to request and hold a hearing to contest Dangerous Animal declarations.</p>		
Purpose	<p>To protect the health, safety, and welfare of the community by requiring certain basic measures to prevent the spread of disease carried by domestic animals; set minimum standards for treatment of animals; prohibit certain species of animals from being brought onto the Reservation; regulate the keeping of livestock on lots zoned residential within the Reservation; and establish consequences for damages caused by domestic animals [see 304.1-1].</p>		
Affected Entities	<p>All tribal members, members of other federally recognized tribes, and the Nation’s entities and corporations within the reservation; Individuals and businesses leasing, occupying or otherwise using fee land owned by the Nation or by individual Tribal members and/or lands held in trust; Any other individuals who have consented to the jurisdiction of the Nation; Oneida Police Department; Oneida Environmental Health, Safety and Land Division; Oneida Conservation Department; Oneida Environmental Resource Board; Oneida Comprehensive Health Division, Oneida Land Commission; Oneida Emergency Management Coordinator, Oneida Judiciary.</p>		

Affected Legislation	Garnishment law; Per Capita law; Rules of Appellate Procedure; Zoning and Shoreland Protection law; Landlord Tenant law; Hunting, Fishing and Trapping law, Emergency Management and Homeland Security law.
Public Meeting	A public meeting has not yet been held.

1 **SECTION 2. LEGISLATIVE DEVELOPMENT**

- 2 A. The Domestic Animals law was first adopted by the Oneida Business Committee on March 13, 1996.
 3 Domestic animals are animals commonly owned as household pets, including, but not limited to, dogs,
 4 cats, guinea pigs, hamsters, rabbits, and turtles.
- 5 B. On September 13, 2018, representatives from the Environmental Health, Safety and Land Division,
 6 Oneida Police Department, Oneida Community Health Services and Environmental Resources Board
 7 submitted a memo to the Legislative Operating Committee in support of amending the Domestic
 8 Animals law. The memo noted that the Domestic Animal law is needed to protect public health and
 9 safety and proposed changes to Dangerous and Vicious Dogs section, violations, enforcement and
 10 citations.
- 11 C. The LOC added the Domestic Animals Law to the Active Files List on September 19, 2018. Since that
 12 time, a work group of representatives from Environmental Health Safety and Land Division, Oneida
 13 Police Department, Oneida Community Health Services and Environmental Resources Board has met
 14 to review the law and suggest amendments. Many of the proposed amendments reflect the feedback
 15 and suggestions of this work group.

16
 17 **SECTION 3. CONSULTATION AND OUTREACH**

- 18 A. Representatives from the following departments or entities participated in the development of this law
 19 and legislative analysis: Oneida Environmental Health and Safety Division, Oneida Comprehensive
 20 Health Division – Community Health, Environmental Resource Board, Oneida Police Department, and
 21 Oneida Law Office.
- 22 B. The following laws were reviewed in the drafting of this analysis: Garnishment law; Per Capita law;
 23 Zoning and Shoreland Protection law; Landlord Tenant law, Hunting, Fishing and Trapping law; Rules
 24 of Appellate Procedure. In addition, the following domestic animal laws from other municipalities or
 25 tribal nations were reviewed:
- 26 ■ City of Green Bay – Chapter 8 Public Health and Welfare
 - 27 ■ City of De Pere – Chapter 86 Dogs and Other Animals
 - 28 ■ City of Seymour – Chapter 6 Animals
 - 29 ■ Village of Ashwaubenon – Chapter 4 Animals
 - 30 ■ Village of Hobart – Chapter 102 Animals
 - 31 ■ Village of Howard – Chapter 4 Animals
 - 32 ■ Menominee Nation – Chapter 255 Animals
 - 33 ■ Stockbridge-Munsee – Chapter 16 Public Peace and Good Order Ordinance

34
 35 **SECTION 4. PROCESS**

- 36 A. Thus far, amendments to this law have followed the process set forth in the Legislative Procedures Act
 37 (LPA).
- 38 B. The law was added to the Active Files List on September 19, 2018.
- 39 C. At the time this legislative analysis was developed, the following work meetings were held/scheduled
 40 regarding the development of this law and legislative analysis:
- 41 ■ October 5, 2018: Work Meeting with Environmental Health, Safety and Land Division (EHSLD),
 42 Comprehensive Health Division – Community Health Services (CHD-CHS), Oneida Police
 43 Department (OPD), Environmental Resource Board (ERB), and Oneida Law Office.
 - 44 ■ October 23, 2018: Work Meeting with EHSLD, CHD-CHS, OPD, ERB and Oneida Law Office.

- 45 ▪ November 9, 2018: Work Meeting with EHSLD, OPD and CHD-CHS.
- 46 ▪ December 13, 2018: Work Meeting with EHSLD, ERB and OPD.
- 47 ▪ December 19, 2018: LOC Work Meeting.

48
 49 **SECTION 5. CONTENTS OF THE LEGISLATION**

50 A. **Removal of Rulemaking for Fines, Penalties and Licensing Fee Schedule.** The current Domestic
 51 Animals Law grants rulemaking authority in accordance with the Administrative Rulemaking Law to
 52 the Environmental Health and Safety Division and the Environmental Resource Board to develop rules
 53 to establish and maintain:

- 54 ▪ A fine and penalty schedule, to set fine amounts for violations of the Domestic Animals law;
- 55 ▪ A licensing and fee schedule, to set the cost for animal licenses and fees.;
- 56 ▪ Other rules as necessary to enforce and implement this law.

57 **Adoption of Fee Schedule by Business Committee Resolution.** Under the proposed draft, this
 58 rulemaking authority is eliminated. Instead, the fine, penalty, licensing and fee schedule will be
 59 developed by Environmental Health, Safety and Land Division (EHSLD) & Environmental Resource
 60 Board (ERB) and then adopted by the Oneida Business Committee by resolution [see 304.5-3].

61
 62 **Chart 1. Adopting Fines, Penalty and Licensing Fee Schedule - Comparison**

	Current Law	Proposed Law
<i>How is Fee Schedule Adopted?</i>	Administrative Rulemaking	Business Committee Resolution
<i>Who Develops the Fee Schedule?</i>	EHSLD & ERB	EHSLD & ERB
<i>Who Approves the Fee Schedule?</i>	Oneida Business Committee	Oneida Business Committee
<i>Public Meeting Required?</i>	Yes, a public meeting and comment period on the proposed fee schedule is required under the Administrative Rulemaking Law. Public notice of the hearing and consideration of all comments received is required.	No, a public hearing and comment period is not required.
<i>Fee Schedule Discussed and Approved at a Business Committee Meeting?</i>	Yes, the fee schedule is placed on the agenda of a Business Committee Meeting for consideration. BC Agendas are noticed to the public, and the public may make comments at the BC Meeting.	Yes, the fee schedule is placed on the agenda of a Business Committee Meeting for consideration. BC Agendas are noticed to the public, and the public may make comments at the BC Meeting.

- 63
 64 ▪ **Current Status of Rule:** Domestic Animals law Rule No. 1 – Licensing Fees, Fines and Penalties
 65 became effective on 4/25/2018. Rule No. 1 would be repealed upon adoption of this law. In its
 66 place, the Business Committee would need to adopt a resolution setting a new fee, fine and penalty
 67 schedule for the Domestic Animals law.

68 B. **Removal of Rulemaking Authority for Disease Investigation and Quarantine Process.** In addition,
 69 the current Domestic Animals law grants rulemaking authority to EHSLD, Emergency Management

70 Coordinator and the Comprehensive Health Division to develop rules related to disease investigation
 71 and quarantines. For example, the investigation of a dog that is suspected of rabies [see 304.5-4].
 72 ■ **Adoption of Disease Investigation and Quarantine SOPs.** Instead, these same entities will now
 73 establish standard operating procedures (SOPs) regarding disease investigation and quarantines.
 74

75 **Chart 2. Adopting Disease Investigation & Quarantine Procedure – Comparison**

	Current Law	Proposed Law
<i>How are disease investigation and quarantine procedures adopted?</i>	Administrative Rulemaking	Standard Operating Procedures.
<i>Who Develops the Disease Investigation and Quarantine Process?</i>	EHSLD, Emergency Management Coordinator and Comprehensive Health Division.	EHSLD, Emergency Management Coordinator and Comprehensive Health Division.
<i>Who Approves the Disease Investigation and Quarantine Process/</i>	Oneida Business Committee	EHSLD, Emergency Management Coordinator and Comprehensive Health Division.
<i>Public Meeting Required?</i>	Yes, a public meeting and comment period on the proposed fee schedule is required under the Administrative Rulemaking Law. Public notice of the hearing and consideration of all comments received is required.	No, a public hearing and comment period is not required.

76 ■ **Current Status of Rule:** At the time this analysis was drafted, a rule for investigation and quarantine
 77 procedures had not yet been adopted. However, both the current and proposed law include
 78 procedures within the law regarding quarantines for dog bites and district-wide quarantines. Upon
 79 adoption of these amendments, standard operating procedures will need to be developed.

80 **C. Restrictions & Guidelines on Use of Tethers.** These amendments add new restrictions on the use of
 81 tethers. Under the current law, there are no restrictions on tethering.

- 82 ■ Under the proposed amendments, several new restrictions and guidelines for tethering are added
 83 [see 304.6-3]:
- 84 ○ Tethers must be connected by a buckle type collar or body harness made of leather or nylon.
 - 85 ○ Choke collars and prong collar head harnesses are prohibited.
 - 86 ○ The tether must be at least twelve (12) feet long and allow the animal to move in all
 87 directions.
 - 88 ○ The total weight of the tether must not exceed ten percent (10%) of the animal’s body
 89 weight.
 - 90 ● This is to ensure that the animal can move freely without being weighed down by
 91 a heavy tether or chain.
 - 92 ○ The animal must be tethered to prevent injury, strangulation, or entanglement and allow
 93 the animal to access water and shelter.
 - 94 ○ Animals that are sick, injured, or nursing cannot be tethered.
 - 95 ○ Animals cannot be tethered on vacant property or land with an unoccupied dwelling.
 - 96 ○ Animals cannot be tethered in a manner that allows them to cross onto public space, such
 97 as a sidewalk, or property of others.

- 98 ▪ **What is Tethering?** According to the Humane Society of the United States, “tethering” or
 99 “chaining” refers to “the practice of fastening a dog to a stationary object and leaving them
 100 unattended.” “Tethering is not meant to refer to an animal being walked on a leash or cases of
 101 supervised, temporary tethering while an owner is present.” [see Humane Society website,
 102 Chaining and Tethering Dogs FAQ <https://www.humanesociety.org/resources/chaining-and-tethering-dogs-faq>].
 103
- 104 ▪ **Why Can Tethering Be Harmful to Dogs?** According to the Humane Society, tethered dogs may
 105 suffer from “irregular feedings, overturned water bowls, inadequate veterinary care, poor sanitary
 106 conditions and exposure to extreme temperatures and weather.” The Humane Society also argues
 107 that tethering dogs may be a risk factor for dog bites and attacks. The Humane Society states that
 108 “dogs tethered for long periods can become highly aggressive... Dogs feel naturally protective of
 109 their territory and respond according to a “fight or flight” instinct... A tethered dog, unable to “take
 110 flight,” resorts to attacking an unfamiliar animal or person.” [see
 111 <https://www.humanesociety.org/resources/chaining-and-tethering-dogs-faq>].
- 112 ▪ **Tether Restrictions in Other States.** According to the American Veterinary Medical Association,
 113 as of April 2018, there were 32 states that placed restrictions on tethering animals. In addition,
 114 EHSLD identified over 100 municipalities nationwide that either prohibit or limit the use of
 115 tethering.
- 116 ▪ **Tether Restrictions in Wisconsin.** Research gathered by EHSLD identified two other Wisconsin
 117 municipalities that limit the use of tethering: Racine, WI and Linn, WI. Neighboring municipalities
 118 such as the city of Green Bay and city of De Pere do not place limits on tethers.

119 **D. Dog Kennel Space Requirements.** The space requirements for dog kennels under this law have been
 120 reduced. The purpose of adjusting the space requirements is to better match the square-footage of
 121 commonly available kennels on the market. The following chart illustrates the changes in kennel space
 122 requirements [see 304.6-2(c)(1)]:
 123

124 **Chart 3. Comparison of Kennel Space Requirements.**

Weight of the Dog	Current Law	Proposed Law
Between 1 and 35 lbs	80 square feet	60 square feet
Between 35 and 75 lbs	100 square feet	80 square feet
75 lbs and greater	120 square feet	100 square feet

125
 126 **E. New Limits on Number of Dogs and Cats.** These amendments establish new limits on the number of
 127 dogs and cats that may be kept in a residential household. A residential household is “a residential lot,
 128 except for those residential lots designed as multi-family lots, in which each family unit within the lot
 129 constitutes a separate household” [see 304.3-1(i)].
 130

131 **Chart 4. Limits on Maximum Number of Dogs and Cats Per Household.**

Animals Per Household	Current Law	Proposed Law
Number of Dogs	3	2
Number of Cats	3	3
Number of Dogs & Cats Combined	5	4

- 132 ▪ **Limit on Number of Dogs.** Under current law, up to three (3) dogs may be kept by a single
 133 residential household. Under these proposed amendments, the limit on the number of dogs will be
 134 lowered to two (2) [see 304.7-3].
- 135 ▪ **Limit on Number of Cats.** The limit on the number of cats in a residential household remains
 136 unchanged at three (3) cats [see 304.7-3].
 137

- 138 ▪ **Limit on Total Number of Dogs & Cats Combined.** The limit on the total number of dogs and cats
139 combined in a residential household has been lowered from five (5) dogs and cats combined to four
140 (4) dogs and cats combined.
- 141 ▪ **Exceptions & Grandfather Clause** [see 304.7-3(a)].
- 142 ○ **Grandfather Clause.** The LOC intends to include a grandfather clause in the adopting
143 resolution, stating that residential households who currently have more than two dogs or
144 four dogs and cats combined will be allowed to keep their animals.
- 145 ○ **Other Exceptions.** The restrictions on the number of dogs and cats do not apply to persons
146 who reside on a farm, or households keeping a litter of pups or kittens for up to five (5)
147 months from birth.
- 148 **F. New Permit Process to Keep Additional Dogs or Cats.** These amendments create a new permit process
149 for individuals who wish to keep more than two (2) dogs, three (3) cats, or four (4) dogs and cats
150 combined. For each additional dog or cat above the limit, the owner will apply for a permit from the
151 Environmental, Health, Safety and Land Division [see 304.7-3(b)].
- 152 ▪ **Applying for Permit for Additional Dogs or Cats.** The owner of the animal and the landowner must
153 both sign the application. In addition, the owner must agree that if the household receives two (2)
154 or more nuisance complaints related to their animals within (one) 1 calendar year, the owner must
155 reduce the number of animals within thirty (30) days.
- 156 ▪ **Guidelines.** The amendments do not include any guidelines regarding how EHSLD should
157 determine whether to grant a permit for an additional animal. EHSLD will have discretion to
158 approve or reject any applications above the limit.
- 159 **G. Keeping Hens.** These amendments add new restrictions and guidelines for keeping hens on a residential
160 lot, commonly known as “backyard hens.” Note that this does not apply to property zoned agricultural,
161 such as commercial farms [see 304.9].
- 162 ▪ **Conditional Use Permits for Keeping Hens.** These amendments alter the requirements for a
163 conditional use permit to keep hens on a residential lot. Currently, a permit is only required for
164 individuals keeping more than four (4) hens on their property. Now, anyone keeping a hen on their
165 property, even one hen, will be required to apply for a conditional use permit.
- 166 ▪ **Permits Issued by Land Commission Instead of Conservation.** The conditional use permits for
167 keeping hens will now be issued by the Oneida Land Commission rather than the Conservation
168 Department. The Land Commission is already responsible for issuing conditional use permits for
169 livestock such as horses, cows, and pigs [see 304.8]. This change is meant to consolidate permits
170 for hens and livestock in one place.
- 171 ▪ **New Limit on Number of Hens.** Under the current law, there is no restrictions on the number of
172 hens an owner may keep on their residential lot. These amendments place a new limit the number
173 of hens on a residential lot based on the size of the property:
- 174 ○ No more than four (4) hens on a property that is two acres in size or smaller.
175 ○ No more than eight (8) hens on a property that is two acres in size or larger.
- 176 **H. Seizure of Exotic Animals.** Under the current law, an unpermitted exotic animal, such as a wolf hybrid
177 or large snake, may be seized by the Oneida Conservation Department or its designee. This has been
178 changed to state that the unpermitted exotic animal may be seized by the Oneida Police Department
179 and/or the Oneida Conservation Department [see 304.10-6].
- 180 **I. Declaring an Animal Dangerous & Removing Dangerous Animals from Reservation.** Under the
181 current law, when a domestic animal, such as a dog, exhibits dangerous behavior, an Oneida Police
182 Officer or Conservation Warden may declare the animal “dangerous” or “vicious” based on the level
183 of behavior. Examples of this behavior include chasing, biting, and attacking another animal or person.
- 184 ○ **Dangerous Dog.** If an animal is declared “Dangerous,” the owner may keep the dog if they
185 follow certain restrictions for leashing, muzzling, confinement, public signage,
186 microchipping, and liability insurance. If they are unwilling or unable to follow these
187 restrictions, the owner must remove the dog from the reservation or have it euthanized.

- 188 ○ **Vicious Dog.** If the animal is declared “Vicious,” the Trial Court will order the animal to
 189 be removed from the reservation or destroyed.
 190 ○ **Determining Dangerous vs. Vicious.** Under the current law, the difference between
 191 whether a dog must be removed from the reservation or not can depend on minor details
 192 that must be parsed out by the Trial Court. For example, if a dog bites and lacerates
 193 someone, but the injury does not require stiches, then the dog is declared “dangerous”
 194 instead of “vicious” and could potentially be kept on the reservation.
 195 ○ **Comparison to Neighboring Municipalities.** A review indicates that unlike Oneida, most
 196 neighboring municipalities do not have separate “dangerous” and “vicious” animal
 197 designations. Instead, these municipalities have a single “dangerous animal” designation.
 198 In addition, unlike Oneida, these neighboring municipalities do not allow dogs declared
 199 “dangerous” to be kept within their boundaries.
 200 ■ **Elimination of Vicious Animal Designation.** This law eliminates the “Vicious Animal”
 201 designation and creates a single “Dangerous Animal” designation, with a requirement that any
 202 animal declared “dangerous” be removed from the reservation or destroyed, pending appeal [*see*
 203 304.11].
 204 ○ **Effect.** The effect is that owners will not be able to keep dogs declared dangerous on the
 205 reservation. Eliminating the “Vicious Animal” designation and requiring all animals
 206 declared “Dangerous” to be removed from the reservation or destroyed is intended to
 207 increase public safety. This also places Oneida’s laws in line with neighboring
 208 municipalities and simplifies the process for OPD, Conservation and the Trial Court.
 209
 210

Chart 5. Current Law – Dangerous & Vicious Animal Declaration Process

	Dangerous Animal Declaration	Vicious Animal Declaration
<i>Reasons an Animal Declared Dangerous or Vicious</i>	<ul style="list-style-type: none"> - Approaches or chases a human being or domestic animal in a menacing fashion or apparent attitude of attack, without provocation, or; - Bites, inflicts injury, attacks, or otherwise endangers the safety of a human being or domestic animal without provocation 	<ul style="list-style-type: none"> - An animal previously declared dangerous not in compliance with requirements of the law. - Has killed a domestic animal or pet without provocation on public or private property - Without provocation, has inflicted substantial bodily harm on a person where substantial bodily harm means a bodily injury that causes a laceration that requires stitches, any fracture of a bone, a concussion, a loss or fracture of a tooth or any temporary loss of consciousness, sight or hearing. - Is suspected, to be owned, trained or harbored for the purpose of dog fighting. - Has been declared to be a vicious animal and/or ordered to be destroyed in any other jurisdiction.
<i>Can the Owner Keep the Animal on the Reservation?</i>	YES, Owner can keep animal on the reservation if they comply with requirements for leash, muzzle, confinement, posting signs on property, spay and neuter, liability	NO, the Judiciary Trial Court will order the animal to be removed from the reservation or destroyed.

	insurance, or microchipping. If the owner is unwilling or unable to comply, the animal must be removed from the reservation or euthanized.	
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211 **Exception: An animal may not be deemed dangerous if it bites, attacks, or menaces any*
 212 *person or animal to defend its owner or another person from attack, protect its young or*
 213 *another animal, or defend itself against any person or animal which has tormented, assaulted*
 214 *or abused it.*

215 **Chart 6. Proposed Law: Dangerous Animal Declaration Process**

	Dangerous Animal Designation
<i>Reasons Animal Declared Dangerous</i>	- Approaches or chases a human being or domestic animal in a menacing fashion or apparent attitude of attack - Bites, inflicts injury, attacks, or otherwise endangers the safety of a human being or domestic animal - Is suspected to be owned, trained or harbored for the purpose of dog fighting, and/or - Has been declared to be a dangerous animal and/or ordered to be destroyed in any other jurisdiction.
<i>Can Owner Keep the Animal?</i>	NO, the dangerous animal will be ordered removed from the reservation within 3 business days.
<i>Opportunity to Contest and Appeal?</i>	YES, the owner may contest the dangerous animal declaration by filing a written objection with the Trial Court within 3 business days. The owner may appeal the Trial Court’s decision to the Appeals Court.

217 **Exception: An animal may not be deemed dangerous if it bites, attacks, or menaces any*
 218 *person or animal to defend its owner or another person from attack, protect its young or*
 219 *another animal, or defend itself against any person or animal which has tormented, assaulted*
 220 *or abused it.*

- 221
- 222 **J. Contesting Dangerous Animal Determination.** Under the current law, owners whose dogs are declared
 223 dangerous automatically receive a pre-hearing date with the Judiciary Trial Court with their citation.
 224 The pre-hearing date is held at least thirty (30) days after the citation is issued [see 304.11-3].
- 225 ■ **Owner Must Request Hearing.** Under the new law, individuals who wish to contest a dangerous
 226 animal determination must file a written objection to the order within three (3) business days in
 227 order to receive a hearing. If the owner does not file within three (3) days, they will not receive a
 228 hearing and must remove the animal.
 - 229 ■ **Date of Hearing.** In addition, the hearing for the dangerous animal determination will now be held
 230 by Trial Court within 14 days of the written objection, rather than 30 days after the citation. This
 231 is to ensure that hearings for dangerous animal are held quickly in the interest of public safety. In
 232 addition, ERB explained that the original 30 day deadline was likely based on ERB’s hearing
 233 schedule prior to hearing authority being transferred to the Oneida Judiciary.
 - 234 ■ **Keeping Dangerous Animal Pending Hearing & Appeals.** Owners of a dangerous animal may
 235 keep the animal on the Reservation pending the outcome of hearings and appeals, but only if the
 236 animal is confined in accordance with the requirements in this law. These requirements include
 237 leash, muzzle, secure confinement, signs warning of dangerous animal on the property, and
 238 notifying OPD or Conservation if the animal is at large, unconfined, or attacks another animal or
 239 person. If the owner is unable or unwilling to follow these requirements, the animal must be
 240 removed from the reservation.

241 **K. *Minor Drafting Changes.*** Minor drafting and formatting changes have been made throughout the law
242 for clarity.
243

244 **SECTION 6. EFFECT ON EXISTING LEGISLATION**

245 **A. *References to Other Laws.*** The following laws of the Nation are referenced in the Domestic Animals
246 law. These amendments do not conflict with any of the referenced laws.

- 247 ▪ *Garnishment law*
- 248 ▪ *Per Capita law*
- 249 ▪ *Rules of Appellate Procedure*

250 **B. *Other Laws that Reference Domestic Animals.*** The following laws of the Nation reference the
251 Domestic Animals law. These amendments do not conflict with any of the referenced laws.

- 252 ▪ *Zoning and Shoreland Protection law*
- 253 ▪ *Landlord Tenant law*
- 254 ▪ *Hunting, Fishing and Trapping law*
- 255 ▪ *Emergency Management and Homeland Security law*

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

258 **A. *Right to Keep Dangerous Animals Within the Reservation.*** This law eliminates the separate
259 “dangerous” and “vicious” animal classifications, and instead combines them into a single “dangerous
260 animal” classification. Previously, if an animal was declared “dangerous” by OPD or Conservation, the
261 owner could keep the dangerous animal on the reservation if they complied with certain requirements.
262 Under these amendments, if an animal is declared dangerous and the declaration is uncontested by the
263 owner or upheld by the Judiciary, the owner will be required to remove the animal from the reservation
264 or have it euthanized.

265 **B. *Deadline to Contest Dangerous Animal Declaration.*** Under current law, an owner whose animal is
266 declared dangerous automatically receives a pre-hearing date with their citation. This hearing is held at
267 least 30 days from the date of citation. These amendments eliminate the automatic pre-hearing. Instead,
268 it is the owners responsibility to request a hearing within 3 business days of the citation in order to
269 receive a hearing.

270 **C. *Right to Keep More than 4-8 Hens on a Residential Lot.*** Currently, there is no restriction on the
271 number of hens an owner may keep on their residential lot. This law will limit the number of hens to 4
272 or 8 hens per residential lot, depending on the lot size.
273

274 **SECTION 8. ENFORCEMENT AND ACCOUNTABILITY**

275 **A. *Enforcement.*** Oneida Police Officers and Conservation Wardens have the authority to investigate
276 complaints involving domestic animals; enforce provisions of this law through appropriate means,
277 including but not limited to seizing any animal that is taken, employed, used, or possessed in violation
278 of this law and/or mistreated, rabid or otherwise in danger or dangerous; issuing citations consistent
279 with the fine and penalty schedule developed in accordance with this law; and using force to stop an
280 immediate threat to public safety caused by an animal [*see 304.5-2*].
281

282 **SECTION 9. OTHER CONSIDERATIONS**

283 **A. *Oneida Nation Domestic Animal Data.*** The following data is provided for information.

- 284 ▪ ***Oneida Police Department Data.*** Between 12/6/2016 to 12/6/2018:
 - 285 ○ Number of Animal Calls – 810
 - 286 ○ Number of Animal Citations - 33
 - 287 ○ Number of Animal Bites – 12
- 288 *Source: Oneida Police Department, communication by email 12/6/2018*
289

- 290 ▪ **Pet License Data.** Between 1/3/2016 to 12/13/2018:
- 291 ○ Number of Pet Licenses Issued – 348
- 292 ○ *Source: Oneida Environmental, Health Safety and Land Division, communication by email*
- 293 *12/13/2018.*

294 **B. Limits on Number of Animals - Comparison to Other Municipalities.** The following comparisons to

295 other municipalities are provided for information.

296

297

Chart 7. Comparison - Limit on Number of Dogs and Cats.

Municipality/Tribal Nation	Maximum Number of Dogs	Maximum Number of Cats
<i>Oneida Nation (proposed)</i>	2	3
City of Green Bay	2	3
City of De Pere	2	3
Village of Ashwaubenon	2	2
Village of Howard	2	n/a
Village of Hobart	2	n/a
Menominee Nation	3	n/a

298

299

Chart 8. Comparison - Limit on Number of Hens.

Municipality/Nation	Max # of Hens w/Permit
<i>Oneida Nation (proposed)</i>	<i>Between 4-8, depending on size of the lot</i>
City of De Pere	4
City of Green Bay	4
Village of Ashwaubenon	4
Village of Howard	Between 4-8, depending on size of the lot
Village of Hobart	6

300

301 **C. Fines, Penalties and Licensing Fee Schedule.** Upon the adoption of this law, it will be necessary for

302 the Oneida Business Committee to adopt a resolution setting the fines, penalties and licensing fees

303 under this law. At the time this analysis was drafted, a workgroup consisting of EHSLD, ERB, CHS-

304 CHD, and Oneida Police Department intends to submit a proposed fee schedule to the LOC and BC for

305 consideration.

- 306 ▪ *Recommendation:* The LOC should include an updated fine, penalty and licensing fee schedule
- 307 resolution with the adoption materials for these amendments. A summary of the current fee
- 308 schedule is included below for information [*see 3. O.C. 304 Domestic Animals Rule #1 – Licensing*
- 309 *Fees, Fines and Penalties*]. Whether to change any of these amounts is a policy decision for the
- 310 LOC and the Business Committee.
- 311
- 312

Chart 9. Summary of Current Fee Schedule for Licenses and Permits.

License/Permit Type	Fee (per animal)	License/Permit Period
Cat License	\$5 if spayed/neutered; or \$10	January 1-December 31
Dog License	\$5 if spayed/neutered; or \$10	January 1-December 31
Exotic Animal Permit - Reference 304.8-2	\$10 (all exotics)	January 1-December 31
Hen Permit	\$10 (5 or more)	January 1-December 31

313 *Source: 3. O.C. 304 Domestic Animals Rule #1 – Licensing Fees, Fines and Penalties*

314

Chart 10. Summary of Current Fine and Penalty Schedule.

Violation	1st Offense	2nd Offense	3rd Offense and up
DOG/CAT REQUIREMENTS			
No required license	\$25	\$50	\$100
Improperly/no attached license	\$25	\$50	\$100
No current rabies vaccine	\$150	\$500	\$750
Failure to obey district quarantine	\$500	\$750	\$1,000
Animal running at large	\$150	\$500	\$750
Nuisance animal	\$150	\$500	\$750
Exceeding limit of allowed animals (per animal)	\$25 ea.	\$50 ea.	\$100 ea.
TREATMENT OF ANIMALS			
Failure to provide food/water	\$500	\$750	\$1,000
Failure to comply with shelter standards	\$150	\$500	\$750
Failure to meet enclosure space standards	\$150	\$500	\$750
Failure to comply with sanitation standards	\$150	\$500	\$750
Mistreatment of animals	\$500	\$750	\$1,000
PROHIBITED ANIMALS			
Keep/Release prohibited or exotic animal	\$500	\$750	\$1,000
Possessing prohibited or exotic animal without required permit	\$150	\$500	\$750
Failure to provide notice of release/escape	\$500	\$750	\$1,000
LIVESTOCK			
Keeping livestock with no conditional use permit	\$100	\$200	\$300
Violate livestock lot requirements	\$150	\$500	\$750
Livestock at large	\$150	\$500	\$750
Keeping hens without required permit	\$100	\$200	\$300
Prohibited keeping of rooster(s)	\$100	\$200	\$300
Keeping hen(s) in prohibited manner	\$100	\$200	\$300
Nuisance hen(s)	\$100	\$200	\$300
DANGEROUS ANIMALS			
Harboring a Dangerous Animal	\$500	\$1,000	\$2,000
Failure to post required dangerous animal sign(s)	\$100	\$200	\$300
Failure to spay/neuter required animal	\$150	\$500	\$750
Failure to provide/ provide proof of required liability insurance	\$150	\$500	\$750
Failure to notify of insurance policy cancelation	\$150	\$500	\$750
Failure to microchip required animal	\$150	\$500	\$750
Failure to comply with ongoing notification requirements	\$150	\$500	\$750
Bringing/Keeping a vicious animal	\$750	\$1,500	\$2,500

Failure to provide required proof of destruction	\$150	\$500	\$750
Failure to notify police of animal bite	\$150	\$500	\$750
Failure to quarantine	\$500	\$750	\$1,000
LIABILITY FOR DAMAGE(S)			
Damage caused by animal	\$100	\$200	\$300

Source: 3. O.C. 304 Domestic Animals Rule #1 – Licensing Fees, Fines and Penalties

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- D. Permits for Additional Dogs and Cats.** EHSLD will need to create an application process for individuals who wish to keep additional dogs or cats in excess of the limit established in this law. This law does not include guidelines for how EHSLD should approve or reject applications.
- *City of Green Bay Example.* The City of Green Bay has a similar permit process for additional dogs and cats, and their application includes the following information: Veterinary records from the past year and proof of current vaccinations, proof of current animal licenses, and a statement explaining why the individual is seeking to keep extra animals. According to a local news report from 2018, the city of Green Bay rarely turns down requests for a third dog.
 - *Recommendation.* EHSLD should consider creating a standard operating procedure and application form for this process. Since EHSLD will have its own discretion, a standard operating procedure will ensure applications are handled uniformly.
- E. Communication to Oneida Police Department and Conservation.** Upon adoption of this law, the separate “dangerous” and “vicious” animal categories will be replaced by a single “dangerous” animal declaration.
- *Recommendation:* This change in guidelines should be communicated to Oneida Police Officers and Conservation Wardens who are responsible for issuing dangerous animal declarations.
- F. Provisions from Other Domestic Animal Laws.** A review of other Domestic Animals laws identified the following provisions that are not currently included in the Oneida Domestic Animals Law. These issues did not come up as areas of concern during the development of these amendments. The following is provided as information on animal issues that neighboring municipalities may be addressing.
- Beekeeping Regulations (*Green Bay Sec 8.09.7 and De Pere Sec 86-7*)
 - Loud or Persistent Barking or Howling Dogs (*Green Bay Sec 8.08 and Howard Sec 4-29*)
 - Animal Waste on Property other than Owner (*De Pere 86-5(c)(1)(a) and Howard Sec 4-3*)
- G. Fiscal Impact.** Please refer to the fiscal impact statement for any fiscal impacts.
- Under the Legislative Procedures Act, a fiscal impact statement is required for all legislation except emergency legislation [*see Legislative Procedures Act 1 O.C. 109.6-1*].
 - A fiscal impact statement shall be submitted by agencies as directed by the Legislative Operating Committee and may be prepared by any agency who may receive funding if the legislation is enacted; who may administer a program if the legislation is enacted; who may have financial information concerning the subject matter of the legislation; or by the Finance Office, upon request of the Legislative Operating Committee [*see Legislative Procedures Act 1 O.C. 109.6-1(a) and (b)*].

Title 3. Health and Public Safety - Chapter 304
DOMESTIC ANIMALS
Kátse?na Olihwá'ke
matters concerning the pet animals

304.1. Purpose and Policy	304.6. Requirements for Dogs and Cats <u>Treatment of Animals</u>
304.2. Adoption, Amendment, Conflicts	304.7. Treatment of Animals <u>Dogs and Cats</u>
304.3. Definitions	304.8. Prohibited Animals <u>Livestock</u>
304.4. Jurisdiction	304.9. Regulation of Livestock <u>Hens</u>
304.5. Licensing Authority <u>Investigation, Responsibilities and Enforcement Powers</u>	304.10. Dangerous Animals and Vicious <u>Prohibited Animals</u>
	304.11. Violations, Enforcement and Appeals <u>Dangerous Animals</u>

304.12. Owner Liability

304.13. Enforcement of Violations

304.1. — Purpose and Policy

304.1-1. *Purpose.* The purpose of this law is to:

- (a) protect the health, safety, and welfare of the community by requiring certain basic measures to prevent the spread of disease carried by domestic animals;
- (b) set minimum standards for the treatment of animals;
- (c) prohibit certain species of animals from being brought onto the Reservation;
- (d) regulate the keeping of livestock on lots zoned residential within the Reservation; and
- (e) establish consequences for damages caused by domestic animals.

304.1-2. *Policy.* It is the policy of the Nation to protect the health, safety, and welfare of the community by:

- (a) requiring certain basic measures to prevent the spread of disease carried by domestic animals;
- (b) establishing requirements for licensing domestic animals, and
- (c) regulating the types of animals which may be kept as domestic animals.

304.2. — Adoption, Amendment, Repeal

304.2-1. This law was adopted by Oneida Business Committee by resolution BC-03-13-96-B and amended by resolutions BC-06-22-11-G ~~and~~ BC-06-28-17-B, and BC- - - -.

304.2-2. This law may be amended or repealed by the Oneida Business Committee and/or General Tribal Council pursuant to the procedures set out in the Legislative Procedures Act.

304.2-3. Should a provision of this law or the application thereof to any person or circumstances be held as invalid, such invalidity ~~does~~ shall not affect other provisions of this law which are considered to have legal force without the invalid portions.

304.2-4. 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.

304.2-5. This law is adopted under the authority of the Constitution of the Oneida Nation.

304.3. — Definitions

304.3-1. This section ~~governs~~ shall govern the definitions of words and phrases used within this law. All words not defined herein ~~are to~~ shall be used in their ordinary and everyday sense.

- (a) “District Quarantine” means a rabid or otherwise diseased ~~Domestic Animal~~ domestic animal is suspected or known to be within a discernible area and all such animals reasonably suspected of being infected are subject to enforced isolation for a period of time to limit or prevent the spread of disease or infection and during which time said animals are tested for diseases, including rabies.

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~~(b) “Domestic animals” means dogs, cats, ferrets, rabbits, guinea pigs, turtles, birds, pigeons, hamsters, non-venomous reptiles, amphibians, and arachnids, and all other animals commonly owned as household pets, provided that domestic animals specifically excludes exotic animals as identified in section 304.8-2.~~

~~(e)(b) “Fine” means a monetary punishment issued to a person violating this law and/or the rules created pursuant to this law.~~

~~(d) “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.~~

(c) “Hen” means a female chicken (*Gallus gallus domesticus*).

(d) “Livestock” means any equine (i.e. horse, donkey, etc.), bovine (i.e. cow, steer, heifer, etc.), sheep, goat, pig, ~~or domestic fowl, including game fowl raised in captivity.~~

(e) “Nation” means the Oneida Nation.

(f) “Owner” means any person who owns, harbors, keeps, controls or acts as a caretaker for an animal. Absent evidence of alternative adult ownership, this law presumes that domestic animals are owned by the adult homeowner or renter.

(g) “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 wildlife with return of the same at the discretion of the ~~Judiciary~~ Trial Court and restitution.

(h) “Reservation” means all the 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.

(i) “Residential household” means a residential lot, except for those residential lots designed as multi-family lots, in which each family unit within the lot constitutes a separate household.

(j) “Tethering” means the act of fastening an animal to a stationary object while unattended so that the animal can only range within a set radius. Tethering does not include the use of a leash to walk an animal.

(k) “Trial Court” means the Trial Court of the Oneida Nation Judiciary, which is the judicial system that was established by Oneida General Tribal Council resolution GTC-01-07-13-B to administer the judicial authorities and responsibilities of the Nation.

(l) “Quarantine” means the act of keeping an animal in enforced isolation for a period of time to limit or prevent the spread of disease or infection and during which time said animal is tested for diseases, including rabies.

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

304.4. — Jurisdiction

304.4-1. *Personal Jurisdiction.* This law applies to:

(a) All ~~Tribal~~ members of the Nation; the Nation’s entities and corporations; and members of other federally-recognized tribes.

(b) Individuals and businesses leasing, occupying or otherwise using fee land owned by the Nation or by individual ~~Tribal~~ members of the Nation; and/or lands held in trust on

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80 behalf of the Nation or individual ~~Tribal~~ members of the Nation.

81 (c) Individuals who have consented to the jurisdiction of the Nation or as otherwise
82 consistent with federal law. ~~For the purposes of this subsection, an~~ An individual shall be
83 considered to have consented to the jurisdiction of the Nation:

84 (1) By entering into a consensual relationship with the Nation, or with the Nation's
85 entities, corporations, or ~~Tribal~~ members of the Nation, including but not limited to
86 contracts or other agreements; or

87 (2) By other facts which manifest an intent to consent to the authority of the Nation,
88 including failure to raise an objection to the exercise of personal jurisdiction in a
89 timely manner.

90 304.4-2. *Territorial Jurisdiction.* This law extends within the Reservation to all land owned by
91 the Nation and individual ~~Tribal member~~ trust and/or fee land of a member of the Nation.

92 **304.5. —Authority**

94 304.5-1. *General.* ~~This law governs the keeping of all domestic animals which are commonly~~
95 ~~owned as household pets. Domestic animals include, but are not limited to dogs, cats, ferrets,~~
96 ~~rabbits, guinea pigs, turtles, birds, pigeons, hamsters, non-venomous reptiles, amphibians, and~~
97 ~~arachnids.~~

98 ~~(a) Domestic animals do not include prohibited exotic animals as identified in section~~
99 ~~304.10-2.~~

100 ~~304.5-2. Authority of the Oneida Police Department- and Conservation Department.~~ Oneida
101 Police Officers and Conservation Wardens shall have the authority to:

102 (a) investigate complaints involving domestic animals;
103 (b) enforce the provisions of this law through appropriate means, including but not limited
104 to:

105 (1) seizing any animal:

106 ~~(A) that is~~ taken, employed, used, or possessed in violation of this law;
107 and/or

108 ~~(B) mistreated, rabid or otherwise in danger or dangerous;~~

109 (2) issuing citations consistent with the fine and penalty schedule developed
110 ~~according to section 304.5-2. in accordance with this law; and~~

111 (3) using force, up to and including lethal force, to stop an immediate threat to
112 public safety caused by an animal.

113 ~~(A)~~ Where lethal force is used, such execution shall be conducted in as
114 humane manner as possible and, to the extent feasible, avoids damage to the
115 animal's head for the purpose of rabies testing.

116 ~~304.5-2. General Rulemaking Authority.~~ 304.5-3. Fine, Penalty, and Licensing Fee Schedule.

117 The Environmental, Health ~~and~~, Safety, ~~and~~ Land Division and the Environmental Resource Board
118 are hereby delegated joint ~~rulemaking~~ authority to ~~establish and maintain:~~

119 ~~(develop a)~~ A fine and, penalty, and licensing fee schedule;

120 ~~(b)~~ A. The fine, penalty, and licensing fee schedule; and shall be adopted by the Oneida
121 Business Committee by resolution.

122 ~~(c) Other rules as necessary to enforce and implement this law.~~

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304.5-4. ~~304.5-3.~~ Disease Investigation and Quarantine—~~Rulemaking Authority.~~ The Environmental, Health ~~and~~, Safety, and Land Division, the Emergency Management Coordinator, and the Comprehensive Health Division are hereby delegated joint ~~rulemaking~~ authority to establish ~~rules~~ standard operating procedures related to disease investigations and quarantines.

304.5-5. ~~304.5-4.~~ Issuance of Licenses. The Environmental, Health ~~and~~, Safety, and Land Division shall make all decisions related to the issuance of a license and/or permit in accordance with this law, unless otherwise noted.

304.6. Treatment of Animals

304.6-1. Food and Water. An owner shall provide an animal with a daily supply of food and water sufficient to maintain the animal in good health.

304.6-2. Shelter. An owner shall meet the minimum standards for indoor and outdoor shelter for an animal. All shelter shall be structurally sound and maintained in good repair to protect the animal from injury and to contain the animal.

(a) Minimum indoor standards of shelter. Minimum standards for indoor shelter include the following:

(1) Temperature. The ambient temperature of the indoor shelter shall be compatible with the health of the animal.

(2) Ventilation. Indoor shelter facilities shall be adequately ventilated by natural or mechanical means to provide for the health of the animal at all times.

(b) Minimum outdoor standards of shelter. Minimum standards for outdoor shelter include the following:

(1) Shelter from Sunlight. When sunlight is likely to cause heat exhaustion of an animal tied or caged outside, sufficient shade by natural or artificial means shall be provided to protect the animal from direct sunlight. Caged does not include farm fencing used to confine livestock.

(2) Climatic Conditions. Natural or artificial shelter appropriate to the local climatic conditions for the animal concerned shall be provided as necessary for the health of the animal.

(3) Adverse Weather. If an animal is tied or confined unattended outdoors under weather conditions which adversely affect the health of the animal, a weather appropriate shelter of suitable size to accommodate the animal shall be provided.

(c) Space Standards. Enclosures shall be constructed and maintained so as to provide sufficient space to allow each animal adequate freedom of movement. Inadequate space may be indicated by evidence of debility, stress, or abnormal behavior patterns.

(1) Dog Kennels. Dog kennels shall meet the following space requirements where, if there are multiple dogs in the same kennel, the base kennel space requirement is based on the size of the largest dog and the additional kennel space requirements are based on the size of each additional dog kept in the kennel:

(A) Dog Size Between One and Thirty-Five Pounds. A dog that weighs between one (1) and thirty-five (35) pounds shall have a required base kennel space of sixty (60) square feet. Required additional kennel space per additional dog of this size is twelve (12) square feet.

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166 (B) Dog Size Between Thirty-Six and Seventy-Five Pounds. A dog that
167 weighs between thirty-six (36) and seventy-five (75) pounds shall have a
168 required base kennel space of eighty (80) square feet. Required additional
169 kennel space per additional dog of this size is eighteen (18) square feet.

170 (C) Dog Size Seventy-Six Pounds or Greater. A dog that weighs seventy-
171 six (76) pounds or more shall have a required base kennel space of one
172 hundred (100) square feet. Required additional kennel space per additional
173 dog of this size is twenty-four (24) square feet.

174 (d) Sanitation Standards. An owner shall meet the minimum standards of sanitation for
175 both indoor and outdoor shelter. Minimum sanitation standards require waste matter from
176 the animal to be removed within twenty-four (24) hours of its deposit.

177 (e) Shelter Exception for Livestock. In the case of livestock kept on farms on land zoned
178 agricultural, nothing in this section shall be construed as imposing shelter requirements or
179 standards more stringent than normally accepted husbandry practices.

180 304.6-3. Tethering. If a kennel or enclosed yard is not available, an owner may tether an
181 unsupervised animal as long as the owner meets the following conditions:

182 (a) the tether is connected to the animal with a buckle type collar or body harness made of
183 nylon or leather not less than one inch (1") in width and at least two inches (2") greater in
184 diameter than the animal's neck or torso;

185 (1) The use of a choke collar, prong collar head harness, or other similar type of
186 head harness or collar shall be prohibited for the use of tethering.

187 (b) the tether is at least twelve feet (12') long and allows the animal to move in all
188 directions unimpeded;

189 (c) the total weight of the tether does not exceed ten percent (10%) of the animal's body
190 weight;

191 (d) the animal is tethered so as to prevent injury, strangulation, or entanglement, and allows
192 the animal access to water and shelter;

193 (e) the tethered animal is not sick, injured, or nursing;

194 (f) the animal is not tethered on any vacant property or land or with an unoccupied
195 dwelling; and

196 (g) the animal is not tethered in a manner that allows the animal to cross onto public space
197 or property of others.

198 304.6-4. Mistreatment of Animals. No person may treat any animal in a manner which causes
199 harm, injury or death. This section does not apply to:

200 (a) normal and accepted veterinary and/or care practices; or

201 (b) teaching, research or experimentation conducted at a facility regulated under federal or
202 applicable state law.

203 304.6-5. Mandatory Reporting. An employee of the Nation shall report any animal mistreatment
204 witnessed during the regular course of his or her employment with the Nation to the Oneida Police
205 Department and any other appropriate entity.

206
207 304.7.

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208 ~~304.6.~~ Requirements for Dogs and Cats

209 ~~304.7-1.~~ ~~304.6 1.~~ License Required. ~~An annual~~ An owner shall be required to obtain a license
210 is required to keep for any dog or cat ~~over~~ five (5) months of age ~~or older on an annual basis.~~

211 (a) License Period. The license year ~~commences~~ shall commence on January 1st and
212 ~~ends~~ end on December 31st ~~of every year.~~

213 (b) License Eligibility. To be eligible for a license, the owner shall provide:

214 (1) the licensing fee; and

215 (2) proof of current rabies vaccination.

216 ~~(b)-(c)~~ Placement of License Tag. Upon the receipt of a license the owner shall be provided
217 a license tag for the dog or cat. The owner shall securely attach the license tag to the
218 animal's collar and shall require the animal wear the collar at all times, ~~provided that this~~
219 ~~requirement does not apply to dogs or cats.~~

220 ~~(4)~~ (1) Exception. A dog or cat shall not be required to wear the collar if the
221 dog or cat is:

222 (A) hunting or actively involved in herding or controlling livestock if the
223 animal is under control of its owner;

224 (2) within the owner's residence and/or securely confined in a
225 fenced area; and/or

226 (3) being shown during a competition.

227 ~~304.67-2.~~ Rabies Vaccinations Required. ~~Rabies~~ An owner shall be required to obtain a rabies
228 vaccination is required for any dog or cat five (5) months of age or older.

229 ~~304.7-3.~~ Limit on the Number of Dogs and Cats. An individual may keep no more than two (2)
230 dogs or three (3) cats; and a total of no more than four (4) dogs and cats combined; in a single
231 residential household.

232 (a) Exception. The limit on the number of dogs and cats a person may keep or possess does
233 not apply to a person who:

234 (1) is eligible for any grandfather provisions included in this law's adopting
235 resolution;

236 (2) keeps or possesses a litter of pups or kittens, or a portion of a litter, for a period
237 not exceeding five (5) months from birth;

238 (3) resides on property zoned agricultural; and/or

239 (4) obtains a permit for the additional dog or cat.

240 (b) Permit for Additional Dogs or Cats. A person may keep more than two (2) dogs or
241 three cats (3) in a single residential household if the owner obtains a permit from the
242 Environmental, Health, Safety, and Land Division for the additional animal. The
243 application for the permit must be signed by the owner and contain the signature of the
244 landowner of the residential household if the landowner is not the applicant.

245 (1) By seeking a permit for an additional dog or cat the owner agrees that he or she
246 shall reduce the number of licensed dogs or cats on the premises if there are two (2)
247 or more nuisance complaints against the residential household within one (1)
248 calendar year caused by, or related to, the number of dogs or cats housed on the
249 premises.

250 (2) If two (2) or more nuisance complaints are received against the residential

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251 household due to the number of dogs or cats housed on the premises, the owner
252 shall reduce the number of animals within thirty (30) days.

253 304.7-4. *Running at Large.* An owner shall not allow a dog or cat to run at large by being any
254 place except upon the premises of the owner, unless the dog or cat is crated, penned, or on a leash
255 under the control of a person physically able to control the animal.

256 (a) A stray dog or cat running at large may be referred to the Oneida Police Department or
257 Oneida Conservation Department.

258 (b) When an Oneida Police Officer or Oneida Conservation Warden finds a dog or cat
259 running at large, the officer and/or warden shall, if possible, pick up and impound such
260 animal.

261 (c) Whenever any impounded animal bears an identification mark, such as a collar with
262 identification tags or license tag, the owner shall be notified as soon as reasonably possible.

263 304.7-5. *Nuisance.* An Oneida Police Officer or Oneida Conservation Warden may pick up and
264 impound a dog or cat that has been found to be a nuisance. A dog or cat shall be found to be a
265 nuisance if the actions of the dog or cat:

266 (a) resulted in two (2) or more verified disturbances due to excessive barking and/or other
267 noise by the animal, or the animal running at large; and/or

268 (b) resulted in one (1) or more verified disturbance due to threatening behavior by the
269 animal running at large.

270 304.7-6. *Investigations for Suspected Animal Bites.* The owner shall notify the Oneida Police
271 Department in the event the owner's cat or dog bites a human or another domestic animal.

272 (a) The responding Oneida Police Officer or Oneida Conservation Warden shall:

273 (1) Ascertain whether the domestic animal is properly licensed and has current
274 vaccinations.

275 (2) Ensure all information provided is correct.

276 (3) Contact the Environmental, Health, Safety and Land Division to provide
277 notification of the domestic animal bite.

278 (4) If the cat or dog has current rabies vaccinations, order the owner to:

279 (A) Quarantine the animal for ten (10) days; and

280 (B) Present the animal for examination by a veterinarian within twenty-
281 four (24) hours of the bite, on the last day of quarantine and on one (1) day
282 in between the first twenty-four (24) hours and the tenth (10th) day.

283 (5) If the cat or dog does not have current rabies vaccination, order the owner to:

284 (A) Quarantine the animal for ten (10) days or deliver the animal to an
285 isolation facility at the owner's expense. If a home quarantine is ordered,
286 the owner shall present the domestic animal for examination by a
287 veterinarian within twenty-four (24) hours of the bite, on the last day of
288 quarantine and on one (1) day in between the first twenty-four (24) hours
289 and the tenth (10th) day; or

290 (B) Euthanize the animal and send the specimen for analysis at the owner's
291 expense, if the animal has exhibited any signs of rabies.

292 (b) Upon expiration of a quarantine period, a veterinarian may extend the quarantine
293 period. Upon expiration of all quarantine periods, if the veterinarian certifies that the

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294 animal has not exhibited any signs of rabies, the animal may be released from quarantine.

295 (c) If the veterinarian certifies that the animal has exhibited any signs of rabies the
296 following shall occur:

297 (1) If the animal has current rabies vaccinations, the Oneida Police Officer or
298 Oneida Conservation Warden may order the animal to be euthanized and send the
299 specimen for analysis, to be paid for by the Nation.

300 6-3(2) If the animal does not have current rabies vaccinations, the Oneida Police
301 Officer or Oneida Conservation Warden may order the animal to be euthanized and
302 send the specimen for analysis at the owner's expense.

303 304.7-7. District Quarantine. A district quarantine may be initiated ~~in accordance with the~~
304 ~~quarantine rules and may be initiated by~~ by staff designated by the Environmental, Health and
305 Safety, and Land Division, an Oneida Police Officer, an Oneida Conservation Warden, and/or a
306 Public Health Officer.

307 (a) If an area is subject to a ~~District Quarantine~~ district quarantine for rabies, all dogs and
308 cats within the district shall be kept securely confined, tied, leashed or muzzled. Any dog
309 or cat not confined, tied, leashed or muzzled is a public nuisance and may be impounded.
310 All Oneida Police Officers and Oneida Conservation Wardens shall cooperate in the
311 enforcement of the ~~Quarantine~~ quarantine.

312 (b) An animal that is immunized against rabies as evidenced by a valid certificate of rabies
313 vaccination or other evidence is exempt from the district quarantine provisions of this
314 section.

315 ~~304.6-4. Dogs~~

316 304.8. Livestock

317 304.8-1. An owner shall obtain a conditional use permit from the Oneida Land Commission in
318 order to keep livestock on land zoned residential.

319 304.8-2. Limitations on Livestock. Livestock kept on land zoned residential are subject to the
320 following limitations:

321 (a) One (1) large animal per one (1) acre. Examples of large animals include, but are not
322 limited to, horses, cows, and pigs.

323 (b) One (1) small animal per one-half (½) acre. Examples of small animals include, but
324 are not limited to, goats, and sheep.

325 (c) One (1) goat or sheep per recorded lot under one-half (½) acre when setback
326 requirements can be met.

327 304.8-3. Liability for Damage Caused by Livestock at Large. Any person whose livestock
328 escapes from its normal confined area and becomes at large is responsible for any and all damage
329 to persons and property caused by such livestock while it is away from its normal confined area.

330 ~~and Cats Running at Large. It is unlawful for any dog or cat owner to permit the animal to be at~~
331 ~~any place except upon the premises of the owner, unless it is crated, penned, or on a leash under~~
332 ~~the control of a person physically able to control the animal. In addition, a nuisance dog or cat~~
333 ~~may be picked up by Oneida Police Officers or Oneida Conservation Wardens. For the purposes~~
334 ~~of this law, a nuisance dog or cat is one whose actions result in two (2) or more verified~~
335 ~~disturbances due to excessive barking and/or running loose or one (1) or more verified disturbance~~
336 ~~due to threatening behavior by a loose dog or cat.~~

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337 ~~(a) Stray dogs and cats shall be referred to the Oneida Police Department or Oneida~~
338 ~~Conservation Department.~~

339 ~~(b) Whenever any Oneida Police Officer, Oneida Conservation Warden, or other person~~
340 ~~designated by the Chief of Police finds any dog or cat running at large, the officer/warden~~
341 ~~shall, if possible, pick up, and impound such animal.~~

342 ~~(c) Whenever any impounded animal bears an identification mark, such as a collar with~~
343 ~~identification tags or license tag, the owner shall be notified as soon as reasonably possible.~~

344 ~~304.~~

345 **304.9. Hens**

346 304.9-1. Hen Permit. An owner shall obtain a conditional use permit from the Oneida Land
347 Commission Division in order to keep hens on land zoned residential.

348 304.9-2. Prohibition of Roosters. An owner shall not keep a rooster on land zoned residential.

349 304.9-3.6-5. Limit on Number of Dogs and Cats. Except as provided in (a), no more than three
350 (3) dogs or three (3) cats; and a total of no more than five (5) dogs and cats combined; may be kept
351 or possessed by a single residential household. For the purposes of this law, each residential lot,
352 excluding residential lots designed as multi-family lots, constitutes a separate residential
353 household. In cases of multi-family lots, each family unit within the lot constitutes a separate
354 household.

355 ~~(a) Exception. Limit on the Number of Hens Allowed. The limit on the number of dogs and~~
356 ~~cats a person may keep or possess does not apply to those persons who:~~

357 ~~(1) are eligible for any grandfather provisions included this law's adopting~~
358 ~~resolution(s);~~

359 ~~(2) keep or possess a litter of pups or kittens or a portion of a litter for a period not~~
360 ~~exceeding five (5) months from birth; and/or~~

361 ~~(3) reside hens an owner may keep is dependent on a farm.~~

363 ~~304.7. Treatment of Animals~~

364 ~~304.7 1. Food and Water. No owner may refuse or neglect to provide an animal with a daily~~
365 ~~supply of food and water sufficient to maintain the animal in good health.~~

366 ~~304.7 2. Shelter:~~

367 ~~(a) Minimum indoor standards of shelter:~~

368 ~~(1) The ambient temperature shall be compatible with the health of the animal.~~

369 ~~(2) Indoor housing facilities shall be adequately ventilated by natural or mechanical~~
370 ~~means to provide for the health of the animals at all times.~~

371 ~~(b) Minimum outdoor standards of shelter:~~

372 ~~(1) Shelter from Sunlight. When sunlight is likely to cause heat exhaustion of an~~
373 ~~animal tied or caged outside, sufficient shade by natural or artificial means shall be~~
374 ~~provided to protect the animal from direct sunlight. "Caged" does not include farm~~
375 ~~fencing used to confine farm animals.~~

376 ~~(2) Natural or artificial shelter appropriate to the local climatic conditions for the~~
377 ~~species concerned shall be provided as necessary for the health of the animal.~~

378 ~~(3) If a dog is tied or confined unattended outdoors under weather conditions which~~
379 ~~adversely affect the health of the dog, a weather appropriate shelter of suitable the size to~~

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accommodate the dog shall be provided of the residential lot.

~~(e) Space~~ (a) An owner may keep up to four (4) hens on a residential lot that is two (2) acres in size or smaller.

(b) An owner may keep up to eight (8) hens on a residential lot two (2) acres in size or larger.

304.9-4. Standards. Minimum space requirements for both indoor and outdoor enclosures:

~~(1) The housing facilities~~ Keeping Hens. An owner shall be structurally sound and maintained keep hens in good repair to protect the animals from injury and to contain the animals.

~~(2) Enclosures shall be constructed and maintained so as to provide sufficient space to allow each animal adequate freedom of movement. Inadequate space may be indicated by evidence of debility, stress or abnormal behavior patterns. Specifically, dog kennels shall meet the following space requirements where, if there are multiple dogs in the same kennel, the base kennel space requirement is based on the size of the largest dog and the additional kennel space requirements are based on the size of each additional dog kept in the kennel~~ manner:

DOG SIZE (LBS)	REQUIRED BASE KENNEL SPACE	REQUIRED ADDITIONAL KENNEL SPACE PER ADDITIONAL DOG
1-35 lbs	80 Sq. Ft.	12 Sq. Ft.
36-75 lbs	100 Sq. Ft.	18 Sq. Ft.
76 lbs or more	120 Sq. Ft.	24 Sq. Ft.

~~(d) Sanitation Standards. Minimum standards of sanitation for both indoor and outdoor enclosures require excreta to be removed within twenty four (24) hours of its deposit. In the case of farm animals, nothing in this section shall be construed as imposing shelter requirements or standards more stringent than normally accepted husbandry practices.~~

~~304.7-3. Mistreatment of Animals. No person may treat any animal in a manner which causes harm, injury or death. This section does not apply to:~~

~~(a) normal and accepted veterinary and/or care practices; or~~

~~(b) teaching, research or experimentation conducted at a facility regulated under federal or applicable state law.~~

~~304.7-4. Criminal Reporting. In addition to taking civil action under this law, any employee of the Nation shall report animal mistreatment to the Oneida Police Department.~~

304.8: (a) No person shall keep a hen over eight (8) weeks of age in a principal structure.

(b) Hens shall be kept within a structure such as a coop or fenced area used exclusively to keep hens and shall provide at least four (4) square feet of space per hen.

(c) No accessory structure used to keep hens shall be located within twenty-five feet (25') of any principal structure which is not owned by the person permitted to keep the hens.

(d) No accessory structure used to keep hens shall be located in a front or side yard.

(e) All hens shall be kept and handled in a sanitary manner to prevent the spread of communicable diseases amongst birds or to humans.

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417 304.9-5. Prohibition of Nuisance Hens. No owner may keep hens that cause any other nuisance
418 associated with unhealthy conditions, create a public health threat, or otherwise interfere with the
419 normal use of property or enjoyment of life by humans or animals.
420

421 **304.10. Prohibited Animals**

422 ~~304.8-1. Prohibited Animals.~~ 304.10-1. No person ~~may~~shall bring into, keep, harbor,
423 maintain, offer for sale or barter, act as a custodian, have custody or control of, or release to the
424 wild on the Reservation ~~an exotic~~a prohibited animal.

425 ~~304.8-10-2. Exotic Prohibited Animals. The~~Prohibited animals include the following orders and
426 families, whether bred in the wild or in captivity, and any or all hybrids ~~are defined as “Exotic~~
427 Animals”. The animals listed ~~in parentheses~~ are intended to act as examples and are not to be
428 construed as an exhaustive list or limit the generality of each group of animals, unless otherwise
429 specified:

430 (a) Class Mammalia.

431 (1) Order Chiroptera ~~(Any. This includes all bat species).~~

432 (2) Order Artiodactyla ~~(Hippopotamuses. This includes hippopotamuses, giraffes,~~
433 ~~camels, and deer)~~ Excluding, but does not include domestic cattle, swine, sheep,
434 goats, alpaca, and llama as exotic animals.

435 (3) Order Carnivora.

436 (A) Family Felidae. ~~(Lions. This includes lions, tigers, cougars, leopards,~~
437 ~~ocelots, and servals)~~ Excluding, but does not include domestic cats as
438 exotic animals.

439 (B) Family Canidae ~~(Wolves. This includes wolves, wolf hybrids, coyotes,~~
440 ~~coyote hybrids, foxes, and jackals)~~ Excluding, but does not include
441 domestic dogs as exotic animals.

442 (C) Family Ursidae. ~~(All. This includes all bears).~~

443 (D) Family Mustelidae. ~~(Weasels. This includes weasels, skunks, martins,~~
444 ~~and minks)~~ Excluding, but does not include ferrets as exotic animals.

445 (E) Family Procyonidae. ~~(Raccoons. This includes raccoons, and coatis).~~

446 (F) Family Hyaenidae. ~~(Hyenas. This includes hyenas.~~

447 (G) Family Viverridae ~~(Civets. This includes civets, genets, and~~
448 ~~mongooses).~~

449 (4) Order Edentata. ~~(Anteaters. This includes anteaters, armadillos, and sloths).~~

450 (5) Order Marsupialia. ~~(Opossums. This includes opossums, kangaroos, wallabies,~~
451 ~~and sugar gliders).~~

452 (6) Order Perissodactyla. ~~(Rhinoceroses. This includes rhinoceroses, and tapirs)~~
453 Excluding, but does not include horses, goats, and mules as exotic animals.

454 (7) Order Primates. ~~(Lemurs. This includes lemurs, monkeys, chimpanzees, and~~
455 ~~gorillas).~~

456 (8) Order Proboscidae. ~~(Elephants. This includes elephants.~~

457 (9) Order Rodentia. ~~(Squirrels. This includes squirrels, beavers, porcupines,~~
458 ~~and prairie dogs)~~ Excluding, but does not include guinea pigs, rats, mice, gerbils,
459 and hamsters as exotic animals.

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460 (b) Class Reptilia.

461 (1) Order Squamata.

462 (A) Family Helodermatidae. ~~(This includes Gila Monsters monsters and~~
463 ~~Mexican beaded lizards).~~

464 (B) Family Varaidae. ~~(Any This includes any monitor lizard which will~~
465 ~~normally grow over two feet in length).~~

466 (C) Family Iguanidae. ~~(Only This includes green iguanas and rock~~
467 ~~iguanas, all others allowed) but does not include all other types of iguanas~~
468 ~~which are not green or rock iguanas.~~

469 (D) Family Boidae. ~~(All This includes all species whose adult length may~~
470 ~~exceed eight (8) feet).~~

471 (E) Family Colubridae. ~~(Boomsnangs This includes boomsnangs and~~
472 ~~African twig snakes).~~

473 (F) Family Elapidae. ~~(Coral This includes coral snakes, cobras, and~~
474 ~~mambas).~~

475 (G) Family Nactricidae. ~~(Only This includes keelback snakes, all others~~
476 ~~allowed) but does not include all other snakes not keelback.~~

477 (H) Family Viperidae. ~~(Copperheads This includes copperheads,~~
478 ~~cottonmouths, and rattlesnakes).~~

479 (2) Order Crocodilia. ~~(Crocodiles This includes crocodiles, alligators, caimans,~~
480 ~~and gavials).~~

481 (c) Class Aves.

482 (1) Order Falconiformes. ~~(Eagles This includes eagles, hawks, and vultures).~~

483 (2) Order Rheiformes. ~~(Rheas) This includes rheas.~~

484 (3) Order Struthioniformes. ~~(Ostriches) This includes ostriches.~~

485 (4) Order Casuariiformes. ~~(Cassowaries This includes cassowaries and emus).~~

486 (5) Order Strigiformes. ~~(Owls) This includes owls.~~

487 (d) Class Arachnida.

488 (1) Order Scorpiones,

489 (A) Family Buthidae. This includes scorpions.

490 ~~(A) Arabian fat tailed scorpion — Androctonus crassicauda~~

491 ~~(B) Arizona centruroides scorpion — Centruroides exilicauda~~

492 ~~(C) Death stalker — Leiurus quinquestriatus~~

493 ~~(D) Egyptian yellow scorpion — Androctonus Amoreuxi~~

494 ~~(E) Israeli black scorpion — Hottentotta judaicus~~

495 ~~(F) S.A. giant fat tailed scorpion — Parabuthus transvaalicus~~

496 ~~(G) Sinai desert scorpion — Androctonus bicolor~~

497 ~~(H) Yellow desert scorpion — Androctonus Australia~~

498 (2) Order Araneae,

499 (A) Family Therididae.

500 ~~(A) This includes the Argentina red widow spider — Latrodectus coralinus~~

501 ~~(B) Brown, brown widow spider — Latrodectus geometicus~~

502 ~~(C) Red, red-black widow — Latrodectus hasselti~~

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~~(D) Red widow spider—Lactrodectus bishop~~

~~(E) Southern, red widow spider, southern~~ black widow spider—
~~Lactrodectus mactans~~

~~(F) —, and Western widow —Lactrodectus Hesperus spider.~~

~~(3) —Order Araneae, (B) Family Laxoscelidae, Brown~~This includes the brown recluse spider—~~Loxoseeles reclusa.~~

(e) ~~Class Chilopoda.~~

(1) ~~Order Scolopendromorpha,~~

~~(A) Family Scolopendridae. This includes centipedes.~~

~~(A) Amazon giant banded centipede—Scolopendra giganea~~

~~(B) Arizona tiger centipede—Scolopendra viridis~~

~~(C) Florida keys centipede—Solopendra alternans~~

(f) Any Federal or State endangered or threatened species.

304.810-3. ~~This section does~~Prohibited Animals Exception. The prohibition of certain animals shall not apply to:

(a) Individuals who are eligible for any grandfather provisions included in this law's adopting resolution~~(s).~~

~~(b) Zoological parks~~A zoological park and/or sanctuary, an educational or medical institution, and/or a specially trained entertainment ~~organizations~~organization who ~~receive~~receives a permit from the ~~Oneida Conservation Department~~Environmental, Health, Safety, and Land Division to own, harbor or possess the ~~animals.~~prohibited animal.

~~(1) —304.10-4. Prohibited Animal Permit.~~ The Environmental, Health ~~and~~, Safety, ~~and~~ Land Division may issue a prohibited animal permit ~~under this section~~ if:

~~(A) —a~~ the ~~animals~~animal and animal quarters are kept in a clean and sanitary condition and maintained to eliminate objectionable odors; and

~~(B) —b~~ the ~~animals are~~animal is maintained in quarters so constructed as to prevent ~~their~~its escape.

~~(2) If approved by the Oneida Conservation Department, wildlife refuges/sanctuaries may release~~304.10-5. Release of Prohibited Animals. The Environmental, Health, Safety, and Land Division, may approve a wildlife refuge and/or sanctuary to release prohibited animals within the Reservation without applying for and receiving a ~~permit as otherwise required under this Section.~~

~~304.8 4. —Seized Animals. Any animal seized as a prohibited animal~~ permit.

304.10-6. Seizure of Prohibited Animals. An unpermitted prohibited animal may be seized by the Oneida Police Department and/or the Oneida Conservation Department.

(a) A prohibited animal that is seized shall be held by the Oneida Police Department, the Oneida Conservation Department, or its designee until ~~that animal is identified to ascertain whether it can be determined if~~ the animal is an “endangered or threatened species” ~~pursuant applicable laws.~~

(b) At any time after such identification, the Oneida Police Department and/or Oneida Conservation Department may seek an order from a hearing body the Trial Court as to the care, custody and control of the animal. ~~The Oneida Conservation Department may also~~

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546 ~~request the defendant to post a bond in an amount sufficient to satisfy the costs of holding,~~
547 ~~housing and/or caring for the animal.~~

548 ~~(c) If the hearing body~~Trial Court finds the animal has been taken, employed, used or
549 possessed in violation of this section, the owner shall be responsible for reimbursing the
550 Oneida Police Department and/or the Oneida Conservation Department for the cost of
551 holding the animal and any costs incurred in identifying the ~~animals shall be assessed~~
552 ~~against the defendant~~animal.

553 ~~304.8-5~~10-7. Notice of Release or Escape. If an animal identified asThe owner of a prohibited
554 ~~under this section is~~animal that has been released or escapes, ~~the owner of the animal~~ shall
555 immediately notify the Oneida Police Department and/or the Oneida Conservation Department
556 ~~and/or the Oneida Police Department and~~ shall be liable for any cost of recapture of the animal.

557 ~~304.10-8-6. Forfeiture of the Prohibited Animal. Anyone~~An owner found in violation of this
558 section shall forfeit or surrender the prohibited animal to the Oneida Police Department, Oneida
559 Conservation Department, or designee. Upon such forfeiture or surrender, the ~~Judiciary~~Trial Court
560 may direct destruction or transfer of the animal to a qualified zoological, educational, or scientific
561 institution or qualified private propagator for safekeeping, with costs assessed against the
562 ~~defendant~~owner.

563 **304.9.—Regulation of Livestock**

564 ~~304.9-1. Livestock may only be kept on land zoned residential if a conditional use permit is~~
565 ~~received from the Oneida Land Commission, however, not in excess of the following limitations:~~

566 ~~(a) One (1) large animal per one (1) acre. Examples of large animals include, but are not~~
567 ~~limited to horses, cows and pigs.~~

568 ~~(b) One (1) small animal per one half (½) acre. Examples of small animals include, but~~
569 ~~are not limited to goats and sheep.~~

570 ~~(c) One (1) goat or sheep per recorded lot under one half (½) acre when setback~~
571 ~~requirements can be met.~~

572 ~~304.9-2. Liability for Damage Caused by Livestock. Any person whose livestock escapes from~~
573 ~~its normal confined area and becomes at large is responsible for any and all damage to persons and~~
574 ~~property caused by such livestock while it is away from its normal confined area.~~

575 ~~11304.9-3. Hens. A permit from the Oneida Conservation Department, based on the rules it~~
576 ~~shall develop, is required in order to keep an excess of four (4) hens. Roosters may not be kept.~~

577 ~~(a) Persons keeping hens shall keep them in the following manner:~~

578 ~~(1) No person may keep a hen over eight (8) weeks of age in a principal structure.~~

579 ~~(2) Hens shall be kept within a structure such as a coop or fenced area used~~
580 ~~exclusively to keep hens and shall provide at least four (4) square feet per chicken.~~

581 ~~(3) No accessory structure used to keep hens may be located within twenty five~~
582 ~~feet (25') of any principal structure which is not owned by the person licensed to~~
583 ~~possess the hens.~~

584 ~~(4) No accessory structure used to keep hens may be located in a front or side yard.~~

585 ~~(b) In addition to compliance with the requirements of this section, no person may keep~~
586 ~~hens that cause any other nuisance associated with unhealthy condition, create a public~~
587 ~~health threat or otherwise interfere with the normal use of property or enjoyment of life by~~
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589 ~~humans or animals.~~

590
591 **304.10. Dangerous Animals**

592 ~~304.10-1. *Classifying Dangerous Animals.* Owners of animals meeting the definition of No~~
593 ~~person shall own, keep, possess, return to or harbor~~ a dangerous animal ~~shall comply with the~~
594 ~~requirements contained in section 304.10-2 for harboring dangerous animals.~~

595 ~~(a) — For the purposes of this law, an~~ An animal is shall be presumed to be dangerous if ~~it~~the
596 animal:

597 ~~(a)~~ (1a) approaches or chases a human being or domestic animal in a menacing fashion or
598 apparent attitude of attack, ~~without provocation; or;~~

599 ~~(2b)~~ bites, inflicts injury, attacks, or otherwise endangers the safety of a human being or
600 domestic animal ~~without provocation;~~

601 ~~(b) An animal may not be deemed a dangerous animal if it bites, attacked or menaces any~~
602 ~~person or animal to:~~

603 (c) is suspected to be owned, trained or harbored for the purpose of dog fighting; and/or

604 (d) has been declared to be a dangerous animal and/or ordered to be destroyed in any other
605 jurisdiction.

606 304.11-2. *Dangerous Animal Determination.* An Oneida Police Officer or Oneida Conservation
607 Warden may determine an animal to be dangerous whenever, upon investigation, the officer finds
608 that the animal meets the definition of dangerous animal provided in section 304.11-1.

609 (a) Upon making a determination that an animal is dangerous, the Oneida Police Officer
610 or Oneida Conservation Warden shall issue a written order with an accompanying citation
611 declaring the animal to be dangerous.

612 (b) The citation and order shall be personally delivered to the apparent owner or custodian
613 of the dangerous animal.

614 (c) Upon receipt of the written order and accompanying citation the owner shall remove
615 the dangerous animal from the Reservation within three (3) business days.

616 304.11-3. *Contesting a Dangerous Animal Determination.* If the owner wishes to contest the
617 dangerous animal determination, he or she shall file with the Trial Court a written objection to the
618 order within three (3) business days of receipt of the order.

619 (a) The written objection shall include specific reasons for objecting to or contesting the
620 order. An owner may argue an animal should not be deemed dangerous due to the animal
621 biting, attacking or menacing any person and/or domestic animal because the animal was
622 acting to:

623 (1) defend its owner or another person from an attack by a person or animal;

624 (2) protect its young or another animal;

625 (3) defend itself against any person or animal which has tormented, assaulted or
626 abused it; and/or

627 (4) defend its owner's property against trespassers.

628 ~~(e) An Oneida Police Officer or Oneida Conservation Warden may, in his or her discretion,~~
629 ~~declare an animal dangerous, provided that, a citation for a violation of this section may be~~
630 ~~issued without having previously received such a declaration.~~

631 ~~(d) An owner of an animal declared to be dangerous may appeal such declaration in~~

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632 accordance with section 304.12-2. All requirements for harboring dangerous animals in
633 section 304.10-2 except subsections (d)-(f) apply to the animal pending b) Pending the
634 outcome of the hearing ~~unless specifically stayed by,~~ the animal shall be securely confined
635 in a humane manner either on the Judiciary.

636 304.10-2. Harboring Dangerous Animals. No person may harbor or keep a dangerous
637 animal within premises of the Reservation unless all provisions of this section are complied
638 with. Any animal that is determined to be a vicious animal in accordance with section
639 304.10-3 may not, under any circumstances, be kept or harbored within owner or caretaker,
640 or with a licensed veterinarian. If confined on the Reservation, premises of the owner or
641 caretaker, the following requirements shall apply:

642 (a)-1) Leash and Muzzle. No ~~person keeping or possessing~~ owner shall permit a dangerous
643 animal ~~may permit such~~ animal to go outside its kennel or pen unless the animal is securely
644 ~~leashed~~ restrained with a leash no longer than four feet (4') in length-

645 ~~(1) No person may permit a dangerous animal to be kept on a chain, rope or other~~
646 ~~type of leash outside its kennel or pen unless~~ by a person who is at least sixteen
647 (16) years of age ~~or older~~ who is in physical control of the leash, competent to
648 govern the animal and capable of physically controlling and restraining the animal
649 ~~is in physical control of the.~~ The owner shall not leash-

650 ~~(2) The~~ an animal ~~may not be leashed to~~ inanimate objects such as ~~trees, posts and~~
651 ~~buildings.~~

652 ~~(3) A dangerous~~ a tree, post, or building. When the animal is on a leash outside the
653 animal's kennel ~~must be muzzled,~~ the owner shall muzzle the animal in a humane
654 way by a commercially available muzzling device sufficient to prevent the animal
655 from biting ~~persons or other animals.~~ ~~The Environmental Health and Safety~~
656 ~~Division, with approval of the Environmental Resource Board, may provide a~~
657 ~~written exception excusing an otherwise dangerous animal from being muzzled. If~~
658 ~~such a written exception is issued, it shall be carried by the animal's owner at all~~
659 ~~times.~~ a person or other animal.

660 (b)-2) Confinement. Except when leashed and muzzled ~~as provided in subsection (a)~~
661 ~~above,~~ all the owner shall ensure the dangerous ~~animals shall be~~ animal is securely confined
662 indoors or in a securely enclosed and locked pen or kennel that is located on the premises
663 of the owner and constructed in a manner that does not allow the animal to exit the pen or
664 kennel on its own volition.

665 ~~(1) Confinement Outdoors.~~ ~~When constructed in an open yard, the pen or kennel~~
666 The owner shall, ~~at a minimum, be constructed to conform to the requirements of~~
667 ~~this subsection.~~

668 ~~(A) The pen or kennel shall be child proof from the outside and~~ not permit
669 an animal ~~proof from the inside.~~

670 ~~(B) A strong metal double fence with adequate space between fences (at~~
671 ~~least two feet (2')) shall be provided so that a child cannot reach into the~~
672 ~~animal enclosure.~~

673 ~~(C) The pen, kennel or structure shall have secure sides and a secure top~~
674 ~~attached to all sides.~~

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~~(D) A structure used to confine a dangerous animal shall be locked with a key or combination lock when the animal is within the structure.~~

~~(E) The structure shall either have a secure bottom or floor attached to the sides of the pen or the sides of the pen shall be embedded in the ground no less than two feet (2')~~

~~(F) All structures erected to house dangerous animals shall comply with the requirements of all applicable laws and rules of the Nation.~~

~~(G) All structures shall be adequately lighted and ventilated and kept in a clean and sanitary condition.~~

~~(2) Confinement Indoors. No dangerous animal may~~ to be kept on a porch, patio, or in any part of a house or structure on the premises of the owner that would allow the animal to exit the building on its own volition. ~~No dangerous~~ The owner shall not permit the animal ~~may~~ to be kept in a house or structure when the windows are open or when screen windows or screen doors are the only obstacle preventing the animal from exiting the structure.

~~(e) 3) Signs.~~ The owner of a dangerous animal shall display, in prominent places on his or her premises near all entrances to the premises, signs in letters of not less than two inches (2") high warning that there is a dangerous animal on the property. A similar sign ~~is required to~~ shall be posted on the kennel or pen of the animal. In addition, the owner shall conspicuously display a sign with a symbol warning children of the presence of a dangerous animal.

~~(d) Spay and Neuter Requirement. If declared~~ 4) Notification. The owner of a dangerous animal shall notify the Oneida Police Department and/or the Oneida Conservation Department immediately if the animal is at large, is unconfined, has attacked another animal, or has attacked a person.

(c) If an owner or caretaker fails to follow the requirements for harboring a dangerous animal pending a hearing, the animal may be impounded by an the Oneida Police Officer or Oneida Conservation Officer, Warden issuing the owner dangerous animal determination.

304.11-4. Dangerous Animal Determination Hearing. A hearing on the dangerous animal determination shall be held within thirty (30) fourteen (14) days after the declaration shall provide the Environmental Resource Board with of submission of the written proof from a licensed veterinarian objection with the Trial Court. At the hearing, the Trial Court shall determine whether the determination that the animal has been spayed or neutered is dangerous should be substantiated.

~~(e) Liability Insurance. If declared dangerous by an Oneida Police Officer or Oneida Conservation Officer, the owner of the dangerous animal shall present proof to the Environmental Resource Board~~ (a) If the Trial Court concludes that the determination that the animal is dangerous is substantiated, then the Trial Court shall issue an order that mandates the animal be removed from the Reservation within forty-eight (48) hours of the determination.

(1) The order shall contain the requirement that the owner has procured liability insurance in an amount not less than \$1,000,000 for any personal injuries inflicted by the dangerous

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718 animal. Whenever such a policy is cancelled or not renewed, the insurer shall so notify the
719 Environmental Resource Board.

720 ~~(f) *Microchipping.*— If declared dangerous by an Oneida Police Officer or Oneida~~
721 ~~Conservation Officer, the owner of the dangerous animal shall provide proof to the~~
722 ~~Environmental Resource Board that the dangerous animal has had a microchip inserted for~~
723 ~~identification purposes within ten (10) calendars from the date the animal is declared~~
724 ~~dangerous.~~

725 ~~(g) *Ongoing Notification Requirements.* After an animal has been declared dangerous, the~~
726 ~~owner shall have an ongoing duty to notify the Oneida Police Department:~~

727 ~~(1) immediately if the dangerous animal is at large, is unconfined, has attacked~~
728 ~~another animal or has attacked a human being; and~~

729 ~~(2) within twenty-four (24) hours if athe dangerous animal has died, been sold or~~
730 ~~been given away. If the dangerous animal has been sold or given away, the owner~~
731 ~~shall also provide the name, address and telephone number of the new owner of the~~
732 ~~dangerous animal. If the dangerous animal is sold or given away to a person~~
733 ~~residing outside the Reservation or to a person or entity that falls outside of the~~
734 ~~jurisdiction of this law, the owner shall present evidence to the Oneida Police~~
735 ~~Department showing that he or she has notified the police department or other law~~
736 ~~enforcement agency of the animal's new residence, including the name, address and~~
737 ~~telephone number of the new owner. The Oneida Police Department shall forward~~
738 ~~all such notifications to the Environmental Resource Board, Health, Safety and~~
739 ~~Land Division within a reasonable amount of time.~~

740 ~~(h) *Waiver by the Environmental Resource Board.* Upon request of an owner, the~~
741 ~~Environmental Resource Board may waive any requirement specified in subsections (a)–~~
742 ~~(f) that the Environmental Resource Board deems to be unnecessary for a particular~~
743 ~~dangerous animal. The Environmental Resource Board may waive the provisions of~~
744 ~~subsections (a)–(f) for a law enforcement or military animal upon presentation by the~~
745 ~~animal's owner or handler of a satisfactory arrangement for safe keeping of the animal.~~

746 ~~(i) *Euthanasia.* If the owner of an animal that has been designated a dangerous animal is~~
747 ~~unwilling or unable to comply with the regulations for keeping the animal in accordance~~
748 ~~with this section, he or she may have the animal humanely euthanized by an animal shelter,~~
749 ~~the humane society or a licensed veterinarian.~~

750 ~~304.10-3. *Vicious Animals.* No person may bring or keep within the Reservation any animal that~~
751 ~~is a vicious animal under this section.~~

752 ~~(a) *Declaration of Vicious Animal.*— An Oneida Police Officer, Oneida Conservation~~
753 ~~Warden and/or the Judiciary Trial Court may declare an animal to be a vicious animal if~~
754 ~~the animal:~~

755 ~~(1) Is a dangerous animal in noncompliance with the requirements under Section~~
756 ~~304.10-2;~~

757 ~~(2) Has killed a domestic animal or pet without provocation on public or private~~
758 ~~property;~~

759 ~~(3) Without provocation, has inflicted substantial bodily harm on a person on~~
760 ~~public or private property where substantial bodily harm means bodily injury that~~

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causes a laceration that requires stitches, any fracture of a bone, a concussion, a loss or fracture of a tooth or any temporary loss of consciousness, sight or hearing;

(4) Is suspected to be owned, trained or harbored for the purpose of dog fighting; and/or

(5) Has been declared to be a vicious animal and/or ordered to be destroyed in any other jurisdiction.

~~(b) Mandatory Hearing. The owner of an animal declared to be a vicious animal shall attend a mandatory pre-hearing with the Judiciary Trial Court, the date for which shall be included on the declaration of vicious animal. At the pre-hearing it may be determined that mandatory attendance at Judiciary Trial Court hearing is also required if restitution is appropriate. The pre-hearing and any hearings are subject to the requirements contained in section 304.12-2.~~

~~(1) All requirements for harboring dangerous animals in section 304.10-2 except subsections (d) (f) apply to the said animal pending the outcome of the Judiciary Trial Court's pre-hearing and/or hearing.~~

~~(2) At the pre-hearing, the Judiciary Trial Court may require the animal to be impounded pending the result of the hearing.~~

~~(3) The Judiciary Trial Court may order a vicious animal to be destroyed if it finds it was so declared based on section 304.10-3(a)(3). If such an order is issued, the Judiciary~~
(b) The Trial Court may order a dangerous animal to be destroyed. If such an order is issued, the Trial Court shall require the owner submit proof of destruction within five (5) business days from a licensed veterinarian. If the owner does not satisfy these requirements, an Oneida Police Officer and/or an Oneida Conservation Warden shall seize the animal and enforce compliance at the cost of the owner.

~~(4) If the declaration of vicious animal is upheld upon appeal, the Judiciary Trial Court shall order the animal to be removed from the Reservation. Such order shall include the notification requirements contained in section 304.10-2(g) and provide the owner with a reasonable timeframe for removing the animal from the Reservation, provided that the timeframe may not exceed thirty (30) days after the date of the Judiciary Trial Court's decision.~~

~~(5) If the owner further appeals the~~ (c) The Trial Court may mandate attendance at an additional Trial Court hearing if restitution is appropriate.

304.11-5. Appeal of the Trial Court's Decision. An appeal of the Trial Court's decision on the dangerous animal determination of the Judiciary Trial Court may be appealed to the Judiciary Nation's Court of Appeals, he or she shall submit the

(a) An appeal shall be submitted to the Court of Appeals within five (5) business days from the date of the Judiciary Trial Court's decisions, ~~which is a shorter timeframe than required for all other appeals under this law.~~ Trial Court's decision.

(b) Upon an appeal to the Judiciary Court of Appeals, the requirement to order to remove the animal from the Reservation or any order to destroy an animal is stayed pending the outcome of the appeal.

~~(c) Enforcement. An Oneida Police Officer or Oneida Conservation Warden~~ 604.11-6. Dangerous Animal Exception. The Trial Court may make any inquiries deemed necessary

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to ensure compliance with this section and may seize provide an exception to the dangerous animal based on the owner's failure to comply.

~~(d) — Waiver. The Judiciary may waive the provisions of this section~~ law for a law enforcement or military animal upon presentation by the ~~animal's~~ animal's owner or handler of a satisfactory arrangement for safe keeping of the animal.

~~304.10 4. Investigations for Suspected Domestic Animal Bites. The owner shall notify the Oneida Police Department in the event the owner's cat or dog bites a human or another domestic animal.~~

~~(a) The responding Oneida Police Officer or Oneida Conservation Warden shall:~~

~~(1) Ascertain whether the domestic animal is properly licensed and has current vaccinations.~~

~~(2) Ensure all information provided is correct.~~

~~(3) Contact the Environmental, Health and Safety Division to notify them of the domestic animal bite.~~

~~(4) If the cat or dog has current rabies vaccinations, order the owner to:~~

~~(A) Quarantine the animal for ten (10) days; and~~

~~(B) Present the animal for examination by a veterinarian within twenty-four (24) hours of the bite, on the last day of quarantine and on one (1) day in between the first twenty-four (24) hours and the tenth (10th) day.~~

~~(5) If the cat or dog does not have current rabies vaccination, order the owner to:~~

~~(A) Quarantine the animal for ten (10) days or deliver the animal to an isolation facility at the owner's expense. If a home quarantine is ordered, the owner shall present the domestic animal for examination by a veterinarian within twenty-four (24) hours of the bite, on the last day of quarantine and on one (1) day in between the first twenty-four (24) hours and the tenth (10th) day; or~~

~~(B) Euthanize the animal and send the specimen for analysis at the owner's expense, if the animal has exhibited any signs of rabies.~~

~~(b) Upon expiration of a quarantine period, a veterinarian may extend the quarantine period. Upon expiration of all quarantine periods, if the veterinarian certifies that the animal has not exhibited any signs of rabies, the animal may be released from quarantine.~~

~~(c) If the veterinarian certifies that the animal has exhibited any signs of rabies the following shall occur:~~

~~(1) If the animal has current rabies vaccinations, the Oneida Police Officer or Oneida Conservation Warden may order the animal to be euthanized and send the specimen for analysis, to be paid for by the Nation.~~

~~(2) If the animal does not have current rabies vaccinations, the Oneida Police Officer or Oneida Conservation Warden may order the animal to be euthanized and send the specimen for analysis at the owner's expense.~~

304.1112. Owner Liability for Domestic Animals

~~304.1112-1. Owners are~~ An owner shall be liable for damages caused by ~~their~~ this or her domestic animal(s).

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847 (a) *First Offense.* The owner is liable for the full amount of damages caused by the
848 domestic animal.

849 (b) *Subsequent Offenses.* The owner shall be liable for two (2) times the full amount of
850 damages caused by the domestic animal if the owner knew or should have known that the
851 domestic animal previously caused damages.

852
853 **304.12.—Violations, 13. Enforcement and Appeals of Violations**

854 ~~304.12~~13-1.— Citations. Citations for the violation of this law and/or orders issued pursuant to
855 this law may include fines, penalties and conditional ~~and other~~ orders in accordance with the fine,
856 penalty, and licensing fee schedule ~~developed under section 304.5-2. A separate offense shall be~~
857 ~~deemed committed on each day during or on which a violation occurs or continues.—.~~

858 (a) ~~Any order issued pursuant to this law that is not complied with may be physically~~
859 ~~enforced by Oneida Police Officers or Oneida Conservation Wardens at the Owner's~~
860 ~~expense.~~

861 (b) ~~The Oneida Police Department, by means of Oneida Police Officers and Oneida~~
862 ~~Conservation Wardens, is authorized to take any appropriate action to prevent or remove a~~
863 ~~violation of this Law.~~

864 ~~304.12~~13-2.— Citation Pre-Hearing and Appeals of Contested Actions. All citations, ~~orders and~~
865 ~~declarations issued pursuant to this law~~ shall include a pre-hearing date with the Judiciary Trial
866 Court which shall be set for the next scheduled monthly prehearing date that is at least thirty (30)
867 days after the citation was issued, excluding dangerous animal citations which shall follow the
868 process contained in section 304.11.

869 (a) Persons wishing to contest a citation shall appear at the prehearing, at which time the
870 Judiciary Trial Court shall accept pleas which either contest or admit committing the act
871 for which the citation was issued. The Judiciary

872 (b) In addition to scheduling requested hearings, the Trial Court may also make conditional
873 orders at the prehearing which are effective until the matter is resolved.

874 304.13-3. Citation Hearing. The Trial Court shall schedule a hearing as expeditiously as possible,
875 provided that it shall be scheduled within ninety (90) days of the date of the prehearing, for all
876 persons entering a plea contesting the fact that they committed the act for which a citation was
877 issued. ~~In addition to scheduling requested hearings, the Judiciary may also make conditional~~
878 ~~orders at the prehearing which are effective until the matter is resolved.~~

879 (a) ~~Community Service.~~ ~~Community service may be substituted for monetary fines at the~~
880 ~~Judiciary's discretion, provided that, if so substituted, the Judiciary shall use the rate of one~~
881 ~~(1) hour per ten dollars (\$10) of the fine.~~

882 (b) ~~Allocation of Citation Revenue.~~ ~~All citations shall be paid to the Environmental~~
883 ~~Resource Board or its designee, the proceeds of which shall be contributed to General~~
884 ~~Fund.~~

885 (e) ~~Appealing the Decision of the Judiciary~~ 304.13-4. Appeals of the Trial Court. Court's
886 Determinations. Any person wishing to contest the ~~determination of the Judiciary Trial Court~~
887 may appeal to the Judiciary Nation's Court of Appeals in accordance with the Rules of Appellate
888 Procedure.

889 (d) ~~Pursuing Payment of a Citation.~~ ~~The Environmental Resource Board may pursue~~

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890 304.13-5. Fines. All fines shall be paid to the Trial Court. Cash shall not be accepted for payment
891 of fines. Money received from parties who have failed fines shall be contributed to the General
892 Fund.

893 (a) Fines shall be paid within ninety (90) days after the order is issued or upheld on final
894 appeal, whichever is later. If the fine is not paid by this deadline, the Trial Court may seek
895 to makecollect the requiredpaymentsmoney owed through the Nation's garnishment
896 process contained in the Garnishment law and/or by attaching the judgment to Tribal
897 member's per capita attachment process.

898 (1) The ninety (90) day deadline for payment pursuant to the Per Capita law of
899 fines may be extended if an alternative payment plan is approved by the Trial Court.

900 (b) Community service may be substituted for part or all of any fine at the minimum wage
901 rate of the Nation for each hour of community service.

902
903 End.

904
905 Adopted - BC-303-13-96-B
906 Amended - BC-06-22-11-G
907 Amended - BC-06-28-17-B
908 Amended - BC- - - -
909

1 **Title 3. Health and Public Safety - Chapter 304**
2 **DOMESTIC ANIMALS**
3 **Kátse?na Olihwa?ke**
4 *matters concerning the pet animals*
5

304.1. Purpose and Policy	304.8. Livestock
304.2. Adoption, Amendment, Conflicts	304.9. Hens
304.3. Definitions	304.10. Prohibited Animals
304.4. Jurisdiction	304.11. Dangerous Animals
304.5. Authority	304.12. Owner Liability
304.6. Treatment of Animals	304.13. Enforcement of Violations
304.7. Dogs and Cats	

1
2 **304.1. Purpose and Policy**

3 304.1-1. *Purpose.* The purpose of this law is to:

- 4 (a) protect the health, safety, and welfare of the community by requiring certain basic
5 measures to prevent the spread of disease carried by domestic animals;
6 (b) set minimum standards for the treatment of animals;
7 (c) prohibit certain species of animals from being brought onto the Reservation;
8 (d) regulate the keeping of livestock on lots zoned residential within the Reservation; and
9 (e) establish consequences for damages caused by domestic animals.

10 304.1-2. *Policy.* It is the policy of the Nation to protect the health, safety, and welfare of the
11 community by:

- 12 (a) requiring certain basic measures to prevent the spread of disease carried by domestic
13 animals;
14 (b) establishing requirements for licensing domestic animals, and
15 (c) regulating the types of animals which may be kept as domestic animals.
16

17 **304.2. Adoption, Amendment, Repeal**

18 304.2-1. This law was adopted by Oneida Business Committee by resolution BC-03-13-96-B
19 and amended by resolutions BC-06-22-11-G, BC-06-28-17-B, and BC-__-__-__-__.

20 304.2-2. This law may be amended or repealed by the Oneida Business Committee and/or
21 General Tribal Council pursuant to the procedures set out in the Legislative Procedures Act.

22 304.2-3. Should a provision of this law or the application thereof to any person or
23 circumstances be held as invalid, such invalidity shall not affect other provisions of this law
24 which are considered to have legal force without the invalid portions.

25 304.2-4. In the event of a conflict between a provision of this law and a provision of another
26 law, the provisions of this law shall control.

27 304.2-5. This law is adopted under the authority of the Constitution of the Oneida Nation.
28

29 **304.3. Definitions**

30 304.3-1. This section shall govern the definitions of words and phrases used within this law. All
31 words not defined herein shall be used in their ordinary and everyday sense.

32 (a) "District Quarantine" means a rabid or otherwise diseased domestic animal is
33 suspected or known to be within a discernible area and all such animals reasonably
34 suspected of being infected are subject to enforced isolation for a period of time to limit
35 or prevent the spread of disease or infection and during which time said animals are
36 tested for diseases, including rabies.

37 (b) "Fine" means a monetary punishment issued to a person violating this law.

38 (c) "Hen" means a female chicken (*Gallus gallus domesticus*).

39 (d) "Livestock" means any equine (i.e. horse, donkey, etc.), bovine (i.e. cow, steer,

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40 heifer, etc.), sheep, goat, pig.

41 (e) "Nation" means the Oneida Nation.

42 (f) "Owner" means any person who owns, harbors, keeps, controls or acts as a caretaker
43 for an animal. Absent evidence of alternative adult ownership, this law presumes that
44 domestic animals are owned by the adult homeowner or renter.

45 (g) "Penalty" means a punishment, other than a fine, imposed on a person violating this
46 law and/or the rules created pursuant to this law and may include, but is not limited to,
47 the confiscation of wildlife with return of the same at the discretion of the Trial Court and
48 restitution.

49 (h) "Reservation" means all the property within the exterior boundaries of the
50 Reservation of the Oneida Nation, as created pursuant to the 1838 Treaty with the Oneida
51 7 Stat. 566, and any lands added thereto pursuant to federal law.

52 (i) "Residential household" means a residential lot, except for those residential lots
53 designed as multi-family lots, in which each family unit within the lot constitutes a
54 separate household.

55 (j) "Tethering" means the act of fastening an animal to a stationary object while
56 unattended so that the animal can only range within a set radius. Tethering does not
57 include the use of a leash to walk an animal.

58 (k) "Trial Court" means the Trial Court of the Oneida Nation Judiciary, which is the
59 judicial system that was established by Oneida General Tribal Council resolution GTC-
60 01-07-13-B to administer the judicial authorities and responsibilities of the Nation.

61 (l) "Quarantine" means the act of keeping an animal in enforced isolation for a period of
62 time to limit or prevent the spread of disease or infection and during which time said
63 animal is tested for diseases, including rabies.

64 65 **304.4. Jurisdiction**

66 304.4-1. *Personal Jurisdiction.* This law applies to:

67 (a) All members of the Nation; the Nation's entities and corporations; and members of
68 other federally-recognized tribes.

69 (b) Individuals and businesses leasing, occupying or otherwise using fee land owned by
70 the Nation or by individual members of the Nation; and/or lands held in trust on behalf of
71 the Nation or individual members of the Nation.

72 (c) Individuals who have consented to the jurisdiction of the Nation or as otherwise
73 consistent with federal law. An individual shall be considered to have consented to the
74 jurisdiction of the Nation:

75 (1) By entering into a consensual relationship with the Nation, or with the
76 Nation's entities, corporations, or members of the Nation, including but not
77 limited to contracts or other agreements; or

78 (2) By other facts which manifest an intent to consent to the authority of the
79 Nation, including failure to raise an objection to the exercise of personal
80 jurisdiction in a timely manner.

81 304.4-2. *Territorial Jurisdiction.* This law extends within the Reservation to all land owned by
82 the Nation and individual trust and/or fee land of a member of the Nation.

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83
84 **304.5. Authority**
85 304.5-1. *General.* This law governs the keeping of all domestic animals which are commonly
86 owned as household pets. Domestic animals include, but are not limited to dogs, cats, ferrets,
87 rabbits, guinea pigs, turtles, birds, pigeons, hamsters, non-venomous reptiles, amphibians, and
88 arachnids.

89 (a) Domestic animals do not include prohibited exotic animals as identified in section
90 304.10-2.

91 304.5-2. *Authority of the Oneida Police Department and Conservation Department.* Oneida
92 Police Officers and Conservation Wardens shall have the authority to:

93 (a) investigate complaints involving domestic animals;

94 (b) enforce the provisions of this law through appropriate means, including but not
95 limited to:

96 (1) seizing any animal that is taken, employed, used, or possessed in violation of
97 this law and/or mistreated, rabid or otherwise in danger or dangerous;

98 (2) issuing citations consistent with the fine and penalty schedule developed in
99 accordance with this law; and

100 (3) using force, up to and including lethal force, to stop an immediate threat to
101 public safety caused by an animal.

102 (A) Where lethal force is used, such execution shall be conducted in as
103 humane manner as possible and, to the extent feasible, avoids damage to
104 the animal's head for the purpose of rabies testing.

105 304.5-3. *Fine, Penalty, and Licensing Fee Schedule.* The Environmental, Health, Safety, and
106 Land Division and the Environmental Resource Board are hereby delegated joint authority to
107 develop a fine, penalty, and licensing fee schedule. The fine, penalty, and licensing fee schedule
108 shall be adopted by the Oneida Business Committee by resolution.

109 304.5-4. *Disease Investigation and Quarantine.* The Environmental, Health, Safety, and Land
110 Division, the Emergency Management Coordinator, and the Comprehensive Health Division are
111 hereby delegated joint authority to establish standard operating procedures related to disease
112 investigations and quarantines.

113 304.5-5. *Issuance of Licenses.* The Environmental, Health, Safety, and Land Division shall
114 make all decisions related to the issuance of a license and/or permit in accordance with this law,
115 unless otherwise noted.

116
117 **304.6. Treatment of Animals**

118 304.6-1. *Food and Water.* An owner shall provide an animal with a daily supply of food and
119 water sufficient to maintain the animal in good health.

120 304.6-2. *Shelter.* An owner shall meet the minimum standards for indoor and outdoor shelter
121 for an animal. All shelter shall be structurally sound and maintained in good repair to protect the
122 animal from injury and to contain the animal.

123 (a) *Minimum indoor standards of shelter.* Minimum standards for indoor shelter include
124 the following:

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125 (1) *Temperature.* The ambient temperature of the indoor shelter shall be
126 compatible with the health of the animal.

127 (2) *Ventilation.* Indoor shelter facilities shall be adequately ventilated by natural
128 or mechanical means to provide for the health of the animal at all times.

129 (b) *Minimum outdoor standards of shelter.* Minimum standards for outdoor shelter
130 include the following:

131 (1) *Shelter from Sunlight.* When sunlight is likely to cause heat exhaustion of an
132 animal tied or caged outside, sufficient shade by natural or artificial means shall
133 be provided to protect the animal from direct sunlight. Caged does not include
134 farm fencing used to confine livestock.

135 (2) *Climatic Conditions.* Natural or artificial shelter appropriate to the local
136 climatic conditions for the animal concerned shall be provided as necessary for
137 the health of the animal.

138 (3) *Adverse Weather.* If an animal is tied or confined unattended outdoors under
139 weather conditions which adversely affect the health of the animal, a weather
140 appropriate shelter of suitable size to accommodate the animal shall be provided.

141 (c) *Space Standards.* Enclosures shall be constructed and maintained so as to provide
142 sufficient space to allow each animal adequate freedom of movement. Inadequate space
143 may be indicated by evidence of debility, stress, or abnormal behavior patterns.

144 (1) *Dog Kennels.* Dog kennels shall meet the following space requirements
145 where, if there are multiple dogs in the same kennel, the base kennel space
146 requirement is based on the size of the largest dog and the additional kennel space
147 requirements are based on the size of each additional dog kept in the kennel:

148 (A) *Dog Size Between One and Thirty-Five Pounds.* A dog that weighs
149 between one (1) and thirty-five (35) pounds shall have a required base
150 kennel space of sixty (60) square feet. Required additional kennel space
151 per additional dog of this size is twelve (12) square feet.

152 (B) *Dog Size Between Thirty-Six and Seventy-Five Pounds.* A dog that
153 weighs between thirty-six (36) and seventy-five (75) pounds shall have a
154 required base kennel space of eighty (80) square feet. Required additional
155 kennel space per additional dog of this size is eighteen (18) square feet.

156 (C) *Dog Size Seventy-Six Pounds or Greater.* A dog that weighs seventy-
157 six (76) pounds or more shall have a required base kennel space of one
158 hundred (100) square feet. Required additional kennel space per additional
159 dog of this size is twenty-four (24) square feet.

160 (d) *Sanitation Standards.* An owner shall meet the minimum standards of sanitation for
161 both indoor and outdoor shelter. Minimum sanitation standards require waste matter from
162 the animal to be removed within twenty-four (24) hours of its deposit.

163 (e) *Shelter Exception for Livestock.* In the case of livestock kept on farms on land zoned
164 agricultural, nothing in this section shall be construed as imposing shelter requirements or
165 standards more stringent than normally accepted husbandry practices.

166 304.6-3. *Tethering.* If a kennel or enclosed yard is not available, an owner may tether an
167 unsupervised animal as long as the owner meets the following conditions:

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168 (a) the tether is connected to the animal with a buckle type collar or body harness made
169 of nylon or leather not less than one inch (1”) in width and at least two inches (2”) greater
170 in diameter than the animal’s neck or torso;

171 (1) The use of a choke collar, prong collar head harness, or other similar type of
172 head harness or collar shall be prohibited for the use of tethering.

173 (b) the tether is at least twelve feet (12’) long and allows the animal to move in all
174 directions unimpeded;

175 (c) the total weight of the tether does not exceed ten percent (10%) of the animal’s body
176 weight;

177 (d) the animal is tethered so as to prevent injury, strangulation, or entanglement, and
178 allows the animal access to water and shelter;

179 (e) the tethered animal is not sick, injured, or nursing;

180 (f) the animal is not tethered on any vacant property or land or with an unoccupied
181 dwelling; and

182 (g) the animal is not tethered in a manner that allows the animal to cross onto public
183 space or property of others.

184 304.6-4. *Mistreatment of Animals.* No person may treat any animal in a manner which causes
185 harm, injury or death. This section does not apply to:

186 (a) normal and accepted veterinary and/or care practices; or

187 (b) teaching, research or experimentation conducted at a facility regulated under federal
188 or applicable state law.

189 304.6-5. *Mandatory Reporting.* An employee of the Nation shall report any animal
190 mistreatment witnessed during the regular course of his or her employment with the Nation to
191 the Oneida Police Department and any other appropriate entity.

192 193 **304.7. Dogs and Cats**

194 304.7-1. *License Required.* An owner shall be required to obtain a license for any dog or cat
195 five (5) months of age or older on an annual basis.

196 (a) *License Period.* The license year shall commence on January 1st and end on
197 December 31st of every year.

198 (b) *License Eligibility.* To be eligible for a license, the owner shall provide:

199 (1) the licensing fee; and

200 (2) proof of current rabies vaccination.

201 (c) *Placement of License Tag.* Upon the receipt of a license the owner shall be provided
202 a license tag for the dog or cat. The owner shall securely attach the license tag to the
203 animal’s collar and shall require the animal wear the collar at all times.

204 (1) *Exception.* A dog or cat shall not be required to wear the collar if the dog or
205 cat is:

206 (A) hunting or actively involved in herding or controlling livestock if the
207 animal is under control of its owner;

208 (B) within the owner’s residence and/or securely confined in a fenced
209 area; and/or

210 (C) being shown during a competition.

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211 304.7-2. *Rabies Vaccinations Required.* An owner shall be required to obtain a rabies
212 vaccination for any dog or cat five (5) months of age or older.

213 304.7-3. *Limit on the Number of Dogs and Cats.* An individual may keep no more than two (2)
214 dogs or three (3) cats; and a total of no more than four (4) dogs and cats combined; in a single
215 residential household.

216 (a) *Exception.* The limit on the number of dogs and cats a person may keep or possess
217 does not apply to a person who:

218 (1) is eligible for any grandfather provisions included in this law's adopting
219 resolution;

220 (2) keeps or possesses a litter of pups or kittens, or a portion of a litter, for a
221 period not exceeding five (5) months from birth;

222 (3) resides on property zoned agricultural; and/or

223 (4) obtains a permit for the additional dog or cat.

224 (b) *Permit for Additional Dogs or Cats.* A person may keep more than two (2) dogs or
225 three cats (3) in a single residential household if the owner obtains a permit from the
226 Environmental, Health, Safety, and Land Division for the additional animal. The
227 application for the permit must be signed by the owner and contain the signature of the
228 landowner of the residential household if the landowner is not the applicant.

229 (1) By seeking a permit for an additional dog or cat the owner agrees that he or
230 she shall reduce the number of licensed dogs or cats on the premises if there are
231 two (2) or more nuisance complaints against the residential household within one
232 (1) calendar year caused by, or related to, the number of dogs or cats housed on
233 the premises.

234 (2) If two (2) or more nuisance complaints are received against the residential
235 household due to the number of dogs or cats housed on the premises, the owner
236 shall reduce the number of animals within thirty (30) days.

237 304.7-4. *Running at Large.* An owner shall not allow a dog or cat to run at large by being any
238 place except upon the premises of the owner, unless the dog or cat is crated, penned, or on a
239 leash under the control of a person physically able to control the animal.

240 (a) A stray dog or cat running at large may be referred to the Oneida Police Department
241 or Oneida Conservation Department.

242 (b) When an Oneida Police Officer or Oneida Conservation Warden finds a dog or cat
243 running at large, the officer and/or warden shall, if possible, pick up and impound such
244 animal.

245 (c) Whenever any impounded animal bears an identification mark, such as a collar with
246 identification tags or license tag, the owner shall be notified as soon as reasonably
247 possible.

248 304.7-5. *Nuisance.* An Oneida Police Officer or Oneida Conservation Warden may pick up and
249 impound a dog or cat that has been found to be a nuisance. A dog or cat shall be found to be a
250 nuisance if the actions of the dog or cat:

251 (a) resulted in two (2) or more verified disturbances due to excessive barking and/or
252 other noise by the animal, or the animal running at large; and/or

253 (b) resulted in one (1) or more verified disturbance due to threatening behavior by the

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254 animal running at large.

255 304.7-6. *Investigations for Suspected Animal Bites.* The owner shall notify the Oneida Police
256 Department in the event the owner's cat or dog bites a human or another domestic animal.

257 (a) The responding Oneida Police Officer or Oneida Conservation Warden shall:

258 (1) Ascertain whether the domestic animal is properly licensed and has current
259 vaccinations.

260 (2) Ensure all information provided is correct.

261 (3) Contact the Environmental, Health, Safety and Land Division to provide
262 notification of the domestic animal bite.

263 (4) If the cat or dog has current rabies vaccinations, order the owner to:

264 (A) Quarantine the animal for ten (10) days; and

265 (B) Present the animal for examination by a veterinarian within twenty-
266 four (24) hours of the bite, on the last day of quarantine and on one (1) day
267 in between the first twenty-four (24) hours and the tenth (10th) day.

268 (5) If the cat or dog does not have current rabies vaccination, order the owner to:

269 (A) Quarantine the animal for ten (10) days or deliver the animal to an
270 isolation facility at the owner's expense. If a home quarantine is ordered,
271 the owner shall present the domestic animal for examination by a
272 veterinarian within twenty-four (24) hours of the bite, on the last day of
273 quarantine and on one (1) day in between the first twenty-four (24) hours
274 and the tenth (10th) day; or

275 (B) Euthanize the animal and send the specimen for analysis at the
276 owner's expense, if the animal has exhibited any signs of rabies.

277 (b) Upon expiration of a quarantine period, a veterinarian may extend the quarantine
278 period. Upon expiration of all quarantine periods, if the veterinarian certifies that the
279 animal has not exhibited any signs of rabies, the animal may be released from quarantine.

280 (c) If the veterinarian certifies that the animal has exhibited any signs of rabies the
281 following shall occur:

282 (1) If the animal has current rabies vaccinations, the Oneida Police Officer or
283 Oneida Conservation Warden may order the animal to be euthanized and send the
284 specimen for analysis, to be paid for by the Nation.

285 (2) If the animal does not have current rabies vaccinations, the Oneida Police
286 Officer or Oneida Conservation Warden may order the animal to be euthanized
287 and send the specimen for analysis at the owner's expense.

288 304.7-7. *District Quarantine.* A district quarantine may be initiated by staff designated by the
289 Environmental, Health, Safety, and Land Division, an Oneida Police Officer, an Oneida
290 Conservation Warden, and/or a Public Health Officer.

291 (a) If an area is subject to a district quarantine for rabies, all dogs and cats within the
292 district shall be kept securely confined, tied, leashed or muzzled. Any dog or cat not
293 confined, tied, leashed or muzzled is a public nuisance and may be impounded. All
294 Oneida Police Officers and Oneida Conservation Wardens shall cooperate in the
295 enforcement of the quarantine.

296 (b) An animal that is immunized against rabies as evidenced by a valid certificate of

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297 rabies vaccination or other evidence is exempt from the district quarantine provisions of
298 this section.

299

300 **304.8. Livestock**

301 304.8-1. An owner shall obtain a conditional use permit from the Oneida Land Commission in
302 order to keep livestock on land zoned residential.

303 304.8-2. *Limitations on Livestock.* Livestock kept on land zoned residential are subject to the
304 following limitations:

305 (a) One (1) large animal per one (1) acre. Examples of large animals include, but are not
306 limited to, horses, cows, and pigs.

307 (b) One (1) small animal per one-half (½) acre. Examples of small animals include, but
308 are not limited to, goats, and sheep.

309 (c) One (1) goat or sheep per recorded lot under one-half (½) acre when setback
310 requirements can be met.

311 304.8-3. *Liability for Damage Caused by Livestock at Large.* Any person whose livestock
312 escapes from its normal confined area and becomes at large is responsible for any and all damage
313 to persons and property caused by such livestock while it is away from its normal confined area.

314

315 **304.9. Hens**

316 304.9-1. *Hen Permit.* An owner shall obtain a conditional use permit from the Oneida Land
317 Commission Division in order to keep hens on land zoned residential.

318 304.9-2. *Prohibition of Roosters.* An owner shall not keep a rooster on land zoned residential.

319 304.9-3. *Limit on the Number of Hens Allowed.* The number of hens an owner may keep is
320 dependent on the size of the residential lot.

321 (a) An owner may to keep up to four (4) hens on a residential lot that is two (2) acres in
322 size or smaller.

323 (b) An owner may keep up to eight (8) hens on a residential lot two (2) acres in size or
324 larger.

325 304.9-4. *Standards for Keeping Hens.* An owner shall keep hens in the following manner:

326 (a) No person shall keep a hen over eight (8) weeks of age in a principal structure.

327 (b) Hens shall be kept within a structure such as a coop or fenced area used exclusively to
328 keep hens and shall provide at least four (4) square feet of space per hen.

329 (c) No accessory structure used to keep hens shall be located within twenty-five feet
330 (25') of any principal structure which is not owned by the person permitted to keep the
331 hens.

332 (d) No accessory structure used to keep hens shall be located in a front or side yard.

333 (e) All hens shall be kept and handled in a sanitary manner to prevent the spread of
334 communicable diseases amongst birds or to humans.

335 304.9-5. *Prohibition of Nuisance Hens.* No owner may keep hens that cause any other nuisance
336 associated with unhealthy conditions, create a public health threat, or otherwise interfere with the
337 normal use of property or enjoyment of life by humans or animals.

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339 **304.10. Prohibited Animals**

340 304.10-1. No person shall bring into, keep, harbor, maintain, offer for sale or barter, act as a
341 custodian, have custody or control of, or release to the wild on the Reservation a prohibited
342 animal.

343 304.10-2. *Prohibited Animals*. Prohibited animals include the following orders and families,
344 whether bred in the wild or in captivity, and any or all hybrids. The animals listed are intended to
345 act as examples and are not to be construed as an exhaustive list or limit the generality of each
346 group of animals, unless otherwise specified:

347 (a) *Class Mammalia*.

348 (1) Order Chiroptera. This includes all bat species.

349 (2) Order Artiodactyla. This includes hippopotamuses, giraffes, camels, and deer,
350 but does not include domestic cattle, swine, sheep, goats, alpaca, and llama as
351 exotic animals.

352 (3) Order Carnivora.

353 (A) Family Felidae. This includes lions, tigers, cougars, leopards, ocelots,
354 and servals, but does not include domestic cats as exotic animals.

355 (B) Family Canidae. This includes wolves, wolf hybrids, coyotes, coyote
356 hybrids, foxes, and jackals, but does not include domestic dogs as exotic
357 animals.

358 (C) Family Ursidae. This includes all bears.

359 (D) Family Mustelidae. This includes weasels, skunks, martins, and
360 minks, but does not include ferrets as exotic animals.

361 (E) Family Procyonidae. This includes raccoons, and coatis.

362 (F) Family Hyaenidae. This includes hyenas.

363 (G) Family Viverridae. This includes civets, genets, and mongooses.

364 (4) Order Edentata. This includes anteaters, armadillos, and sloths.

365 (5) Order Marsupialia. This includes opossums, kangaroos, wallabies, and sugar
366 gliders.

367 (6) Order Perissodactyla. This includes rhinoceroses, and tapirs, but does not
368 include horses, goats, and mules as exotic animals.

369 (7) Order Primates. This includes lemurs, monkeys, chimpanzees, and gorillas.

370 (8) Order Proboscidea. This includes elephants.

371 (9) Order Rodentia. This includes squirrels, beavers, porcupines, and prairie
372 dogs, but does not include guinea pigs, rats, mice, gerbils, and hamsters as exotic
373 animals.

374 (b) *Class Reptilia*.

375 (1) Order Squamata.

376 (A) Family Helodermatidae. This includes Gila monsters and Mexican
377 beaded lizards.

378 (B) Family Varanidae. This includes any monitor lizard which will
379 normally grow over two feet in length.

380 (C) Family Iguanidae. This includes green iguanas and rock iguanas, but
381 does not include all other types of iguanas which are not green or rock

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- 382 iguanas.
- 383 (D) Family Boidae. This includes all species whose adult length may
384 exceed eight (8) feet.
- 385 (E) Family Colubridae. This includes boomslangs and African twig
386 snakes.
- 387 (F) Family Elapidae. This includes coral snakes, cobras, and mambas.
- 388 (G) Family Nactricidae. This includes keelback snakes, but does not
389 include all other snakes not keelback.
- 390 (H) Family Viperidae. This includes copperheads, cottonmouths, and
391 rattlesnakes.
- 392 (2) Order Crocodylia. This includes crocodiles, alligators, caimans, and gavials.
- 393 (c) *Class Aves*.
- 394 (1) Order Falconiformes. This includes eagles, hawks, and vultures.
- 395 (2) Order Rheiformes. This includes rheas.
- 396 (3) Order Struthioniformes. This includes ostriches.
- 397 (4) Order Casuariiformes. This includes cassowaries and emus.
- 398 (5) Order Strigiformes. This includes owls.
- 399 (d) *Class Arachnida*.
- 400 (1) Order Scorpiones,
- 401 (A) Family Buthidae. This includes scorpions.
- 402 (2) Order Araneae,
- 403 (A) Family Therididae. This includes the Argentina red widow spider,
404 brown widow spider, red-black widow spider, red widow spider, southern
405 black widow spider, and Western widow spider.
- 406 (B) Family Laxoscelidae, This includes the brown recluse spider.
- 407 (e) *Class Chilopoda*.
- 408 (1) Order Scolopendromorpha,
- 409 (A) Family Scolopendridae. This includes centipedes.
- 410 (f) Any Federal or State endangered or threatened species.
- 411 304.10-3. *Prohibited Animals Exception*. The prohibition of certain animals shall not apply to:
- 412 (a) Individuals who are eligible for any grandfather provisions included in this law's
413 adopting resolution.
- 414 (b) A zoological park and/or sanctuary, an educational or medical institution, and/or a
415 specially trained entertainment organization who receives a permit from the
416 Environmental, Health, Safety, and Land Division to own, harbor or possess the
417 prohibited animal.
- 418 304.10-4. *Prohibited Animal Permit*. The Environmental, Health, Safety, and Land Division
419 may issue a prohibited animal permit if:
- 420 (a) the animal and animal quarters are kept in a clean and sanitary condition and
421 maintained to eliminate objectionable odors; and
- 422 (b) the animal is maintained in quarters so constructed as to prevent its escape.
- 423 304.10-5. *Release of Prohibited Animals*. The Environmental, Health, Safety, and Land
424 Division, may approve a wildlife refuge and/or sanctuary to release prohibited animals within the

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425 Reservation without applying for and receiving a prohibited animal permit.

426 304.10-6. *Seizure of Prohibited Animals.* An unpermitted prohibited animal may be seized by
427 the Oneida Police Department and/or the Oneida Conservation Department.

428 (a) A prohibited animal that is seized shall be held by the Oneida Police Department, the
429 Oneida Conservation Department, or its designee until it can be determined if the animal
430 is an endangered or threatened species.

431 (b) At any time after such identification, the Oneida Police Department and/or Oneida
432 Conservation Department may seek an order from the Trial Court as to the care, custody
433 and control of the animal.

434 (c) If the Trial Court finds the animal has been taken, employed, used or possessed in
435 violation of this section, the owner shall be responsible for reimbursing the Oneida Police
436 Department and/or the Oneida Conservation Department for the cost of holding the
437 animal and any costs incurred in identifying the animal.

438 304.10-7. *Notice of Release or Escape.* The owner of a prohibited animal that has been released
439 or escapes shall immediately notify the Oneida Police Department and/or the Oneida
440 Conservation Department and shall be liable for any cost of recapture of the animal.

441 304.10-8. *Forfeiture of the Prohibited Animal.* An owner found in violation of this section shall
442 forfeit or surrender the prohibited animal to the Oneida Police Department, Oneida Conservation
443 Department, or designee. Upon such forfeiture or surrender, the Trial Court may direct
444 destruction or transfer of the animal to a qualified zoological, educational, or scientific institution
445 or qualified private propagator for safekeeping, with costs assessed against the owner.

446

447 **304.11. Dangerous Animals**

448 304.11-1. *Dangerous Animals.* No person shall own, keep, possess, return to or harbor a
449 dangerous animal. An animal shall be presumed to be dangerous if the animal:

450 (a) approaches or chases a human being or domestic animal in a menacing fashion or
451 apparent attitude of attack;

452 (b) bites, inflicts injury, attacks, or otherwise endangers the safety of a human being or
453 domestic animal;

454 (c) is suspected to be owned, trained or harbored for the purpose of dog fighting; and/or

455 (d) has been declared to be a dangerous animal and/or ordered to be destroyed in any
456 other jurisdiction.

457 304.11-2. *Dangerous Animal Determination.* An Oneida Police Officer or Oneida Conservation
458 Warden may determine an animal to be dangerous whenever, upon investigation, the officer
459 finds that the animal meets the definition of dangerous animal provided in section 304.11-1.

460 (a) Upon making a determination that an animal is dangerous, the Oneida Police Officer
461 or Oneida Conservation Warden shall issue a written order with an accompanying
462 citation declaring the animal to be dangerous.

463 (b) The citation and order shall be personally delivered to the apparent owner or
464 custodian of the dangerous animal.

465 (c) Upon receipt of the written order and accompanying citation the owner shall remove
466 the dangerous animal from the Reservation within three (3) business days.

467 304.11-3. *Contesting a Dangerous Animal Determination.* If the owner wishes to contest the

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468 dangerous animal determination, he or she shall file with the Trial Court a written objection to
469 the order within three (3) business days of receipt of the order.

470 (a) The written objection shall include specific reasons for objecting to or contesting the
471 order. An owner may argue an animal should not be deemed dangerous due to the animal
472 biting, attacking or menacing any person and/or domestic animal because the animal was
473 acting to:

474 (1) defend its owner or another person from an attack by a person or animal;

475 (2) protect its young or another animal;

476 (3) defend itself against any person or animal which has tormented, assaulted or
477 abused it; and/or

478 (4) defend its owner's property against trespassers.

479 (b) Pending the outcome of the hearing, the animal shall be securely confined in a
480 humane manner either on the premises of the owner or caretaker, or with a licensed
481 veterinarian. If confined on the premises of the owner or caretaker, the following
482 requirements shall apply:

483 (1) *Leash and Muzzle.* No owner shall permit a dangerous animal to go outside its
484 kennel or pen unless the animal is securely restrained with a leash no longer than
485 four feet (4') in length by a person who is at least sixteen (16) years of age who is
486 in physical control of the leash, competent to govern the animal and capable of
487 physically controlling and restraining the animal. The owner shall not leash an
488 animal to inanimate objects such as a tree, post, or building. When the animal is
489 on a leash outside the animal's kennel, the owner shall muzzle the animal in a
490 humane way by a commercially available muzzling device sufficient to prevent
491 the animal from biting a person or other animal.

492 (2) *Confinement.* Except when leashed and muzzled the owner shall ensure the
493 dangerous animal is securely confined indoors or in a securely enclosed and
494 locked pen or kennel that is located on the premises of the owner and constructed
495 in a manner that does not allow the animal to exit the pen or kennel on its own
496 volition. The owner shall not permit an animal to be kept on a porch, patio, or in
497 any part of a house or structure on the premises of the owner that would allow the
498 animal to exit the building on its own volition. The owner shall not permit the
499 animal to be kept in a house or structure when the windows are open or when
500 screen windows or screen doors are the only obstacle preventing the animal from
501 exiting the structure.

502 (3) *Signs.* The owner of a dangerous animal shall display, in prominent places on
503 his or her premises near all entrances to the premises, signs in letters of not less
504 than two inches (2") high warning that there is a dangerous animal on the
505 property. A similar sign shall be posted on the kennel or pen of the animal. In
506 addition, the owner shall conspicuously display a sign with a symbol warning
507 children of the presence of a dangerous animal.

508 (4) *Notification.* The owner of a dangerous animal shall notify the Oneida Police
509 Department and/or the Oneida Conservation Department immediately if the
510 animal is at large, is unconfined, has attacked another animal, or has attacked a

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511 person.

512 (c) If an owner or caretaker fails to follow the requirements for harboring a dangerous
513 animal pending a hearing, the animal may be impounded by the Oneida Police Officer or
514 Oneida Conservation Warden issuing the dangerous animal determination.

515 304.11-4. *Dangerous Animal Determination Hearing.* A hearing on the dangerous animal
516 determination shall be held within fourteen (14) days of submission of the written objection with
517 the Trial Court. At the hearing, the Trial Court shall determine whether the determination that the
518 animal is dangerous should be substantiated.

519 (a) If the Trial Court concludes that the determination that the animal is dangerous is
520 substantiated, then the Trial Court shall issue an order that mandates the animal be
521 removed from the Reservation within forty-eight (48) hours of the determination.

522 (1) The order shall contain the requirement that the owner notify the Oneida
523 Police Department within twenty-four (24) hours if the dangerous animal has
524 been sold or been given away. If the dangerous animal has been sold or given
525 away, the owner shall also provide the name, address and telephone number of the
526 new owner of the dangerous animal. If the dangerous animal is sold or given
527 away to a person residing outside the Reservation or to a person or entity that falls
528 outside of the jurisdiction of this law, the owner shall present evidence to the
529 Oneida Police Department showing that he or she has notified the police
530 department or other law enforcement agency of the animal's new residence,
531 including the name, address and telephone number of the new owner. The Oneida
532 Police Department shall forward all such notifications to the Environmental,
533 Health, Safety and Land Division within a reasonable amount of time.

534 (b) The Trial Court may order a dangerous animal to be destroyed. If such an order is
535 issued, the Trial Court shall require the owner submit proof of destruction within five (5)
536 business days from a licensed veterinarian. If the owner does not satisfy these
537 requirements, an Oneida Police Officer and/or an Oneida Conservation Warden shall
538 seize the animal and enforce compliance at the cost of the owner.

539 (c) The Trial Court may mandate attendance at an additional Trial Court hearing if
540 restitution is appropriate.

541 304.11-5. *Appeal of the Trial Court's Decision.* An appeal of the Trial Court's decision on the
542 dangerous animal determination may be appealed to the Nation's Court of Appeals.

543 (a) An appeal shall be submitted to the Court of Appeals within five (5) business days
544 from the date of the Trial Court's decision.

545 (b) Upon an appeal to the Court of Appeals, the order to remove the animal from the
546 Reservation or any order to destroy an animal is stayed pending the outcome of the
547 appeal.

548 604.11-6. *Dangerous Animal Exception.* The Trial Court may provide an exception to the
549 dangerous animal provisions of this law for a law enforcement or military animal upon
550 presentation by the animal's owner or handler of a satisfactory arrangement for safe keeping of
551 the animal.

552

553 **304.12. Owner Liability**

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554 304.12-1. An owner shall be liable for damages caused by his or her domestic animal.
555 (a) *First Offense.* The owner is liable for the full amount of damages caused by the
556 domestic animal.
557 (b) *Subsequent Offenses.* The owner shall be liable for two (2) times the full amount of
558 damages caused by the domestic animal if the owner knew or should have known that the
559 domestic animal previously caused damages.

560

561 **304.13. Enforcement of Violations**

562 304.13-1. *Citations.* Citations for the violation of this law and/or orders issued pursuant to this
563 law may include fines, penalties and conditional orders in accordance with the fine, penalty, and
564 licensing fee schedule.

565 304.13-2. *Citation Pre-Hearing.* All citations shall include a pre-hearing date with the Trial
566 Court which shall be set for the next scheduled monthly prehearing date that is at least thirty (30)
567 days after the citation was issued, excluding dangerous animal citations which shall follow the
568 process contained in section 304.11.

569 (a) Persons wishing to contest a citation shall appear at the prehearing, at which time the
570 Trial Court shall accept pleas which either contest or admit committing the act for which
571 the citation was issued.

572 (b) In addition to scheduling requested hearings, the Trial Court may also make
573 conditional orders at the prehearing which are effective until the matter is resolved.

574 304.13-3. *Citation Hearing.* The Trial Court shall schedule a hearing as expeditiously as
575 possible, provided that it shall be scheduled within ninety (90) days of the date of the prehearing,
576 for all persons entering a plea contesting the fact that they committed the act for which a citation
577 was issued.

578 304.13-4. *Appeals of the Trial Court's Determinations.* Any person wishing to contest the
579 determination of the Trial Court may appeal to the Nation's Court of Appeals in accordance with
580 the Rules of Appellate Procedure.

581 304.13-5. *Fines.* All fines shall be paid to the Trial Court. Cash shall not be accepted for
582 payment of fines. Money received from fines shall be contributed to the General Fund.

583 (a) Fines shall be paid within ninety (90) days after the order is issued or upheld on final
584 appeal, whichever is later. If the fine is not paid by this deadline, the Trial Court may
585 seek to collect the money owed through the Nation's garnishment and/or per capita
586 attachment process.

587 (1) The ninety (90) day deadline for payment of fines may be extended if an
588 alternative payment plan is approved by the Trial Court.

589 (b) Community service may be substituted for part or all of any fine at the minimum
590 wage rate of the Nation for each hour of community service.

591

592 *End.*

593

594 Adopted - BC-03-13-96-B

595 Amended - BC-06-22-11-G

596 Amended - BC-06-28-17-B

597 Amended - BC-__-__-__-__

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598

Oneida Nation

Post Office Box 365

Phone: (920)869-2214



Oneida, WI 54155

BC Resolution # _____

Domestic Animals Law Fine, Penalty and Licensing Fee Schedule

1
2
3 **WHEREAS,** the Oneida Nation is a federally recognized Indian government and a treaty tribe
4 recognized by the laws of the United States of America; and
5

6 **WHEREAS,** the Oneida General Tribal Council is the governing body of the Oneida Nation; and
7

8 **WHEREAS,** the Oneida Business Committee has been delegated the authority of Article IV, Section 1,
9 of the Oneida Tribal Constitution by the Oneida General Tribal Council; and
10

11 **WHEREAS,** the Domestic Animals law ("the Law") was adopted by the Oneida Business Committee
12 through resolution BC-03-13-96-B, and the amended by resolutions BC-06-22-11-G, BC-
13 06-28-17-B, and BC-__-__-__-__; and
14

15 **WHEREAS,** the Law delegates joint authority to the Environmental, Health, Safety, and Land Division
16 and the Environmental Resource Board to develop a fine, penalty, and licensing fee
17 schedule; and
18

19 **WHEREAS,** the Environmental, Health, Safety, and Land Division Director approved the proposed
20 fine, penalty, and licensing fee schedule on _____; and
21

22 **WHEREAS,** the Environmental Resource Board approved the proposed fine, penalty, and licensing
23 fee schedule on _____; and
24

25 **WHEREAS,** the fine, penalty, and licensing fee schedule is required to be adopted by the Oneida
26 Business Committee through resolution.
27

28 **NOW THEREFORE BE IT RESOLVED,** that the Environmental, Health, Safety, and Land Division and
29 the Environmental Resource Board hereby set forth the following licensing and permit fee schedule in
30 accordance with the Domestic Animals law:
31

LICENSING AND PERMIT FEE SCHEDULE				
License/Permit Type	Reference	Fee (per animal)	License/Permit Period	Location to Obtain License/Permit
Cat License	304.7-1	\$5 if spayed or neutered; or \$25	January 1 – December 31	LBDC or Oneida Conservation
Dog License	304.7-1	\$5 if spayed or neutered; or \$25	January 1 – December 31	LBDC or Oneida Conservation
Additional Dog/Cat Permit	304.7-3(b)	\$5 if spayed or neutered; or \$25	January 1 – December 31	LBDC or Oneida Conservation
Prohibited Animal Permit	304.10-4	\$_____	January 1 – December 31	LBDC or Oneida Conservation

Conditional Use Permit – Livestock and Hens on Residential Areas	304.8-1 and 304.9-1	\$ _____	Permit expires when permittee resides at an address different address than permit	Oneida Zoning Department
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BE IT FURTHER RESOLVED, that the Environmental, Health, Safety, and Land Division and the Environmental Resource Board hereby set forth the following fine and penalty schedule in accordance with the Domestic Animals law:

FINE AND PENALTY SCHEDULE				
Violation	Reference	1 st Offense	2 nd Offense	3 rd Offense and Up
TREATMENT OF ANIMALS				
Failure to provide food and water	304.6-1	\$75	\$150	\$500
Failure to comply with shelter standards	304.6-2(a) 304.6-2(b)	\$75	\$150	\$500
Failure to comply with space standards	304.6-2(c)	\$75	\$150	\$500
Failure to comply with sanitation standards	304.6-2(d)	\$75	\$150	\$500
Failure to comply with tethering standards	304.6-3	\$75	\$150	\$500
Mistreatment of animals	304.6-4	\$500	\$1,000	\$2,000
DOGS AND CATS				
Failure to obtain license	304.7-1	\$25	\$50	\$100
Improperly placed/ no attached license	304.7-1(c)	\$25	\$50	\$100
No current rabies vaccination	304.7-2	\$75	\$150	\$500
Exceeding limit of allowed animals (per animal)	304.7-3	\$25	\$50	\$100
Animal running at large	304.7-4	\$75	\$150	\$500
Nuisance animal	304.7-5	\$75	\$150	\$500
Failure to notify an animal bite	304.7-6	\$150	\$500	\$750
Failure to comply with ordered quarantine	304.7-6	\$150	\$500	\$750
Failure to obey district quarantine	304.7-7	\$150	\$500	\$750
LIVESTOCK				
Failure to obtain conditional use permit	304.8-1	\$75	\$150	\$500
Violates limitations on livestock based on lot size	304.8-2	\$75	\$150	\$500
Livestock at large	304.8-3	\$150	\$500	\$750
HENS				
Failure to obtain conditional use permit	304.9-1	\$75	\$150	\$500
Prohibited keeping of rooster	304.9-2	\$75	\$150	\$500
Exceeding limit of allowed hens	304.9-3			
Violation of standards for keeping hens	304.9-4	\$75	\$150	\$500
Nuisance hens	304.9-5	\$75	\$150	\$500
PROHIBITED ANIMAL				
Possessing a prohibited animal	304.10-1	\$250	\$500	\$1,000
Failure to obtain prohibited animal permit	304.10-4	\$250	\$500	\$1,000
Failure to provide notice of release/escape	304.10-7	\$250	\$500	\$1,000
DANGEROUS ANIMAL				
Possessing a dangerous animal	304.11-1	\$500	\$1,000	\$2,000

BC Resolution # _____
 Domestic Animals Law Fine, Penalty, and Licensing Fee Schedule
 Page 3 of 3

Failure to remove animal from the Reservation	304.11-2(c)	\$500	\$1,000	\$2,000
	304.11-4(a)			
Failure to follow leash/muzzle requirements for dangerous animal	304.11-3(b)(1)	\$500	\$1,000	\$2,000
Failure to follow confinement requirements for dangerous animal	304.11-3(b)(2)	\$500	\$1,000	\$2,000
Failure to post required signs for dangerous animal	304.11-3(b)(3)	\$500	\$1,000	\$2,000
Failure to comply with notification requirements for dangerous animal	304.11-3(b)(4)	\$550	\$1,000	\$2,000
	304.11-4(a)(1)			
Failure to submit proof of destruction of animal	304.11-4(b)	\$150	\$300	\$500

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BE IT FURTHER RESOLVED, that in addition to the fines listed above additional penalties may include seizure or impoundment of animal, restitution, costs, damages, dangerous animal determination, and destruction of animal as provided for by the Domestic Animals law.

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

BE IT FURTHER RESOLVED, the issuance of a citation for a third offense or more on the fine and penalty schedule shall require the mandatory appearance of the offender at the Trial Court's citation pre-hearing.

BE IT FURTHER RESOLVED, the issuance of a citation for the mistreatment of animals shall require the mandatory appearance of the offender at the Trial Court's citation pre-hearing.

BE IT FINALLY RESOLVED, this resolution is hereby adopted and shall be effective _(same effective date of law)_.



Legislative Operating Committee
February 6, 2019

Sanctions and Penalties Law

Submission Date: 9/6/17	Public Meeting: 10/4/18
LOC Sponsor: Jennifer Webster	Emergency Enacted: n/a

Summary: *This item was carried over from the previous term. The original proposal was to develop a consistent process that would provide for members of the Oneida Business Committee and other Boards, Committees and Commissions to face sanctions for misconduct. Currently, the only penalty that OBC members may be subject to, is removal from office – meaning that less serious misconduct would either go unpunished or would result in a penalty that might be considered too extreme for a particular violation.*

9/6/17 LOC: Motion by Ernest Stevens III to add Sanctions and Penalties Law to the active files list with Jennifer Webster as the sponsor; seconded by Daniel Guzman King. Motion carried unanimously.

9/6/17: *Work Meeting.* Present: David P. Jordan, Jenny Webster Ernest Stevens III, Jennifer Falck, Clorissa Santiago, Candice Skenandore, Maureen Perkins, Tani Thurner. Drafting attorney provided an update on the status of the Sanctions and Penalties law. Next steps will be: 1) pull the current draft back, 2) hold community meetings to understand what sanctions/penalties the community is interested in, 3) meeting with the boards/committees/commissions for input, and 4) holding work meeting with LOC to make policy decisions and choose next steps.

11/1/17 LOC: Motion by Kirby Metoxen to approve the 60 day active files list update and continue development of all the items on the active files list; seconded by Ernie Stevens III. Motion carried unanimously.

11/1/17: *Work Meeting.* Present: Carol Silva, Bonnie Pigman, Ed Delgado, Rachel Hill, Matthew Denny, Reynold Danforth, Kirby Metoxen, Rosa Laster, Clorissa Santiago, Candice Skenandore, Maureen Perkins, Jennifer Falck. Representatives from all the B/C/C's were invited to this meeting to provide input on what a Sanctions & Penalties Law might look like.

12/6/17: *Work Meeting.* Present: David P. Jordan, Kirby Metoxen, Jennifer Webster, Ernest Stevens III, Daniel Guzman King, Clorissa Santiago, Jennifer Falck. The LOC reviewed and considered comments from the November 1, 2017, work meeting with boards, committees, and commissions. LOC began making policy decisions. Drafter will work on draft, and policy options, and bring materials back to LOC when ready.

3/9/18: *Work Meeting.* Present: David P. Jordan, Kirby Metoxen, Jennifer Webster, Clorissa Santiago, Brandon Wisneski, Rosa Laster, Laura Laitinen-Warren. LOC reviewed the first draft of the law, and directed that the LRO schedule a community meeting, with a special invitation to members of boards, committees, and commissions, to discuss the proposed law.

- 3/16/18:** *Work Meeting.* Present: David P. Jordan, Jennifer Webster, Daniel Guzman, Ernest Stevens III, Clorissa Santiago, Brandon Wisneski, Cathy Bachhuber, Rosa Laster. The LOC reviewed the potential date for the community meeting, and directed the drafting attorney to schedule the community meeting for May 3, 2018, and to ensure the notice is published in the Kalihwisaks twice, an appointment is sent to all members of the LOC and boards, committees, and commissions, and that the Communications Department is included in the appointment so they can make efforts to communicate notice of the event.
- 4/2/18 LOC:** Motion by Jennifer Webster to accept the draft of the Sanctions and Penalties law and direct that a community meeting/potluck be held on May 3, 2018; seconded by Daniel Guzman King. Motion carried unanimously.
- 4/26/18:** *Work Meeting.* Present: Clorissa Santiago, Brandon Wisneski, Jennifer Falck. This was an LRO prep meeting to prepare a plan for the upcoming community meeting.
- 4/27/18:** *Work Meeting.* Present: David P. Jordan, Kirby Metoxen, Ernest Stevens III, Daniel Guzman King, Jennifer Falck, Clorissa Santiago, Brandon Wisneski, Rosa Laster, Cathy Bachhuber, Tani Thurner. The purpose of this work meeting was to prepare for the upcoming community meeting.
- 5/2/18:** *Work Meeting.* Present: Clorissa Santiago, Brandon Wisneski, Jennifer Falck, David P. Jordan, Jennifer Webster. The LOC continued to prepare and discuss the upcoming community meeting.
- 5/3/18:** *Community Meeting.* Present: David P. Jordan, Jennifer Webster, Kirby Metoxen, Ernest Stevens III, Jennifer Falck, Clorissa Santiago, Brandon Wisneski, Maureen Perkins, Carol Silva, Chad Wilson, Janice McLester, Gina Buenrostro, Winnifred Thomas, Brooke Doxtator, Ed Delgado, Oyanolu Adams, Michelle Braaten, Mark Powless, Cathy L. Metoxen, Carole Liggins, Madelyn Genskow. The purpose of this community meeting was to gain input on the proposed Sanctions and Penalties law.
- 5/11/18:** *Work Meeting.* Present: David P. Jordan, Jennifer Webster, Kirby Metoxen, Ernest Stevens III, Daniel Guzman, Clorissa Santiago, Brandon Wisneski, Jennifer Falck. The purpose of this work meeting was to review the comments received during the community meeting, and to determine if any revisions should be made to the law. The drafting attorney will update the draft of the law based on this discussion.
- 5/16/18:** *Work Meeting.* Present: David P. Jordan, Jennifer Webster, Daniel Guzman King, Kirby Metoxen, Ernest Stevens III, Jennifer Falck, Clorissa Santiago, Brandon Wisneski, Laura Laitinen-Warren. The purpose of this work meeting was to review and discuss the revisions to the draft made based on comments collected from the community meeting. Drafting attorney will update the draft.
- 6/6/18/ LOC:** Motion by Jennifer Webster to accept the draft of the Sanctions and Penalties law and direct that a legislative analysis be completed; seconded by Ernest Stevens III. Motion carried unanimously.
- 7/9/18:** *Work Meeting.* Present: Clorissa Santiago, Brandon Wisneski, Brooke Doxtator. The purpose of this work meeting was to review the BCSO's involvement in the Sanctions and Penalties law to ensure their role can be implemented as required by law.
- 7/18/18 LOC:** Motion by Kirby Metoxen to accept the legislative analysis for the Sanctions and Penalties Law and defer to a work meeting; seconded by Daniel Guzman King. Motion carried unanimously.
- 8/1/18:** *Work Meeting.* Present: David P. Jordan, Jennifer Webster, Kirby Metoxen, Ernest Stevens III, Jennifer Falck, Clorissa Santiago, Brandon Wisneski, Kristen Hooker. The purpose of this work meeting was to review and consider the legislative analysis.

8/15/18 LOC: Motion by Jennifer Webster to approve the public meeting packet and forward the Sanctions and Penalties Law to a public meeting to be held on September 20, 2018; seconded by Kirby Metoxen. Motion carried unanimously.

Subsequent Motion by Jennifer Webster to forward the Sanctions & Penalties Law to the Finance Office for a fiscal analysis to be completed; seconded by Kirby Metoxen. Motion carried unanimously.

9/10/18: *Work Meeting.* Present: David P. Jordan, Ernest Stevens III, Jennifer Falck, Clorissa Santiago, Brandon Wisneski, Kristen Hooker, Cathy Bachhuber, Maureen Perkins. The purpose of this work meeting was to discuss the fact that the September 20, 2018 public meeting on the proposed law will have to be canceled due to the Kalihwisaks failing to publish the public meeting notice in the September 6, 2018, edition. The LOC determined the next steps for moving the public meeting forward – an e-poll of an updated public meeting notice will be completed and the appointment that was sent out changed to reflect the new date.

E-poll conducted.

9/19/18 LOC: Motion by Daniel Guzman King to enter the e-poll results into the record; seconded by Jennifer Webster. Motion carried unanimously.

10/4/18: Public Meeting Held.

10/17/18 LOC: Motion by Jennifer Webster to accept the public meeting memo comments and public meeting comment review memorandum and defer to a work meeting; seconded by Daniel Guzman King. Motion carried unanimously.

10/17/18: *Work Meeting.* Present: David P. Jordan, Jennifer Webster, Daniel Guzman, Ernest Stevens III, Jennifer Falck, Clorissa N. Santiago, Brandon Wisneski, Kristen Hooker, Rosa Laster. The purpose of this work meeting was for the LOC to begin reviewing and considering the public comments that were received, and to make determinations on what revisions to the Law are necessary.

10/25/18: *Work Meeting.* Present: David P. Jordan, Jennifer Webster, Kirby Metoxen, Ernest Stevens III, Jennifer Falck, Clorissa N. Santiago, Brandon Wisneski, Kristen Hooker. The purpose of this work meeting was for the LOC to continue reviewing and considering the public comments that were received, and to make determinations on what revisions to the Law are necessary. LRO will update the draft for the next LOC packet so a fiscal analysis can be requested.

11/7/18 LOC: Motion by Jennifer Webster to accept the public comment review memorandum and the updated draft; seconded by Daniel Guzman King. Motion carried unanimously.

11/30/18: *Work Meeting.* Present: David P. Jordan, Jennifer Webster, Kirby Metoxen, Daniel Guzman, Clorissa N. Santiago, Brandon Wisneski. The purpose of this work meeting was to review and approve the fiscal impact statement request memorandum to the Finance Department, and begin discussing a plan for the completion of this item.

12/5/18 LOC: Motion by Jennifer Webster to accept the updated legislative analysis, including the replacement of page 159 in the packet; seconded by Kirby Metoxen. Motion carried unanimously.

Motion by Kirby Metoxen to approve the fiscal impact statement memorandum and forward to the Finance Department directing that a fiscal impact statement of the proposed Sanctions and Penalties law be prepared for inclusion on the January 2, 2019 Legislative Operating Committee meeting agenda; seconded by Daniel Guzman King. Motion carried unanimously.

12/20/18: *Work Meeting.* Present: Clorissa N. Santiago, Brandon Wisneski, Randall Cornelius. The purpose of this work meeting was to discuss traditional ways Oneida has sanctioned its leaders.

1/2/19: *Work Meeting.* Present: Kirby Metoxen, Jennifer Webster, Ernest Stevens III, Daniel Guzman, Jennifer Falck, Clorissa N. Santiago, Brandon Wisneski. The purpose of this work meeting was to review the adoption packet and discuss any changes that should be made. LRO will update all adoption materials.

1/7/19 LOC: Motion by Kirby Metoxen to approve the adoption packet for the proposed Sanctions and Penalties Law and forward to the Oneida Business Committee for inclusion on the tentatively scheduled February 24, 2019 General Tribal Council meeting agenda for the General Tribal Council's consideration of adoption; seconded by Ernest Stevens III. Motion carried unanimously.

1/24/19: *Work Meeting.* Present: David P. Jordan, Kirby Metoxen, Jennifer Webster, Daniel Guzman, Clorissa N. Santiago, Brandon Wisneski, Kristen Hooker, Maureen Perkins. The purpose of this work meeting was to review and discuss an article to be included in the 2/7 Kalihwisaks edition.

1/29/19: E-Poll conducted.

Next Steps:

- Enter the results of the January 29, 2019, e-poll titled "E-Poll Request: Sanctions and Penalties Law 2/7 Kalihwisaks Article" into the record.

January 29, 2019 Legislative Operating Committee E-Poll Approval of the Sanctions and Penalties Law Kalihwisaks Article

 Tue 1/29/2019 10:25 AM
LOC
E-Poll Request: Sanctions and Penalties Law 2/7 Kalihwisaks Article

To: Daniel P. Guzman; David P. Jordan; Ernest L. Stevens; Jennifer A. Webster; Kirby W. Metoxen
Cc: Rosa J. Laster; Fawn J. Billie; Leyne C. Orosco; Jessica L. Wallenfang; Cathy L. Bachhuber; Jennifer A. Falck; Clorissa N. Santiago; Brandon M. Wisneski

 Vote by clicking Vote in the Respond group above.
This message was sent with High importance.

 2019 02 07 Sanctions and Penalties Kalih Article.pdf
142 KB

Good Morning Legislative Operating Committee,

This e-mail serves as the e-poll for approval of the Sanctions and Penalties law article for the February 7, 2019, Kalihwisaks edition.

EXECUTIVE SUMMARY

During a special meeting held on February 24, 2019, the General Tribal Council will be asked to consider the adoption of the proposed Sanctions and Penalties law. In anticipation of this General Tribal Council meeting the Legislative Operating Committee determined that an informative article should be placed in the Kalihwisaks in an effort to provide better communication to the membership on issues that will come before them for a vote. In order to have the article published in the February 7, 2019, Kalihwisaks edition, the article must be submitted to the Kalihwisaks by the publication deadline on January 31, 2019.

An e-poll is necessary for this matter in order to meet the Kalihwisaks publication deadline, as the next Legislative Operating Committee meeting will not take place until February 6, 2019.

REQUESTED ACTION

Approve the article titled, *“Sanctions and Penalties Law: GTC to Consider in February”* and forward the article to the Kalihwisaks for inclusion in the February 7, 2019, Kalihwisaks edition.

DEADLINE FOR RESPONSE

January 29, 2019 at 4:00 p.m.

All supporting documentation has been attached to this email for your convenience.

E-POLL RESULTS:

The e-poll was approved by David P. Jordan, Daniel Guzman King, Kirby Metoxen, and Jennifer Webster. Ernest Stevens III did not provide a response to this e-poll.

 Tue 1/29/2019 10:54 AM
David P. Jordan
RE: E-Poll Request: Sanctions and Penalties Law 2/7 Kalihwisaks Article

To: LOC; Daniel P. Guzman; Ernest L. Stevens; Jennifer A. Webster; Kirby W. Metoxen; David P. Jordan
Cc: Rosa J. Laster; Fawn J. Billie; Leyne C. Orosco; Jessica L. Wallenfang; Cathy L. Bachhuber; Jennifer A. Falck; Clorissa N. Santiago; Brandon M. Wisneski

Approve



Tue 1/29/2019 10:53 AM

Daniel P. Guzman

Re: E-Poll Request: Sanctions and Penalties Law 2/7 Kalihwisaks Article

To: LOC

Approve



Tue 1/29/2019 11:42 AM

Kirby W. Metoxen

RE: E-Poll Request: Sanctions and Penalties Law 2/7 Kalihwisaks Article

To: LOC; Daniel P. Guzman; David P. Jordan; Ernest L. Stevens; Jennifer A. Webster

Cc: Rosa J. Laster; Fawn J. Billie; Leyne C. Orosco; Jessica L. Wallenfang; Cathy L. Bachhuber; Jennifer A. Falck; Clorissa N. Santiago; Brandon M. Wisneski

Support-

Kirby



Tue 1/29/2019 11:43 AM

Jennifer A. Webster

Re: E-Poll Request: Sanctions and Penalties Law 2/7 Kalihwisaks Article

To: LOC; Daniel P. Guzman; David P. Jordan; Ernest L. Stevens; Kirby W. Metoxen

Cc: Rosa J. Laster; Fawn J. Billie; Leyne C. Orosco; Jessica L. Wallenfang; Cathy L. Bachhuber; Jennifer A. Falck; Clorissa N. Santiago; Brandon M. Wisneski

Approve,
Jenny

Sent from my Samsung Galaxy smartphone.

Sanctions and Penalties Law: GTC to Consider in February

By the Legislative Operating Committee

On February 24, 2019, the General Tribal Council (GTC) will be asked to consider the adoption of a Sanctions and Penalties law. For more than twenty years the Nation's membership and leadership have discussed the development of a law to address misconduct by elected and appointed officials. Currently, the only remedy available to hold an official who engages in misconduct accountable is to remove that official from his or her position. The removal of an elected official is required to follow the process contained in the Nation's Removal law, while an appointed official may have his or her appointment terminated by the Oneida Business Committee (OBC) in accordance with the Boards, Committees, and Commissions law.



2017-2020 LOC Members:
David P. Jordan- Chairperson,
Kirby Metoxen- Vice-
Chairperson, Jennifer Webster,
Ernest Stevens III, Daniel
Guzman King

Accountability is an important factor of good governance. The Nation's membership does not currently have a formal process to issue warnings or corrective actions against officials. Not all instances of misconduct by an official rise to the level of removal or termination, yet the membership should still have a way to address misconduct by an official. A more effective government can be obtained if officials are provided the opportunity to take accountability for their actions and correct the behavior that resulted in misconduct.

Providing an official the opportunity to correct misconduct and improve his or her behavior aligns with traditional Oneida ways. Traditionally, a chief would be provided multiple warnings which allowed the chief an opportunity to improve his behavior before he was dehorned or removed from his position of prominence. The focus of the warnings before the removal was to provide an opportunity for corrective action to be taken that had the potential to result in a better official.

Additionally, during the special election held on July 9, 2016, the voting membership approved a referendum which asked, "*Should the BC develop a law which provides for sanctions and due process for elected officials?*" by a vote of 178 to 59. The positive referendum further demonstrates the Nation's desire to develop a process to address misconduct of officials prior to seeking removal or termination of appointment.

The proposed Sanctions and Penalties law will establish a set of sanctions and penalties that may be imposed upon all elected and appointed officials of the Nation, including the Oneida Business Committee, for misconduct in office. The purpose is to provide an opportunity for the official to take corrective action to address the misconduct and promote accountability and improved performance of the official.

Complaints alleged against an elected official will be handled by the Trial Court, because the official was elected by the Nation's membership. Complaints alleged against an appointed official will be handled by the OBC, because the appointed official serves at the discretion of the OBC. The Sanctions and Penalties law will describe what behaviors are misconduct, provide a process for making a complaint, the factors to be used when determining if an official should be sanctioned, and the various sanctions and penalties that may be imposed against an official.

The LOC developed the Sanctions and Penalties law in accordance with all requirements of the Legislative Procedures Act (LPA). The LPA was established by GTC and sets the process to be used when adopting laws of the Nation. As authorized by the LPA, the GTC will be asked to consider the adoption of this law. Consideration of the adoption of the Sanctions and Penalties law may include a vote to support or reject the adoption of this law, or a decision to defer the item back to the LOC for more work or changes as recommended by the GTC. The LOC encourages everyone to read the materials in the February 24, 2019, GTC meeting packet and come prepared to consider the adoption of the Sanctions and Penalties law.

The LOC recommends the adoption of the Sanctions and Penalties law so that the Nation has a mechanism for using corrective actions to address the misconduct of officials and allow an opportunity for improvement before the removal of an official.

Please feel free to contact LOC@oneidanation.org with any questions or concerns.

Legislative Operating Committee



Agenda Request Form

- 1) Request Date: _____
- 2) Contact Person(s): _____ Dept: _____
 Phone Number: _____ Email: _____
- 3) Agenda Title: _____
- 4) Detailed description of the item and the reason/justification it is being brought before the Committee

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

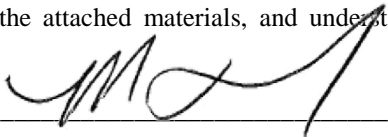
- 1) Workplace Violence Policy 3) _____
- 2) OPP&P Sexual Harassment Policy 4) _____

- 5) Please List any laws, ordinances or resolution that might be affected:

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

- 7) Do you consider this request urgent? Yes No
 If yes, please indicate why: _____

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

Signature of Requester: _____ 

Please send this form and all supporting materials to:

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



PERSONNEL POLICIES AND PROCEDURES MANUAL

SECTION I – Introduction

Welcome to the Oneida Nation. We are pleased to have you join us as a partner on a team of people dedicated to providing quality service that enhances the quality of life of the Oneida community. The role you play in your position is important to the overall effort required by your department to meet the goals and objectives of the Oneida Nation. We encourage you to take advantage of the opportunities presented to you, as an employee, to grow and develop both personally and professionally.

The purpose of this “Employee Manual” is to provide you with a ready source of information about employee related Oneida tribal policies and procedures. Although we have tried to make this manual as comprehensive as possible; it does not, and cannot, include policies which address every situation that may arise. The Oneida Nation reserves the right to modify, alter, change or cancel existing policies and procedures or adopt new procedures and policies at any time.

The policies and procedures set forth in this manual apply to all employees. As an employee of the Oneida Nation, you are required to know and abide by these policies and procedures. Tribal departments may have specific and additional procedures enhancing the general policies stated in this manual. Each employee is expected to learn his/her department’s procedures and comply with them. In the event of any conflict between policies in this manual and departmental procedure, the policies in this manual supersede. Each employee is also expected to conform to the professional standards of his/her occupation. Questions regarding this manual, or any employee related policies, should be directed to your supervisor, department head, or to the Human Resources Department at (920) 496-7900.

The Oneida Nation is proud to have you on our staff and we look forward to a fulfilling and successful team relationship.

SECTION II - RECRUITING

A. RECRUITING

1. Recruiting Strategy

- a. The Oneida Tribe shall implement a Recruiting Strategy to increase the potential for hiring the best-qualified and most capable employees possible.
 - 1) The Recruiting Strategy shall target as the first priority applicants in accordance with the Oneida and Indian Preference Policy.
 - 2) The Recruiting Strategy shall have a nationwide focus and will use:
 - a) The Kalihwisaks (national distribution);
 - b) The Oneida Higher Education Office's network of post-secondary school students;
 - c) Local and regional media and public employment agencies.

2. Applicant Pool

- a. The Oneida Tribe shall establish and maintain an Applicant Pool consisting of individuals who have expressed an interest in working for the Oneida Tribe.
 - 1) The Applicant Pool will consist of files containing:
 - a) A Tribal Application Form;
 - b) A summary of career goals and job preferences.
 - 2) The Applicant Pool will be regularly reviewed to:
 - a) Update individual files;
 - b) Remove files where indicated.
 - 3) The Applicant Pool will be cross-referenced by job preferences.
 - a) Notices of job vacancies and an Application Form will be sent to all Applicant Pool members as appropriate.
 - 4) All Applicant Pool members shall have the right to review and update their file upon request.
 - 5) Applicant Pool members shall be apprised of the Tribe's Indian Preference Policy.

B. LABOR POOLS

1. Supervisors that wish to establish a job classification as a Labor Pool Position will work with the HRD to establish the job classification.
2. Each Labor Pool Position shall be advertised as on-going recruitment pool. The HRD shall maintain an updated list of qualified candidates for each Labor Pool Position.
3. The HRD will accept all job applications and verify that each applicant is qualified according to the established job description. All qualified applicants will then be placed in a pool according to the Tribe's Oneida and Indian Preference Policy and the date the application was received. All applicants will be notified of acceptance into or rejection from the pool.
 - a. **PRESCREENING OF LABOR POOL POSITIONS** (HR Interpretation 11-13-12) Applicants who were previously employed by the Oneida Tribe and were terminated for reasons of misconduct or performance issues will be screened out for a period of twelve (12) months following the date of discharge.

4. The HRD will keep an updated list of qualified applicants for each job position.
5. When a vacancy occurs in a Labor Pool Position, the supervisor will notify the HRD of the position to be filled. The HRD Office shall then refer the top three (3) applicants to the immediate supervisor. The top three applicants shall be based first on the Oneida and Indian Preference Policy and, second, the date an application was received. The immediate supervisor will notify the HRD of their selection and the HRD will then offer the position to the applicant. After the position is filled, all ranked candidates will move up on the list. [\(HR Interpretation 7-11-13\)](#)
6. If the applicant refuses the position, the HRD Office will then offer it to the next applicant until the position is filled.
7. If the applicant refuses the job, the applicant may withdraw from the Labor Pool or, if he or she declines to withdraw from the Labor Pool, the date of refusal will be considered the date the application was received and the applicant will be placed in the Labor Pool list according to B.3.
8. Indian (Oneida) Preference will be adhered to in all hiring decisions.

C. EMERGENCY/TEMPORARY POSITIONS

1. The HRD will periodically recruit individuals who are interested in filling temporary positions which consist of the following classifications:
 - a. Emergency/Temp
 - b. Limited Term
 - c. Seasonal
 - d. Substitute/Relief
 - e. Youth Worker
 - f. Student/Intern
2. Creation of Positions
 - a. Creation of positions in the above Temporary Employee Classifications will require that these positions be budgeted for the current fiscal year, or proof through documentation that the budget is adequate to incorporate these positions.
 - b. The positions must be developed in conjunction with the HRD; assuring that all Policies and Procedures are adhered to. Creation of temporary classification requires the approval of the Director, Area Manager, and HRD Manager, or elected official of the Oneida Tribe.
 - c. All newly created temporary positions must be processed through the Wage and Salary system before a position can be filled with a temporary employee.
3. Recruitment/Selection
 - a. Recruitment/selection of applicants for all temporary positions requires a completed Temporary Personnel Requisition form with an updated job description attached.
 - b. The HRD will provide a list of qualified candidates according to the job descriptions to the immediate supervisor. The immediate supervisor will select from the approved list adhering to Indian Preference.
 - c. The HRD will contact the selected candidate and offer the position, following the proper procedures to put the incumbent on payroll.

- d. The selected candidate will sign a statement accepting conditions of temporary employment, and length of employment where applicable.
 - e. Temporary employees will be paid within the Grade in which the job is classified and salary will be negotiated within the first three (3) steps of respective grade.
 - 1) Any negotiated salary beyond step three will require written justification and approval from the respective General Manager. (H.R. Interpretation, 12-8-16)
 - f. Temporary employees are welcome to apply for any regular position within the Tribe that becomes available during the term of their employment.
 - g. Temporary employees that are terminated due to documented cause will have the right to the appeal process as outlined in the Personnel Policies and Procedures.
 - h. All temporary employees are subject to lay-off based upon department job needs and budgets. (HR Interpretation – 11-25-13)
 - i. Supervisors are required to do proficient planning within their respective span of control; as such they must also enforce separation dates and will be monitored by HRD for compliance.
 - j. Supervisors must select the most appropriate category of classification for the job.
 - 1) Moving from one classification to another is prohibited.
4. Benefits
- a. The following employee classifications will be eligible for benefits as defined in the section of the Personnel Policies and Procedures as medical, dental, vacation and personal accrual, holiday pay, premium pay.
 - 1) Limited Term
 - 2) Seasonal
 - b. The following employee classifications will be eligible for benefits as defined in this section of the Personnel Policies and Procedures as Mandatory Benefits and Holiday pay.
 - 1) Emergency/Temporary
 - 2) Substitute/Relief
 - 3) Seasonal Worker (only during their first season)
 - c. The following employee classifications will be eligible for benefits as defined in this section of the Personnel Policies and Procedures as Mandatory Benefits.
 - 1) Youth Worker
 - 2) Student/Intern

SECTION III – SELECTION POLICY

A. ONEIDA PREFERENCE AND INDIAN PREFERENCE STATEMENT OF POLICY

Federal policy since 1834 accords hiring preference to Indians. The purpose of this preference is threefold: 1) to give Indians a greater participation in self-government; 2) to further the Government's trust obligation; and 3) to increase the positive effect of having Indians administer matters that affect Indian tribal life. (GTC Resolution – 5-23-11-A)

More recently, legislation such as the Civil Rights Act (1964) and the Education Amendments of 1972 (passed after the Equal Employment Opportunity Act) continued to specifically provide for preferential hiring of Indians by Indian Tribes.

As an employer, the Tribe seeks to employ individuals who possess the skills, abilities and background to meet the employment needs of the Tribe.

As a sovereign Indian Tribe and a unique cultural group, the Oneida Tribe has determined that a highly desirable employment characteristic is knowledge of Oneida culture that can be attained only by membership (or eligibility for membership) in the Oneida Tribe. Further, the Tribe recognizes the unique, shared culture of Native American Indians and has determined that a desirable employment characteristic is status as a member of an American Indian Tribe. At a minimum, the Tribe has determined that some knowledge of Indian culture is a desirable employment characteristic.

Accordingly, the Oneida Tribe establishes the following policy in regard to Indian Preference for selecting employees to provide services that meet the needs of the Oneida people. This Indian Preference policy shall be specific to staffing decisions made under the Personnel Policies and Procedures and shall not be construed to have an application outside of these policies and procedures.

The Oneida Tribe of Indians of Wisconsin is an equal employment opportunity employer and follows non-discriminatory policies and procedures in personnel decisions. ^(HR Interpretation 5-19-14) However, the Oneida Tribe exists to serve the needs of the Oneida people and therefore accords Oneida Preference to enrolled Oneida Tribal Members where such preference is not otherwise prohibited. All General Managers and top administrative positions, as defined by HRD, shall be held by enrolled Tribal members. In all other instances, the Tribe applies the following priorities of Indian Preference in staffing decisions:

- 1 Enrolled Oneida Tribal member;
- 2 Oneida Indians eligible for enrollment in the Oneida Tribe;
- 3 Documented first generation Oneida descendant;
- 4 Other Native American Indian;
- 5 Other (non-Indian). ^(HR Interpretation 6-24-11)

This policy will apply in decisions where the basic requirements for employment are met.

B. HIRING PROCEDURE

- 1 Statement of Policy
 - a. The Oneida Tribe of Indians of Wisconsin is an equal employment opportunity employer and follows nondiscriminatory policies in hiring.
 - b. The Oneida Tribe is a firm advocate of the 1964 Civil Rights Act (as amended) and the 1968 Indian Civil Rights Act (as amended) and will make every effort to ensure compliance with each Act; however:
 - c. The Oneida Tribe follows the principles of Indian Preference in the implementation of hiring

practices (see the Oneida Preference and Indian Preference Statement of Policy).

- d. The members of the Personnel Selection Committee and all Tribal employees who supervise other Tribal employees shall undergo training in EEO and Tribal laws, rules and regulations.
 - 1) Training will be knowledge - and skills-based
 - 2) All Personnel Selection Committee members and Tribal supervisors will undergo periodic re-training in EEO and Tribal laws, rules and regulations
- e. No person shall be recommended for a position if a conflict of interest or nepotism is created. Nepotism is created by the following relationships: [\(HR Interpretation 08-13-12\)](#)

a) Father	i) Father-in-law
b) Mother	j) Mother-in-law
c) Husband	k) Brother-in-law
d) Wife	l) Sister-in-law
e) Brother	m) Son-in-law
f) Sister	n) Daughter-in-law
g) Son	m) Grandparent
h) Daughter	n) Grandchild

2. Hiring Procedures

a. HRD Office Responsibilities

- 1) Unless specifically noted, the HRD Office will have responsibility for implementing the policies and procedures guiding the selection of Tribal employees.

b. Personnel Selection Committee Role

- 1) The Oneida Tribe established the Personnel Selection Committee to represent the Oneida Community-at-large in the selection of tribal employees.
 - a) The Personnel Selection Committee is directed to:
 - i. Seek out the best-matched applicants for each available position;
 - ii. Consider only job-related factors (such as education, experience, past job performance, skills and abilities, and compatibility with the position and potential co-workers) when selecting candidates.

c. Identification of Vacancies and Development of Job Descriptions [\(Work Standard, 11-16-11\)](#)

- 1) Supervisors may inform the HRD Office of pending vacancies as soon as they are identified.
- 2) For existing positions, the HRD Manager (or designate), the supervisor and the Area Manager (at his/her option) will review the job description to ensure compliance with:
 - a) The Tribal job structure;
 - b) The needs and requirements of the job.
- 3) For new positions, the HRD Manager, the appropriate Area Manager, and the supervisor shall develop the job description.
 - a) **The new job description shall conform to the Tribal job structure.**
 - b) The new job description will be reviewed by the General Manager.

[\(HR Interpretation, 12-8-16\)](#)

- 4) All job descriptions shall contain the following information:
 - a) Job title, division/department, location, supervisor's title;
 - b) Posting date, application deadline, preferred starting date, date of job, description review;
 - c) Pay level (grade, step, hourly rate);
 - d) A brief job summary;
 - e) Duties and responsibilities;
 - f) Qualifications;
 - g) Inquiry address;
 - h) Statement of compliance with EEO and Indian Preference policies.
- d. Applications
 - 1) All inquiries for job vacancies will be responded to with a Tribal Application Form which will consist of:
 - a) Job vacancy title;
 - b) Applicant biographical data;
 - c) A request for a resume (where applicable).
 - 2) The Application Form shall be accompanied by a Statement of Policy regarding Oneida Preference and Indian Preference.
 - 3) Hand-delivered applications will be accepted at the HRD Office until 4:30 p.m. on the deadline date; mailed applications must be postmarked on or before the deadline date.
 - 4) All applications will be acknowledged.
- e. Advertising
 - 1) Position vacancies will be advertised as widely as possible including:
 - a) The Kalihwisaks;
 - b) Statewide, through print and electronic media and public employment agencies;
 - c) Through targeted recruiting efforts including:
 - i. Major metropolitan areas (i.e. Milwaukee, Chicago, Minneapolis, etc.)
 - ii. The Bureau of Indian Affairs;
 - iii. The Oneida Higher Education Office.
 - d) Other postings targeted toward special recruiting categories (such as professions) shall be carried out at the discretion of the HRD Office with the advice and consent of the affected department.
 - 2) Unless otherwise prohibited by external grant source or federal law, the first posting for a position vacancy shall be limited to enrolled Oneida members and shall be posted for a minimum of seven (7) calendar days.
 - 3) The second posting for a position vacancy shall be posted for a minimum of ten (10) calendar days and shall be open to the general public, unless the position must be filled by an enrolled Oneida Tribal member. (HR Interpretation 8-9-11)
 - 4) All vacancies requiring re-posting shall be referred back to B-2.c (Identification of Vacancies and Development of Job description) to begin the re-posting process.

- f. Screening of Applicants [\(HR Interpretation 11-16-12\)](#) [\(HR Interpretation 10-22-12\)](#)
- 1) A Screening Committee consisting of the HRD Manager (or designate), the position supervisor, the Area Manager (at his/her option), and a member of the Personnel Selection Committee shall be convened to conduct the screening of applicants. The Screening process will begin as soon as practical following the closing of the position. This Committee will:
 - a) Verify that all applications are complete, are accurate and were submitted on time.
 - i. Applications that are incomplete, inaccurate, or were not submitted on or before the posted deadline date may be screened out.
 - b) Analyze the job description to establish screening criteria. These criteria will include qualifications listed on the job description determined by the supervisor and Area Manager to be essential to the job. [\(T.O.E. WS - 5-6-13\)](#)
 - c) Screen verified applications
 - d) Recommend a list of applicants to be interviewed.
 - 2) The HRD Office shall notify screened out applicants within five (5) working days after the initial screening and reserve these applications in the general recruiting pool.
 - 3) The HRD Office will arrange for interviews with the listed candidates.
- g. Candidate Interviews
- 1) An Interview Committee will be convened and will consist of the members of the Screening Committee except that the HRD Manager will be replaced with a second member of the Personnel Selection Committee. The Interview Committee will:
 - a) Construct an interview format consisting of:
 - i. A set of questions related to the screening criteria qualifications;
 - ii. An interview rating scale designed to objectively evaluate each candidate's qualifications.
 - b) Interview candidates and evaluate each individually
 - 2) The HRD Manager (or designee) will total the evaluation rating scale to rank order of the candidates.
- h. Selection [\(Interpretation - Disqualification of Applicant 10-24-2013\)](#)
- 1) The supervisor shall select one of the top two (2) candidates as ranked through the rating scale. [\(HR Interpretation - 10-17-12\)](#)
 - a) The supervisor may conduct an additional personal interview with the top two (2) candidates.
 - b) The selection decision shall be governed by the Oneida Preference and Indian Preference Policy. [\(HR Interpretation - 6-6-11\)](#)
 - c) The HRD Office will notify the selected candidate and offer the candidate the job within five (5) working days of the selection decision by the supervisor.
 - i. Should the supervisor's first choice refuse the offer, the HRD Office will offer the job to the second ranked candidate.
 - 2) Should both of the top two ranked candidates refuse the job offer, the supervisor may:
 - a) Repeat the process outlined in B.2.h.1. above; or

- b) Re-post the position.
 - 3) The HRD Office will notify those candidates interviewed but not selected of the decision to hire the best-qualified candidate.
 - 4) All newly hired employees will be listed in the HR newsletter.
- C. TRANSFERS AND PROMOTIONS POLICY - The Oneida Tribe encourages transfers and promotions within and among units in order to make the best possible use of human resources to meet Tribal goals and objectives. Supervisors and employees are encouraged to work together to create an environment in which employees constantly strive to improve their skills and abilities and managers constantly seek to provide challenging and rewarding work experiences.
1. Procedure
- a. Internal Posting and Bidding
 - 1) Open positions as determined by a supervisor and his/her Area Manager will be posted internally for five (5) working days. This internal posting will be concurrent with the external (public) posting of positions.
 - a) Positions will be posted in prominent locations in each Tribal building
 - 2) Tribal employees may bid for transfers by notifying their immediate supervisor and submitting an Application Form to the HRD Office.
 - a) The HRD Manager will inform all affected Area Managers of each transfer bid.
 - 3) At the end of the five (5) day internal posting period, the HRD Manager will schedule a conference with the open position's supervisor and the Area Manager.
 - a) The conference committee will consist of the supervisor, the Area Manager and the HRD Manager (or designate) acting as this Committee will:
 - i. Establish selection criteria; and
 - ii. Review each bid.
 - b) The Committee may select the best-qualified applicant but is not required to choose an applicant to fill the open position from those employees who have submitted an application for a transfer or promotion.
 - c) If the Committee does not fill the position from the transfer/promotion process, the process will continue through the full advertising, screening and interview steps.
 - i. Any decision will be governed by the Indian Preference Policy.
 - 4) Employees who are transferred or promoted will not lose any benefits; however:
 - a) An employee may be required to continue serving in his/her present position until a replacement can be found;
 - b) An employee who is transferred to a position lower on the Tribal Job Structure will be paid at the grade level corresponding to the new position;
 - c) An employee must have completed one year of service to the Tribe before being eligible for a promotion or transfer (requests for transfers for documented medical conditions will be handled on a case by case basis and only when in the best interests of both the employee and the Tribe);

- d) The newly transferred or promoted employee shall be required to complete a three (3) month probation period (all conditions of the Tribe's Probation Policy shall apply).
- b. Applicant Pool Process
 - 1) New and vacant positions will be advertised through the Tribal Applicant Pool.
 - 2) The job description will be sent to persons whose applications are maintained in the Applicant Pool.
 - a) The Tribal Applicant Pool will consist of open (unspecified) applications from Tribal members who wish to be considered for employment by the Tribe.
 - b) Advertising through the Tribal Applicant Pool will follow the format and time conditions set forth in the Hiring Policy.
- 2. Reassignments
 - a. Title Reassignments
 - 1) Title Reassignments may be made by supervisors to:
 - a) More accurately describe or define an existing job; or
 - b) Make minor adjustments in jobs within a unit or operating division.
 - 2) Title Reassignments may be made at any time with the approval of the Area Manager and HRD Manager.
 - b. Job Reassignments
 - 1) Job Reassignments may be made by supervisors to make more efficient and effective use of human resources.
 - 2) Job Reassignments may be supervisor-initiated or employee-initiated but must be made in the best interests of the operating unit.
 - 3) Job Reassignments may be made at any time with the approval of the Area Manager and after a review of each affected job by the Personnel Evaluation Committee.
 - c. Interim Job Reassignments [\(Work Standard 7-11-13\)](#)
- D. PROBATION [\(Work Standard 1-20-2011\)](#)
 - 1. The first three (3) months after an employee's starting date shall be considered a period of probation. At the end of six (6) weeks, the employee's performance shall be reviewed with him/her by the supervisor by completing an employee evaluation.
 - a. At the end of the three-month probation period, a second performance evaluation will be conducted. This evaluation will recommend the end of probation and regular status for the employee, an extension of probation, or termination for cause.
 - 2. Status as a Probationary Employee
 - a. Probationary employees will be paid at five percent (5%) below the posted pay rate for the position.
 - 1) New employees hired under a negotiated salary will receive a salary one step below the agreed upon salary during the probationary period.
 - b. Probationary employees will accrue vacation/personal days during the probation period and will receive holiday pay.

- c. Probationary employees may be terminated for cause at any time during the probation period. Cause must consist of a violation of policies or the documented inability of the employee to perform the duties and responsibilities of the position. This termination is subject to appeal. [\(BC Action 3-20-92\)](#)
3. Completion of Probation Period
- a. Satisfactory completion of probation will result in the employee receiving the regular salary for the position.
 - b. Employees who are terminated during the probation period will receive credit for accrued vacation/personal days in their final paycheck.
 - c. Extensions of probation periods will not affect accrual of or use of benefits as explained under D.2.

SECTION IV - COMPENSATION AND BENEFITS

A. SALARY

- 1. Tribal Job and Salary Structure
 - a. An ongoing plan will be instituted based on standard employee grades and step levels to assure that a uniform approach is taken to establish equitable salary and wage levels.
 - b. Employee performance evaluations will be a resource in determining whether an employee receives an increase in pay for the upcoming year. An overall satisfactory rating must be attained in order to be granted an increase in pay.
 - c. Merit increase shall be granted upon the recommendation of the supervisor, the Area Manager, the HRD Manager and the General Manager.
- 2. Workday [\(Work Standard, 10-17-12\)](#)
 - a. The regular Tribal workday is from 8:00 a.m. to 4:30 p.m. with an hour for lunch. The exception to these hours occurs only if the program/enterprise hours must vary for the purpose of providing service (such as retail hours beyond 4:30 p.m.). Shifts will be developed as needed, and the shift hours will then become the regular workday for assigned employees for that program/enterprise.
 - b. Employees are expected to be at work each scheduled work day.
 - 1) Employees who do not report for work because of inclement weather or unforeseen circumstances will not be paid for that day. Employees may elect to use personal day(s) to cover this absence. [\(Work Standard, 11-8-12\)](#)
 - 2) In case of an unavoidable delay or absence, the supervisor must be notified no later than thirty (30) minutes after the scheduled starting time. Employees are encouraged to notify their supervisor before their scheduled starting time.
 - i. Employees failing to report to their assigned jobs or failing to call in within the thirty (30) minute time allowed will be subject to disciplinary action.
 - ii. Permission to leave early must be obtained by the employee from his/her supervisor.

3. Overtime
 - a. Any and all overtime will be kept to a minimum and must be approved by the Supervisor and Area Manager.
 - 1) In the case of potential overtime that may occur at night, on holidays or on weekends, supervisors will delegate this authority to a specific employee and outline specific situations and actions that warrant overtime.
 - b. All overtime must be reported to the supervisor for evaluation.
 - c. Overtime will be approved only if the program or enterprise budget is capable of paying it.
 - d. Overtime will be approved only for hours worked in excess of forty (40) hours per week. Personal/vacation days and holidays will not count toward the forty (40) hour requirements.
 - e. Tribal employees are expected to work overtime if required. Time and one-half will be paid for this overtime.
 - f. Exempt employees are not eligible for overtime.
 - 1) The HRD Office will maintain a list of exempt employees.
4. Holidays [\(Work Standard, 4-15-11\)](#)
 - a. Tribal holidays consist of the following:
 - 1) One-half day Christmas Eve
 - 2) Christmas Day
 - 3) New Year's Day
 - 4) Memorial Day
 - 5) Veteran's Day
 - 6) Independence Day
 - 7) Labor day
 - 8) Thanksgiving Day
 - 9) Indian Day (day after Thanksgiving)
 - 10) One-half day Good Friday
 - 11) Code Talker's Day (Oneida Day, Friday prior to Memorial Day)
[\(BC Resolution – 12-11-13A\)](#)
 - b. To be eligible for a paid holiday, employees must work the preceding and following scheduled work days (except for employees who are on a prescheduled work leave or an approved extended sick leave.) Employees who are granted a sick day directly prior to a holiday must certify that they were capable of working the holiday in order to qualify for a paid holiday.
 - c. All regular employees will be given holiday pay for the maximum pay of eight (8) hours per day.
 - d. Holidays falling on a Saturday will be observed the preceding Friday; holidays falling on a Sunday will be observed on the following Monday. [\(2017 Holiday Observance Calendar\)](#) [\(2016 Holiday Observance Calendar\)](#)
 - e. The Oneida Tribe acknowledges its responsibility to make a reasonable accommodation to employees who wish time off to observe religious holidays. Requests for such time off will be granted where possible, based on the scheduling and staffing needs of affected

departments. Employees wishing to take time off work for religious observances should inform their supervisor as early as possible. Employees may use personal time for such requests if eligible; otherwise the time off will be treated as unpaid leave.

5. Vacation/Personal Days

- a. Every Tribal employee, except temporary employees, shall be allowed personal and vacation days with pay to the extent that personal days and vacation are accumulated. Temporary employees shall be allowed personal and vacation days in accordance with Section II.C.4. [\(GTC Resolution – 7-02-12-A\)](#)
- b. The amount of personal and vacations days shall be determined by continuous service for the Tribe. A "lay-off" from tribal employment shall not be considered in interruption in continuous service where the lay-off is in accordance with the Tribe's Layoff Policy, nor shall a preapproved leave of absence. [\(Accruals Interpretation, 3-6-12\)](#)
- c. Except as provided for in section g, the accrual of personal days shall be as follows: [\(BC Resolution, 4-13-11F\)](#)
 - 1) 0-3 years of service - 6 days per year;
 - 2) 4-7 years of service - 8 days per year;
 - 3) 8-14 years of service - 10 days per year;
 - 4) 15+ years of service - 12 days per year;
- d. Except as provided for in section g, the accrual of vacation days shall be as follows:
 - 1) 0-3 years of service - 12 days per year
 - 2) 4-7 years of service - 15 days per year;
 - 3) 8-15 years of service - 20 days per year;
 - 4) 15+ years of service - 25 days per year.
- e. Part-time employees accrue personal and vacation days for time actually worked at a ratio of a full-time employee.
- f. Service is defined as working for Programs/Enterprises which are contracted by the Tribe of specifically sponsored by the Tribe.
- g. Vacation and personal days shall be capped at 280 hrs. [\(BC Resolution, 11-10-10D\)](#) An employee shall cease to accrue vacation and personal hours when he or she has reached 280 total hours. Supervisors shall notify their employees when said employees have accumulated 200 total hours of vacation and personal time.
 - 1) An employee may trade back accumulated vacation and personal hours in accordance with Section IV.A.5.n. below. [\(GTC Resolution – 5-23-11-B\)](#)
- h. Upon termination from Tribal employment, employees will be paid for any unused personal and/or vacation days.
 - 1) Employees who have used the Tribally-sponsored loan program will be required to honor the terms of the loan agreement.
- i. Personal Days can be used for any reason so long as the request is approved by the employee's supervisor at least twenty-four (24) hours in advance (unless the absence is due to illness or unforeseen circumstances).
 - 1) In the case of illness or unforeseen circumstance, the supervisor shall be notified no

- later than fifteen (15) minutes before the scheduled starting time.
- 2) Programs and enterprises may institute stricter standards of notification. These standards will be submitted to and approved by the Personnel Department.
- j. An employee shall notify his/her supervisor of an intent to use personal days in the following ways:
 - 1) Three (3) to five (5) days - one (1) week advance notification
 - 2) Six (6) days or more - two (2) weeks advance notification.
 - k. An employee shall notify his/her supervisor one (1) day in advance if he/she will take off one (1) or two (2) days of vacation. Programs and enterprises may institute stricter standards of notification.
 - 1) Three (3) to five (5) days of vacation require a one (1) week advance notification.
 - 2) Six (6) or more days of vacation require at least two (2) weeks advance notification.
 - l. The burden shall be on the supervisor to show that a denial of a personal day or a vacation day is based upon interference with the business of the Tribe.
 - m. Personal or Vacation Days cannot be taken when an employee is on probation.
 - n. Trade-back for Cash - Each fiscal year, the Oneida Business Committee shall analyze fiscal conditions to determine whether employees may trade back personal and/or vacation hours for cash that fiscal year. (Work Standard, 10-11-11)
 - 1) If the Oneida Business Committee approves trade-back for cash, they shall also determine whether (a) and/or (b) applies:
 - i. All employees will have the opportunity to trade-back hours one time that year.
 1. By August 15, each employee who has accumulated twenty-four (24) hours or more of vacation and/or personal days may opt to trade in his/her hours for cash.
 2. Employees will receive their trade back on or before September 30 of that year.
 - ii. Only those employees who are unable to utilize their personal and/or vacation time due to working conditions, such as a shortage in staffing, as determined by the HRD Manager or designee, will have the opportunity to trade back hours on a quarterly basis.
 1. Employees will receive their trade back within sixty (60) days after opting to trade back hours.
 - 2) When trade-back for cash is approved by the Oneida Business Committee, the following standards shall apply:
 - i. Employees must decide which status (vacation or personal or both) from which their trade-back will be drawn.
 - ii. Employees may not trade for cash more than eighty (80) hours in one year. (GTC Resolution 5-23-11-B)
 - o. Additional Duties Compensation
 - p. Travel Time Compensation (Work Standard - 3-20-13)

B. INSURANCES ([see separate publication](#)) for information on Tribal Insurance plans.

([Separating Employees WS 5-6-13](#))

C. RETIREMENT PLAN ([See separate publication for information on Tribal Retirement Plan](#)).

D. LEAVES

1. Meeting Attendance

- a. Approval for attending any meetings inside normal working hours must be approved in advance by the employee's immediate supervisor. ([BC Action, 5-16-89](#))
- b. Employees who receive stipends or honoraria in excess of \$50.00 for attending meetings during working hours will forfeit the amount in excess of \$50.00 from their regular paycheck. Stipends for travel or per diem will not be deducted if accompanied by receipts for such expenses.
- c. Stipends or honoraria for intra-tribal meetings during normal working hours will result in the employee's paycheck being reduced by the full amount of the stipend.

2. Funeral Leave ([Work Standard, 8-2-11](#))

- a. All regular employees will be given a three (3) day leave without loss of pay for funeral services for immediate family. Immediate family includes:

Husband	Mother	Brother	great-grandparent
Wife	Father	Sister	great-grandchildren
Mother-in-law	Son	Grandparent	Spouse's great-grandparents
Father-in-law	Daughter	Grandchild	Spouse's grandparents
Daughter-in-law	Sister-in-law	Brother-in-law	
- b. Three (3) day leave for other persons will be given only if the employee is responsible for making funeral arrangements, subject to prior approval of supervisor.
- c. All other funeral leave will be limited to no more than one (1) day with pay subject to the notification and approval of the immediate supervisor. ([Management Directive, 12-17-2009](#))

3. Leave of Absence ([Work Standard, 6-10-14](#))

- a. A leave of absence without pay may be granted to employees for a justifiable reason (including caring for a child, spouse or parent with a serious health condition) and when in the best interest of the Tribe.
 - 1) Leaves of absence will not exceed three (3) months.
 - i. All leaves of absence must be approved by the supervisor, Area Manager, HRD Manager and General Manager. ([HR Interpretation, 12-8-16](#))
 - ii. Requests must be documented and submitted to the supervisor with as much advance notice as possible.
 - iii. Disposition of requests will be made on the basis of staffing requirements.
 - 2) Upon returning, the employee will be reinstated in the former position with full status and benefits. Holiday, vacation, and sick leave will not be accrued during the leave of absence.
 - 3) No later than fifteen (15) working days prior to the expiration of the leave period the employee must give notice in writing of his/her intent to return to the position. Notice

must be presented to the supervisor.

- i. Failure to provide written notice will be interpreted to mean that the employee does not intend to return following the leave. The position will be posted and filled through the selection process. (HR Interpretation 11-21-11)

4. Maternity Leave

- a. Maternity leave will be granted for a period of six (6) weeks without pay.
 - 1) An employee may elect to cover any portion of this time by using accumulated sick days.
 - 2) Any maternity-related absences for longer than six (6) weeks must be taken as a medical leave of absence.

5. Military Leave

- a. In addition to the following provisions, the Tribe's Military Service Protection Act shall govern Military Leave.
- b. A Military Leave of Absence is afforded employees entering active duty without accumulation of holiday, vacation or personal time during the period of leave. Any accumulated benefits prior to leave will be maintained for the employee.
- c. Time off for inactive duty training, examinations to determine fitness for duty and funeral honors duty shall be afforded to employees without the accumulation or loss of holiday, vacation or personal time. An employee will receive pay from the Tribe for any hours work that the employee was required to miss due to reservist training.
 - 1) Any pay received for performing any of the above duties shall be deducted from the employee's pay. (GTC Resolution - 1-26-08A)

6. Jury Duty

- a. During a period of jury duty, an employee will receive pay from the Tribe for any hours of work missed due to jury duty.
 - 1) Jury duty pay will be deducted from the employee's paycheck when determining the amount of pay
 - 2) No overtime will be allowed in determining employee pay while serving on jury duty.

7. Educational Leave (BC Action, 5-4-90)

- a. A leave of absence for education purposes will not exceed one (1) year.

8. Parent Policy Leave (BC Action, 3-2-94A)

- a. Employees who are parents, guardians, or those individuals specifically referred to as "immediate family" as defined in Section IV, page 6 of these Personnel Policies and Procedures which includes husband, wife, mother, father, brother, sister, son, daughter, mother-in-law, father-in-law, grandparent and grandchild may request to participate in their child(ren)'s educationally sanctioned events not to exceed four (4) hours per employee per month
 - 1) These four (4) hours shall not accumulate.
- b. Approval to utilize the four (4) hours must be obtained from the supervisor.
 - 1) An employee shall request his/her supervisor to utilize this leave with a minimum of

- twenty-four (24) hours' notice.
- 2) The Supervisor may request verification of
 - i. Guardianship of the child(ren) and/or
 - ii. The attendance of the employee at their child(ren)'s educationally sanctioned - event.
 - c. The burden shall be on the supervisor to show that a denial of the Parent Policy Leave which is based upon interference with the business of the Tribe.
 - d. This leave shall not be paid as overtime. The supervisor may have the option to use flex time to cover this time off to attend their child(ren)'s educationally sanctioned events.
 - e. All employees, except Emergency/Temporary, Youth Workers, Student Interns, and Seasonal Workers during their first season, and Substitute Reliefs are eligible to participate in this benefit.

SECTION V – EMPLOYEE RELATIONS

A. ORIENTATION POLICY

The Oneida Tribe reflects the unique culture and character of the Oneida Nation. The Tribe recognizes that this may present special problems and difficulties for a new employee. The Tribe therefore provides an Orientation Program designed to ease the new employee's transition into a job and enable the new employee to become effective and productive as quickly as possible.

1. Orientation Program Outline
 - a. Overview
 - b. Tribal Government and Procedures
 - c. Key Policies and Procedures
 - d. Benefits
 - e. Safety, Health and Security
 - f. Departmental Orientation
2. Responsibilities
 - a. The HRD Office will administer the General Orientation Program
 - 1) The HRD Office will assist Divisions in administering Departmental Orientation Programs.
 - b. The HRD Office will develop and establish an Employee Mentor Program with each Division.
 - 1) Employee Mentors will be responsible for conducting the Departmental Orientation.
 - 2) Employee Mentors will assist new employees throughout their probation period as a source of references and referrals.
 - c. The HRD Office will annually review the General Orientation Program and each Departmental Orientation Program to:
 - 1) Evaluate the effectiveness of each Program,
 - 2) Modify programs as necessary.
 - 3) Requirements

- a) The HRD Office will provide a copy of the Employee Policy and Procedures Manual to new employees before (if possible) the scheduled starting date.
- b) The General Orientation Program will be completed in appropriate stages within the first month of the new employee's starting date.
 - i. The Departmental Orientation will be completed within the first week of the starting date.
- c) The HRD Office will administer a NEW Employee Reporting Form to provide information for the purposes of maintaining a Tribal wide skills assessment inventory and a management succession plan.

B. EVALUATIONS

1. Evaluation reports will be used in determining all promotions, transfers and salary adjustments.
2. Annual evaluation reports for each employee will be submitted to the HRD Office by August 1 of each year. [\(Work Standard – 6-4-14\)](#)
 - a. Evaluation reports will be retained in each employee's personnel file.
3. All Tribal employees will be evaluated at least once a year.
 - a. Employee performance evaluations will be conducted by each employee's immediate supervisor. The Business Committee will conduct the performance evaluation of the General Manager. [\(HR Interpretation – 12-8-16\)](#)
 - b. The supervisor will discuss the evaluation with each employee. The evaluation will then be signed by the employee and the supervisor and forwarded to the HRD Office.
4. Satisfactory evaluations may result in the employee receiving an increase in pay within their grade level provided that the employee has not attained the highest step within the grade.
 - a. Unsatisfactory evaluations will result in probation status for the employee. The supervisor shall provide documentation to the Area Manager and to the employee detailing the deficiency(s). A repeat evaluation will be conducted three (3) months after the unsatisfactory evaluation. This second evaluation will result in the employee:
 - 1) Being removed from probation and receiving a salary increase if the second evaluation results in an overall satisfactory rating; or
 - 2) Receiving appropriate disciplinary actions if the second evaluation also results in an unsatisfactory rating.
 - b. Employees may appeal unsatisfactory evaluations to the HRD Manager. The HRD Manager will consult with the supervisor and the employee to negotiate an appropriate resolution [\(Work Standard 6-21-11\)](#)

C. CAREER DEVELOPMENT

1. Tribal employees are encouraged to develop their skills and abilities by pursuing education at a local educational institution. [\(BC Action – 9-9-92\)](#)
 - a. Tribal employees must provide a general Career Development Plan to the supervisor listing the goals and objectives of the training and education to be undertaken.
2. Tribal employees may be eligible for assistance for one (1) course per semester. The employee must attempt to arrange to take the class outside his/her normal working hours.
 - a. Where a class conflicts with the employee's work schedule, the needs of the Tribal unit take

precedence; however, the supervisor shall attempt to accommodate the employee's request.

- b. In no case shall the accommodation exceed actual class hours plus reasonable travel time.
 - c. Employees must obtain the approval of their immediate supervisor to take a course on Tribal time.
3. The supervisor's approval and estimated cost must be submitted to the HRD Office, the Area Manager and the General Manager. (HR Interpretation – 12-8-16)
 4. The cost of the books, tuition and fees for the course shall be paid by the Tribe through funds budgeted in programs or through the Higher Education or Workforce Development Fund.
 - a. Reimbursement for books, tuition and fees is contingent upon the employee receiving at least a C (2.0 on a 4.0 point scale).
 - b. Employees who receive less than the required grade point will be required to reimburse the program for whatever costs were incurred.

Administrator

Sticky Note

The discretion to discipline employees for Sexual Harassment or Workplace Violence needs to be the investigators. This makes judicious good sense.



D. COMPLAINTS, DISCIPLINARY ACTIONS, AND GRIEVANCES

Disciplinary procedures provide a systematic process for handling problem employees.

(Work Standard – 5-6-13)

Disciplinary procedures serve to correct unacceptable behavior and to protect the Tribe. Grievance procedures provide a systematic process for hearing and evaluating job related disputes. Grievance procedures serve to protect employees from inconsistent and unfair treatment. In all cases of grievance and discipline, supervisors are enjoined to use common sense, discretion and judicious good sense to resolve complaints between employees, exercise disciplinary prerogatives, and handle grievances.

(HR Interpretation – 2-4-13) (HR Interpretation - 1-29-14)

1. Complaints

- a. Should an employee have a disagreement with another employee, he/she may lodge an informal (verbal) or formal (written) complaint with the employee's supervisor.
- b. The supervisor will investigate the complaint and attempt to resolve the disagreement.
- c. If the employee lodging the complaint is dissatisfied with the attempted resolution, he/she may ask the Area Manager to attempt a resolution.
- d. There is no further appeal of this process.

2. Disciplinary Actions

- a. Disciplinary actions will be initiated by an immediate supervisor for the purpose of correcting unacceptable work performance. The supervisor will always discuss the action with the employee being disciplined to ensure that the employee:
 - 1) Understands the reason for the disciplinary action;
 - 2) Understands the expected work performance in light of the disciplinary action;
 - 3) Understands the consequences of continued unacceptable behavior.
- b. A supervisor shall initiate disciplinary actions commensurate with the seriousness of the unsatisfactory performance. A supervisor must consider each disciplinary action in progressive order and justify a deviance from that recommended progression.
- c. The actions listed below are examples of unacceptable work performance and do not

constitute a comprehensive or exhaustive list. The actions in parentheses are guidelines for a supervisor to use in administering disciplinary actions. (W = written warning; S = suspension; T = termination):

- 1) Work Performance
 - a) Insubordination (including disobedience) or failure/refusal to carry out assignments or instructions. (W/S/T)
 - b) Loafing, loitering, sleeping or engaging in personal business. (W/S/T)
 - c) Unauthorized disclosure of confidential information or records. (S/T)
 - d) Falsifying records or giving false information to departments and/or employees responsible for Recordkeeping. (S/T)
 - e) Failure to provide accurate and complete information where such information is required by an authorized person. (S/T)
 - f) Failure to comply with health, safety and sanitation requirements, rules and regulations. (W/S/T)
 - g) Negligence in the performance of assigned duties. (W/S/T)
- 2) Attendance and Punctuality
 - a) Failure to report promptly and observe work schedules (such as starting time, quitting time, rest and meal breaks) without the specific approval of the supervisor. (W/S/T)
 - b) A pattern of unexcused or excessive absenteeism and/or tardiness. (W/S/T)
- 3) Use of Property
 - a) Unauthorized or improper use of Tribal property or equipment (for example, Tribal vehicles, telephone, mail services, etc.) (W/S/T)
 - b) Unauthorized possession, removal or willful destruction of Tribal or another employee's property (including improper use of possession of uniforms, identification cards, badges, permits or weapons). (Willful destruction of property may subject the violator to applicable liability laws.) (T)
 - c) Unauthorized use, lending, borrowing or duplicating of Tribal keys. (T)
 - d) Unauthorized entry of Tribal property, including unauthorized entry outside of assigned hours of work or entry into restricted areas without prior supervisory approval. (S/T)
 - e) Theft or property shall include theft, embezzlement, cheating, defrauding, pilfering, robbery, extortion, racketeering, swindling or any of these actions, or conspiracy to commit such actions with Tribal employees or other persons against the Tribe, its guests, employee, members, customers and/or clients while on or about Tribal premises. (S/T) (BC Action – 12-2-88)
- 4) Personal Actions and Appearance
 - a) Threatening, attempting, or doing bodily harm to another person. (T)
 - b) Intimidating, interfering with or using abusive language toward customers, clients, co-workers or others. (S/T)
 - c) Making false or malicious statements concerning other employees, supervisors or

- program heads. (W/S/T)
- d) Use of alcohol or illegal controlled substances during work hours. (S/T)
(GTC Resolution – 01-05-09A)
- e) Reporting for work under the influence of alcohol or illegal controlled substances. (S/T) (GTC Resolution – 01-05-09A)
- f) Failure to immediately report any work-related injuries to the immediate supervisor. (W/S)
- g) Direct involvement in political campaigning during scheduled work hours. Violations include:
 - i. Use of Tribal employment title in Tribal campaign activities. (W/S/T)
 - 1. Political materials include: leaflets, brochures, etc. which solicit support for candidates for office.
 - 2. Resolutions or petitions which propose that a political action be initiated.
 - 3. Leaflets, newsletters, or other written materials the purpose of which is to espouse political views or opinions.
 - h) The acceptance of gifts or gratuities for personal gain in the course of official duties. (Customers are allowed to tip Bingo workers, Oneida Tobacco Enterprise workers, and Museum Workers.) (W/S/T)
 - i) Inappropriate dress or personal hygiene which adversely affects the proper performance of duties or constitutes a health or safety hazard. (W/S)
 - j) Failure to exercise proper judgment. (W/S/T)
 - k) Failure to be courteous in dealing with fellow employees or the general public. (W/S/T)
 - l) Any of the following acts by employees: bribery, perjury, obstruction or interference with an investigation authorized by the Oneida Tribe. (S/T)
(BC Action – 12-2-88)
 - m) The use, possession, selling or distribution of alcohol, or any other controlled substances on the premises. (W/S/T)
(BC Action – 12-2-88)
 - n) Any violation of duly adopted Tribal ordinances. (W/S/T) (BC Action – 12-2-88)

Administrator Sticky Note

This Sexual Harassment Section should be taken out of the OPP&P and be its own Stand Alone Policy.



5) Sexual Harassment Policy

It is the Oneida Tribe’s Policy that all employees have a right to work in an environment free of discrimination which includes freedom from harassment, more specifically sexual harassment. The Oneida Tribe considers sexual harassment, in whatever form, in the workplace to be a serious violation of an individual’s dignity and personal rights. In all matters, where complaint of sexual harassment is lodged against an employee, the Oneida Tribe has a duty and obligation to conduct a thorough investigation using discretion, good judgment and the principles and practice of strict confidentiality. If sexual harassment has been committed, the progressive disciplinary process is as follows (W/S/T).

Sexual Harassment is defined as unwelcome **Administrator** requests for sexual favors, and other verbal or physical conduct of a **Sticky Note** when (1) submission to such conduct is made either explicitly or impliedly as a condition of employment, (2) submissions to or rejection of such conduct by an individual is used as the basis for employment decisions affecting that individual, (3) such conduct has the purpose or effect of substantially interfering with an employee on investigative leave or creating an intimidating, hostile, or offensive work environment.



- a) Sexual Harassment (W/S/T)
 - i. Procedure

- a. Should an employee have a complaint, he/she should file a formal (written) complaint with the Human Resources Department.
- b. The Human Resources Department is obligated to investigate the complaint which is to be held in the strictest confidence. This investigation shall be done within five (5) working days from receiving the formal written complaint.
- c. After investigating the complaint and the Human Resources Department finds cause to take disciplinary action due to sexual harassment violation, the employee will be disciplined accordingly by their supervisor. This disciplinary action shall be initiated within five (5) working days from the date the supervisor receives the report from the Human Resource Department. (BC Actions – 7-16-93)



- 3. Accumulated Disciplinary Actions Warranting Termination (Provided that the Drug and Alcohol Free Workplace Policy shall govern disciplinary actions warranting termination for drug and alcohol related violations.) (GTC Resolution - 01-05-09A)

Administrator
Sticky Note
Enforcement for those terminated should include, but not limited to, lifetime employment ban with the ability to request forgiveness after five (5) years.

- a. The accumulation of three (3) upheld warning notices within any twelve (12) month period. (T)
- b. The accumulation of two (2) upheld suspension notices within any twelve (12) month period. (T)
- c. The accumulation of three (3) of any combination of warning notices and/or upheld suspensions within any twelve (12) month period. (T)

- 4. Substance Abuse Disciplinary Procedure - Section was deleted. (GTC Resolution – 01-05-09-A)

[Click here](#) for Drug and Alcohol Free Workplace Policy.

- 5. Disciplinary Procedure (Disciplinary Flowchart)

The following procedure shall be adhered to whenever disciplinary action is taken.

- a. Supervisor becomes aware of unsatisfactory work performance or violation.
 - 1) Supervisor investigates through a meeting with the employees and determines whether disciplinary action is warranted.
- b. If disciplinary action is warranted, within five (5) working days the supervisor will fill out the five (5) part disciplinary action form stating the behavior for which the action is being taken, the time and date of its occurrence, and the specific policy section under which action is being taken.
- c. The form will be discussed with the employee and a corrective action will be identified.

- d. The employee being disciplined will sign the form.
 - 1) Should an employee being disciplined refuse to discuss the action with his/her supervisor, the supervisor shall so note this, with date of refusal, on the form and distribute as in 5.e.
 - e. Copies will be given to the employee, the HRD Manager, the supervisor, the Area Manager and General Manager within twenty-four (24) hours of the conference with the employee. [\(HR Interpretation – 12-8-16\)](#)
 - f. Should a disciplinary action result in the suspension or termination of an employee, the following guidelines shall apply:
 - 1) The supervisor shall consult with the HRD Manager to mutually determine the length of the suspension.
 - a) Suspensions will be limited to a maximum of three (3) weeks.
 - b) Suspension/terminations that are overturned in the appeal process shall result in the employee receiving back pay for the days he/she was suspended/terminated.
6. Grievance [\(Grievance Flowchart\)](#)
- An employee who receives a disciplinary action which he/she believes is unfair may grieve the action. The Grievance process (including appeals of disciplinary action) shall be conducted with utmost consideration for due process (within the time limits set forth herein) but will allow and account for recognized Tribal holidays and unforeseen circumstances (such as illnesses, deaths in the immediate family of principals, etc.). The HRD office will make every attempt to ensure that grievance procedures are concluded within forty-five (45) working days; however, extensions granted for reasonable unforeseen circumstances (as determined by the HRD Manager) may extend the process. The Grievance process will be governed by the following guidelines: [\(HR Interpretation – 8-19-2011\)](#) [\(HR Interpretation – 1-29-2014\)](#)
- a. For all disciplinary actions, regardless of severity:
 - 1) The employee (petitioner) must file an appeal in writing.
 - a) The employee may 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.
 - b) The appeal must be filed with the Area Manager and the HRD Manager (or designee) within ten (10) working days from the day the employee receives the disciplinary action.
 - 2) The Area Manager, for all disciplinary action investigations, will have ten (10) working days from the receipt of the employee's appeal to complete the investigation. One extension of no more than five (5) working days may be requested of and granted by the HRD Manager (or designee) at his or her discretion.
 - 3) The Area Manager will do one of the following:
 - a) Uphold the disciplinary action; or
 - b) Modify the disciplinary action; or
 - c) Overturn the disciplinary action. If a suspension or termination is overturned, the employee (petitioner) shall be reinstated with full back pay.

- 4) The Area Manager will file a decision with the employee and the HRD Manager (or designee) and will include a reason for the decision, an explanation of the decision and the action to be taken as a result of it.
- b. The employee may appeal the Area Manager's decision to the Judiciary – Trial Court. The appeal must be filed with the Judiciary – Trial Court within ten (10) working days from employee's receipt of the Area Manager's decision. Upon receipt of the appeal the Judiciary – Trial Court shall, within one business day, notify the HRD Manager (or designee) that an appeal has been filed by the employee. (GTC Resolution – 2-28-04A)
- 1) Copies of all information of the subject case upon which the disciplinary action was upheld by the Area Manager will be hand delivered to the Judiciary – Trial Court. The Judiciary – Trial Court will hear an appeal only if one or both of the following conditions exist:
 - a) The decision of the Area Manager is clearly against the weight of the evidence and/or
 - b) Procedural irregularities were exhibited during the appeal process that may have been harmful to one of the parties to the grievance.
 - 2) If one or both of the above conditions are present, the Judiciary – Trial Court will hear the grievance.
 - a) If neither of the above conditions is present, the P Judiciary – Trial Court will deny the appeal for a hearing and affirm the decision of the Area Manager.
 - 3) At least five (5) working days prior to the hearing date, the petitioner, and respondent will receive notification of the hearing date.
 - 4) Copies of all information on the subject case upon which the disciplinary action was upheld will be hand-delivered to the Judiciary – Trial Court at least two (2) working days prior to the appeal date. The petitioner and respondent will have access to this information in the HRD Office at least two (2) days prior to the appeal date.
 - a) If new evidence which was previously unavailable is introduced at any point during the Judiciary – Trial Court appeal process, the Judiciary – Trial Court hearing will be suspended and the case will be remanded to the Area Manager for reconsideration.
 - i. The Area Manager will reconsider his/her decision in light of the new evidence and issue a decision within three (3) working days.
 - ii. This procedure may be invoked only once. Thereafter, the appeal process will continue to a conclusion based on the information originally presented and the newly introduced evidence.
 - 5) The petitioner shall have the right to be represented by an advocate if he/she so chooses. The expenses of the advocate shall be the total responsibility of the petitioner. The respondent and/or area manager who is party to the grievance action shall have access to an advocate for consultation and/or representation. Should the petitioner engage outside professional legal representation, the respondent and/or area manager shall have access to professional legal representation.
 - a) Should the petitioner and his/her representative both fail to appear for any

scheduled hearing without justifiable cause, the decision of the Area Manager shall be upheld and the grievance dismissed.

Should the respondent and his/her representative both fail to appear for any scheduled hearing without justifiable cause, the decision of the Area Manager shall be overturned.

- 6) The decision of the Judiciary – Trial Court shall be based solely on the information presented to them before the appeal hearing, the record of the prior proceedings and any new evidence (if introduced appropriately through the provisions of 6.b.4.a. above).
- 7) The decision of the Judiciary – Trial Court shall be final. The Judiciary – Trial Court may:
 - a) Uphold the disciplinary action; or
 - b) Overturn the disciplinary action and:
 - i. Reinstatement the employee (petitioner) with full back pay for any lost time;
 - ii. Reinstatement the employee (petitioner) without back pay.
- 8) The petitioner and respondent have a right to a speedy hearing and decision; therefore, notification of the final decision will be made within five (5) working days following the hearing.
 - a) Notification of the final decision will include:
 - i. The final decision;
 - ii. The reason(s) for the final decision; and
 - iii. The action to be taken as a result of the final decision.
- 9) The HRD Office shall:
 - a) Keep all records of the hearing;
 - b) Provide copies of administrative advocacy rules, procedural rules, and time line rules to interested parties.

SECTION VI – SAFETY AND HEALTH

A. POLICY

The personal safety and health of each employee, customer and client of the Oneida Tribe is of primary importance. The prevention of injuries and illnesses is of such importance that it will take precedence over operating productivity whenever necessary.

The Oneida Tribe will maintain a safety and health program conforming to the best practices available. To be successful, this program will work to develop the proper attitudes toward on-the-job injury and illness prevention on the part of supervisors and employees. This program will strive to develop a high level of cooperation in all safety and health matters between supervisors and employees and among employees.

The objective of this program is a safe and healthy environment that will reduce the number of job-related injuries and illnesses to an absolute minimum. The Tribe's goal is zero accidents and illnesses.

B. PROCEDURES

The Tribal Safety Committee will adopt and enforce through the Personnel Department procedures related to the education of the Tribal work force in matters of safety and health. These procedures will include all education and prevention activities, assessments and evaluations, and reporting.

SECTION VII – PROGRAM/ENTERPRISE RULES & REGULATIONS

- A. Enterprises and programs may establish internal rules and regulations to facilitate the administration of Tribal Personnel Policies and Procedures.
1. In no case will these internal rules and/or regulations conflict with or take the place of Tribal Personnel Policies and Procedures.
 2. Enterprises and programs which establish internal rules and regulations will file a copy of the rules and regulations with the Personnel Department.

SECTION VIII – RECORD KEEPING

A. PERSONNEL OFFICE

1. Basic records to be retained include:
 - a. Reference Data
 - b. Job Descriptions
 - c. Resumes and Applications
 - d. Interview notes/selection information
 - e. Resignations
 - f. Employee tax exemption claims
 - g. Disciplinary action information
 - h. Performance evaluations
 - i. Insurance coverage/changes
 - j. Transfers
2. The Personnel Office shall keep and maintain a complete record of each employee throughout his/her term of employment.
 - a. Tribal employees shall have access to their employment file.
 - b. Employment files kept by the Personnel Office shall be considered confidential information. Release of any information to a third party must have the consent of the employee in writing.

B. ACCOUNTING DEPARTMENT

1. Basic records to be retained include:
 - a. Attendance records
 - b. Employee Time Sheets
 - c. Earnings - in the form of computer printouts

- d. Travel - in the form of complete travel authorization forms.
 - 1) Time sheets and travel reports shall be filled out by every employee for pay period, collected by the program head, and forwarded to the Department.
- 2. The Accounting Department shall retain all records for a period of seven (7) years. [\(Archived 29, October 2010\)](#) [\(BC Action, 10-14-09B\)](#)

Title 2. Employment – Chapter 223
WORKPLACE VIOLENCE

223.1.	Purpose and Policy	223.8.	Supervisor Responsibilities
223.2.	Adoption, Amendment, Appeal	223.9.	Equal Employment Opportunity Department Responsibilities
223.3.	Definitions	223.10.	Fraudulent Report
223.4.	Applicability	223.11.	Confidentiality
223.5.	Prohibited Behavior	223.12.	Enforcement
223.6.	Reporting Workplace Violence		
223.7.	Future Workplace Violence		

223.1. Purpose and Policy

223.1-1. *Purpose.* The purpose of this law is to provide all Oneida Nation employees and visitors an environment that is free of violence and the threat of violence.

223.1-2. *Policy.* It is the policy of the Nation to provide a safe and secure environment for employees to work and for conducting business by establishing the procedures by which incidents of workplace violence shall be addressed.

223.2. Adoption, Amendment, Repeal

223.2-1. This law was adopted by the Oneida Business Committee by resolution BC-06-28-17-E.

223.2-2. This law may be amended or repealed by the Oneida Business Committee and/or the Oneida General Tribal Council pursuant to the procedures set out in the Legislative Procedures Act.

223.2-3. Should a provision of this law or the application thereof to any person or circumstances be held as invalid, such invalidity shall not affect other provisions of this law which are considered to have legal force without the invalid portions.

223.2-4. In the event of a conflict between a provision of this law and a provision of another law, the provisions of this law shall control.

223.2-5. This law is adopted under authority of the Constitution of the Oneida Nation.

223.3. Definitions

223.3-1. This section shall govern the definitions of words and phrases as used within this law. All words not defined herein shall be used in their ordinary and everyday sense.

(a) "Area Manager" means the person two (2) levels of supervision in the chain of command above an employee, or an individual designated to be the Area Manager by the Division Director.

(b) "EEO Department" means the Equal Employment Opportunity Department within the Nation's Human Resource Department.

(c) "Employee" means anyone employed by the Oneida Nation in one of the following employed capacities: full-time, part-time, emergency temporary, limited term or on a contractual basis.

(d) "Intimidation" means making others feel afraid or fearful through threatening behavior.

(e) "Nation" means the Oneida Nation.

(f) "Stalking" means unwanted or obsessive attention by an individual or group toward another person. Stalking includes a course of conduct directed at a specific person that involves repeated visual or physical proximity, nonconsensual communication, or verbal,

written, or implied threats, or a combination thereof, that would cause a reasonable person fear.

(g) "Supervisor" means the person or entity responsible for directly overseeing the employee.

(h) "Threat" means the implication or expression of intent to inflict physical harm or actions that a reasonable person would interpret as a threat to physical safety or property.

(i) "Weapon" means a firearm, knife, electric weapon, club, or any other object intended to cause harm to oneself or others.

(j) "Workplace" means any location owned and operated by the Nation, and any location where an employee represents the Nation, including over-the-road travel in the Nation's owned or rented vehicles and circumstances where the employee is being reimbursed for expenses.

(k) "Workplace Violence" means any intentional act committed by an employee in a workplace that:

(1) inflicts, attempts to inflict, or threatens to inflict emotional or bodily harm on another person; or

(2) inflicts, attempts to inflict, or threatens to inflict, damage to property.

223.4. Applicability

223.4-1. This law applies to all employees in any of the Nation's workplaces, whether or not the employee is operating within the course of his or her employment at the time the incident of workplace violence occurs.

223.5. Prohibited Behavior

223.5-1. *Prohibited Behaviors.* Examples of workplace violence include, but are not limited to, the following prohibited behaviors:

(a) intentionally causing physical injury to another person;

(b) hitting or shoving;

(c) fighting or "horseplay" that may be dangerous to others;

(d) direct threats or physical intimidation;

(e) implications or suggestions of violence;

(f) stalking;

(g) possession or use of weapons of any kind on property of the Nation, including parking lots, other exterior premises or while engaged in activities for the Nation;

(h) physical restraint, confinement;

(i) loud, disruptive, angry or abusive language or behavior;

(j) sending of threatening, harassing or abusive e-mails, letters, faxes, phone calls, text messages or other form of electronic media;

(k) using the workplace to violate protective orders;

(l) intentionally damaging property of the Nation or property of another;

(m) throwing an object at an individual; and

(n) any other act that a reasonable person would perceive as constituting a threat of violence.

223.5-2. *Exceptions to Prohibited Behavior.* The following shall be exempt from this law:

(a) Law enforcement officials and security staff are not considered to be in violation of this law when acting in their official capacity;

(b) Employees required to use knives or other tools owned by the Nation that could potentially be used as weapons are not considered to be in violation of this law as long as the tools are used within the normal scope of employment and not used in a way to intimidate, threaten or otherwise harm another person within the workplace; and

(c) Any other action that is consistent with laws of the Nation.



223.6. Reporting Workplace Violence

223.6-1. *Reporting by a Non-Employee.* Any non-employee who observes workplace violence that occurs in the Nation should report of workplace violence given to an employee from a non-employee in writing to the employee's supervisor. The supervisor shall assess the information pursuant to section 223.8.

223.6-2. *Permissive Reporting by an Employee.* An employee may report workplace violence to his or her supervisor where the employee:

- (a) is the victim of workplace violence; or
- (b) believes he or she has been threatened with workplace violence.

223.6-3. *Mandatory Reporting by an Employee.* An employee shall report workplace violence where the employee witnesses an act or threat of workplace violence towards anyone else.

(a) *Emergency Situation.* If an emergency exists or the situation is one of immediate danger to the life and safety of a person, the employee shall, if possible without causing themselves to be in danger; contact the Oneida Police Department or local law enforcement, and facility security if determined appropriate, and take whatever emergency steps are available and appropriate to protect himself or herself from immediate harm. The employee shall report the incident in writing to the appropriate supervisor as soon as possible.

(b) *Non-Emergency Situation.* If a non-emergency situation exists the employee shall report the incident in writing to the appropriate supervisor as soon as possible if the situation is not one of immediate danger to life and safety.

223.6-4. *Reporting the Behavior of a Supervisor.* If the incident of alleged workplace violence involves the supervisor, the employee shall report the incident to the supervisor's supervisor, or if none exists, to the area manager.

223.6-5. *Reporting Restraining Orders.* An employee who possesses a current restraining order against another employee, shall immediately supply a copy of the signed order to his or her supervisor.

- (a) The supervisor shall provide copies of the restraining order to the area manager and the EEO Department Director or designee.

223.7. Future Workplace Violence

223.7-1. Where an employee has reason to believe that he, she or others, may be victimized sometime in the future, either at the workplace or as a direct result of their employment with the Nation, he or she is encouraged to provide this information in writing to his or her supervisor for an initial assessment pursuant to section 223.8-1.

- (a) If an employee reports a possibility of future workplace violence to his or her supervisor the supervisor shall inform the EEO Department Director or designee.
- (b) The EEO Department Director or designee shall inform the Oneida Police Department or local law enforcement and/or facility security if determined appropriate.

Administrator

Sticky Note

Reporting of Workplace Violence should not go to the supervisor for assessment. The allegations should be sent to OPD and EEO directly.

**Administrator
Sticky Note**

223.7-2. *Anonymous threats or letters.* In the event that an employee receives and reports anonymous threats or letters, the employee shall immediately notify the Chief of the Oneida Police Department in a confidential manner to the Chief of the Oneida Police Department. The employee shall also notify the EEO's investigations, there should be no supervisor responsibilities. The supervisor shall then immediately notify his or her supervisor. The supervisor shall notify the target of the threat, take measures to ensure safety, and ensure that the Oneida Police Department as notified, and notify local law enforcement and/or facility security if determined appropriate.



223.8. Supervisor Responsibilities

223.8-1. Upon receiving a report of workplace violence or otherwise becoming aware of a threat of workplace violence or a workplace violence episode, a supervisor shall immediately conduct an assessment of the situation and determine if an emergency exists or if the situation is one of immediate danger.

223.8-2. *Emergency Situation.* If an emergency situation exists and if possible without causing themselves to be in danger, a supervisor shall immediately contact the Oneida Police Department or local law enforcement, and facility security if appropriate, and take whatever emergency steps are available and appropriate to protect himself or herself, employees and others from immediate harm.

223.8-3. *Non-Emergency Situation.* If the situation is not creating immediate danger to life and safety, the supervisor shall speak to the person reporting the incident and assess the situation.

(a) If the supervisor deems the episode is not a workplace violence problem then the investigation as a workplace violence matter ends.

(b) Where the supervisor deems the episode as a workplace violence matter, he or she shall prepare a written Workplace Violence Incident Report detailing the complaint. The supervisor shall then forward this report to the EEO Department Director or designee.

223.8-4. *Investigative Leave.* A supervisor may place an employee alleged to be involved in a workplace violence incident on investigative leave, if the supervisor deems the investigative leave necessary and appropriate, in accordance with the Nation's laws, policies and rules governing investigative leave except for the EEO Department Director or designee, not the employee's supervisor, shall conduct the investigation of the alleged workplace violence incident.

**Administrator
Sticky Note**

223.8-5. A supervisor shall consider the recommendation for disciplinary action provided by the EEO Department Director or designee pursuant to section 223.9-4(b) when carrying out a disciplinary action of an employee. The EEO should be investigating, any disciplinary action of an employee within five (5) days of receiving the report. If the supervisor does not place on investigative leave (if needed), and disciplining the EEO Department Director or designee, the supervisor shall provide notification for the deviation from the recommendation to the EEO Department Director and the supervisor's Area Manager.



223.9. Equal Employment Opportunity Department Responsibilities

223.9-1. The EEO Department Director, or an individual assigned as designee by the EEO Department Director, shall be responsible for investigating alleged workplace violence.

223.9-2. Upon receipt of a completed Workplace Violence Incident Report, or other acceptable written notice of an allegation of workplace violence, the EEO Department Director or designee shall coordinate with all involved agencies or departments and immediately conduct an investigation which may include the following duties:

(a) Personally visit the scene of an incident as soon as possible;

- (b) Interview employees and other witnesses;
- (c) Examine the workplace for security risk factors associated with the incident, including examination of any reports of inappropriate behavior by the perpetrator;
- (d) Determine the cause of the incident;
- (e) Determine what mitigating action could prevent the incident from recurring;
- (f) Record the findings and recommended mitigating actions; and
- (g) Contact the Oneida Police Department and/or any other appropriate law enforcement agency when necessary;
- (h) Review relevant video surveillance footage if available, in accordance with standard operating procedures on the subject; and
- (i) Any other investigative methods necessary for a thorough investigation.

223.9-3. In performing these investigative duties, the EEO Department Director or designee shall not interfere in the investigation of any law enforcement agencies. If at any time criminal charges are brought against an employee as a result of an incident of workplace violence, then the employee shall be placed on investigative leave in accordance with the Nation's laws, policies and rules governing investigative leave, except for the EEO Department Director or designee, not the employee's supervisor, shall conduct the investigation of the alleged workplace violence incident.

223.9-4. Upon completion of the investigation, the EEO Department Director or designee shall:

- (a) implement any preventive factors within the Nation's Human Resources Department's authority;
- (b) provide a written report of the investigation and recommendation for disciplinary action, if any, to the supervisor of the employee;
- (c) notify the Oneida Police Department or local law enforcement when a potential criminal act has occurred; and
- (d) refer employees to post-event trauma counseling for those employees desiring such assistance.

223.9-5. *Employee Resignation.* An employee who resigns from their position when there is an ongoing investigation or in lieu of a termination shall not be eligible for hiring consideration in a different position within the Nation for three (3) years from the date of the resignation. The EEO Department Director or designee shall remain responsible for completing the investigation in the event an employee resigns during an investigation.

223.9-6. In appropriate circumstances, the EEO Department Director or designee shall inform the reporting individual of the results of the investigation which would not compromise the legally-protected confidentiality of any other person.

223.10. Fraudulent Report

223.10-1. If at any time the EEO Department Director or designee, or supervisor is made aware that an employee or supervisor has made a report other than in good faith, the employee or supervisor may be disciplined according to the Nation's laws, policies and rules governing employment, up to and including termination.

223.11. Confidentiality

223.11-1. To the extent possible, the Nation shall maintain the confidentiality of employees and the investigation. However, the Nation may need to disclose results in appropriate circumstances; for example, in order to protect individual safety.

223.11-2. Information related to the application of this law is strictly confidential. Information shall not be disclosed to third parties unless:

- (a) the prior written consent of the alleged victim is obtained;
- (b) the release of information is in compliance with a court order; and/or
- (c) the release of information is pursuant to applicable laws and/or policies.



223.12. Enforcement

223.12-1. An employee or supervisor who violates this law may be subject to disciplinary action under the Nation's laws, policies and rules governing employment, up to and including termination.

223.12-2. An employee who violates this law may be subject to removal from a workplace of the Nation.

End

Adopted – BC-06-28-17-E

Administrator Sticky Note

Enforcement for those terminated should include, but not limited to, lifetime employment ban with the ability to request forgiveness after five (5) years.



Legislative Operating Committee FY19 First Quarter Report: October 1, 2018- December 31, 2018

Executive Summary

The Legislative Operating Committee focused on three legislative projects in the first quarter, 1) Amending seventeen (17) of the Oneida Nation's boards, committees, and commissions bylaws, 2) Election Law amendments, and 3) a Sanctions and Penalties Law. Table 1. is a complete list of what the LOC was working on as of December 31, 2018. For more information regarding any of the Nation's legislation please go to <https://oneida-nsn.gov/government/business-committee/standing-committees/legislative-operating-committee/> or <https://oneida-nsn.gov/government/register/>. To provide comments or ask questions email us at LOC@oneidanation.org

Updates to the Active Files List

Twenty-two (22) items were added to the active files list in the first quarter. Seventeen (17) of those items are amendments to the boards, committees, and commissions bylaws. On September 27, 2018, the Oneida Business Committee adopted amendments to the Comprehensive Policy Governing Boards, Committees, and Commissions. The name of the law has changed to the Boards, Committees, and Commissions law. Because of the adoption, seventeen (17) boards, committees, and commissions are required to amend their bylaws to comply with new requirements. The Oneida Business Committee (OBC) set a six (6) month timeline for the completion of this effort. The deadline for these amendments is March 26, 2019. The Legislative Reference Office is assisting boards, committees, and commissions as bylaws are redrafted. See page 4 of this report for more detail, including deadlines.

Legislation added to the active files list;

- Seventeen (17) sets of bylaw amendments
- Curfew Law
- Recycling and Solid Waste Disposal Amendments

General Tribal Council Petitions added to the active files list;

- Petition: Scott Kosbab- Creating a Term Limits Law
- Petition: G. Powless- Rescinding the Removal Law
- Petition: Cathy L. Metoxen- Oneida Youth Leadership Institute

Items removed from the active Files List;

- Harvest Law
- Employment Law
- Tribal Identification Card Law
- Research Protection Act
- Petition: Dallas- Special Per Capita Payment and/or Options
- *LOC changed the name of the Commerce Law to the Business Corporations Law

Table 1. Active files list and status of each legislative item as of December 31, 2018

Chart Legend

-  Researching, 0-25%
-  Outreach, meetings, drafting, 25-50%
-  Developing analyses, public meeting, 50-75%
-  Public comment review, LOC approval, 75-100%
-  Adoption or acceptance, 100% complete

Legislative Item	Status
Election Law Amendments	
Child Support Amendments	
Sanctions and Penalties Law	
Employee Protection Policy Amendments	
Uniform Commercial Code	
Military Service Employee Protection Amendments Repeal	
Oneida Personnel, Policies, and Procedures Amendments Repeal	
Rules of Civil Procedure Amendments Repeal	
Domestic Animals Amendments	
Oneida Food Service Code	
Drug & Alcohol Free for Elected and Appointed Officials	
Industrial Hemp	
Wellness Court	
Public Peace Law	
Tribal Traffic Court	
Code of Ethics Amendments	
Business Corporations Law	
Vehicle Driver and Fleet Management Amendments	
Guardianship Law	
Law Enforcement Conservation Officers Amendments	
Oneida Personnel Commission Bylaws Amendments	
Oneida Gaming Commission Bylaws Amendments	
Oneida Land Claims Commission Bylaws Amendments	
Oneida Nation Commission on Aging Bylaws	
Oneida Nation School Board Bylaws	
Anna John Resident Centered Care Community Board Bylaws Amendments	
Oneida Nation Arts Boards Bylaws Amendments	









Oneida Police Commission Bylaws Amendments	
Oneida Pow-Wow Committee Bylaws Amendments	
Pardon & Forgiveness Committee Bylaws Amendments	
Southeastern Wisconsin Tribal Service Advisory Board Bylaws Amendments	
Oneida Election Board Bylaws Amendments	
Oneida Land Commission Bylaws Amendments	
Oneida Nation Veterans Affairs Committee Bylaws Amendments	
Oneida Trust Enrollment Bylaws Amendments	

Table 2. Meetings held by the Legislative Operating Committee in First Quarter

Legislative Operating Committee Meetings	
October 3, 2018	Regular LOC meeting
October 17, 2018	Regular LOC meeting
November 7, 2018	Regular LOC meeting
November 21, 2018	Regular LOC meeting
December 5, 2018	Regular LOC meeting
December 19, 2018	Regular LOC meeting
Public Meetings and Outreach Events	
October 4, 2018	Sanctions and Penalties Law Public Meeting
November 8, 2018	Election Law Amendments Public Meeting
December 3, 2018	Employee Protection (Whistleblower) Amendments Public Meeting

Legislative Operating Committee First Quarter Highlights

Curfew Law

The LOC has added a Curfew Law to the active files list, because of a recommendation from the Tribal Action Plan (TAP) Subcommittee on Laws and Policy. Currently, there is no curfew law adopted by the Nation. The LOC has begun researching other curfew laws in the area and amongst other tribal nations. The Legislative Operating Committee is working with the Oneida Nation High School to provide students with an opportunity to provide their thoughts and learn about the Nation's legislative process.

Children's Code

The Children's Code was adopted by the Oneida Business Committee through resolution BC-07-26-17-J. It directed that the LOC 1) provide a final implementation plan to the OBC by September 13, 2017, and 2) provide the OBC with quarterly reports starting after September 13, 2017, and 3) conduct a review one year after implementation. The code was to become effective on January 6, 2019.

On October 3, 2018 a work meeting was held to discuss the status of implementation of the Children's Code and determine if the effective date of the Children's Code should be modified to October 1, 2019. On October 24, 2018, the OBC did delay implementation through a resolution titled

“Amending Resolution BC-07-26-17-J to Delay Implementation of the Children’s Code”. The implementation date is now October 1, 2019.

Harvest Law

On June 6, 2018 the LOC added a Harvest Law to the active files list. The original intent of this law was to regulate and manage the harvesting and gathering of the Nation’s natural resources including plants, bark, wild rice, bergamot, etc. On August 15, 2018, the Harvest Law work team met and along with the LOC agreed that a community input session would be beneficial before any drafting was done or any policy decisions were made. A Community Pot Luck was held on September 27, 2018. The purpose of the event was to collect comments, opinions, and concerns from the community regarding the creation of a Harvest Law. Nine (9) community members attended the event and were given an opportunity to submit their comments orally and in writing. The information was collected and reported out to the LOC on October 3, 2018. The community members in attendance generally had concerns about the law, and worried that the law may hinder or demotivate people who want to harvest or have been harvesting for many years. Based on the information collected, the LOC decided there were more efficient and effective ways to both protect the Nation’s natural resources and encourage harvesting. On October 17, 2018, the LOC removed the Harvest Law from the active files list and approved a memo to be sent to the Environmental Resources Board, the Land Commission, the Environmental, Health, Safety, and Land Division, and the Director of the Natural Resources Department indicating that they could work together to develop programming that would teach people how to harvest responsibly and encourage responsible harvesting in the community. The memo was also sent to the community members that attended the Community Pot Luck Event.

This effort is an example of how the LOC is collecting thoughts from the community and using the information collected to make policy decisions that are community driven. The LOC will continue to explore innovative methods to collect input from the community.

Amending Bylaws for Boards, Committees, and Commissions

Because of the adoption of the Boards, Committees, and Commissions Law in September, most non-corporate boards, committees, and commissions must update and amend its bylaws. A total of seventeen (17) sets of bylaws must be presented to the Oneida Business Committee for adoption, by March 26, 2019.

Upon request, the LRO is assisting boards, committees, and commissions to amend their bylaws. Information meetings were held on October 17 and 24, 2018, for presenting the required changes to the boards, committees, and commissions. Chart 1. is a flow chart of important tasks and deadlines. Upon request, the LRO will support each board, committee, and commission while this process is completed. There are several important dates that the boards, committees, and commissions have been made aware of:

January 17, 2019	Deadline to submit draft bylaws to the LRO for a final review.
January 31, 2019	Deadline to request the LRO to complete the required legislative analysis that must accompany all draft bylaws.
February 15, 2019	All draft bylaws and their legislative analysis must be submitted to the Legislative Operating Committee.
February 20, 2019	Last day the LOC will review bylaws before the March 26, 2019 Business Committee Deadline.

March 26, 2019

Deadline to present bylaws for adoption to the Business Committee.

Chart 1. Six Month Timeline for all Boards, Committees, and Commissions to Amend Bylaws



Boards, committees, and commissions are encouraged to complete their tasks and submit their bylaws prior to the deadline dates. Any board, committee, or commission that would like assistance with their bylaws from the Legislative Reference Office may contact Kristen Hooker, LRO Drafting Attorney at khooker@oneidanation.org.

Community Budget Session

The Community Budget Session was held on November 30, 2018 at the Radisson Hotel and Convention Center. Several departments were at the event to discuss budgets and collect input from the participants.

In addition to sharing budget information, the LOC used the event as an opportunity to collect input from the community about legislation. Two activities were designed to ask questions and help the LOC understand how at least some community members feel about the Nation’s legislation.



LRO staff at the Community Budget Session on 11/30/18

Activity #1 How much do you know about Oneida’s legislative process?

Findings There were three answers to choose from; 1) Zero-Zilch, 2) A Little Bit, and 3) I’m a Pro. Thirty (30) people participated. The data indicates the 68% of the participants knew at least a little bit about the legislative process or considered themselves to be pros, and 29% knew nothing about the process. The LOC can use this data in our efforts to work with the community in the future.

Data Set for Activity #1: How much do you know about Oneida’s legislative process? N=31			
Zero-Zilch	A Little Bit	I’m a Pro	Totals
9	13	8	30
30%	43%	27%	100%

Activity #2 This activity provided participants with an opportunity to share their ideas about new laws, how to amend current laws, and anything else they wanted to share.

Findings Sixteen (16) people provided the following comments;

Data Set for Activity #2: Share your ideas about Oneida’s Laws Here N=15
Elder Abuse Codes
Removal Law needs improvement- too 1 sided
Needs some more staff budget to support the department with laws and training for operations and management
Law to prevent one person from making life changing decisions
We need a law that addresses name changes- easy one- non-controversial
Less legal jargon- break it down Barney style. K.I.S.S.
The language describing laws is confusing
Accountability
Where’s our traffic law???
Bullying in workplace
Curfew for minors
Library Law
<u>WE</u> invented the system! Let’s remember how to be better
Official Actions for B,C,C about tasks directed to staff of departments. When are they active?
Activate Notary Law
Need more one on one with boards to help understand laws

Legislative Operating Committee’s FY19 Second Quarter Plans

For the second quarter, the LOC’s legislative focus will be on: amendments to bylaws, Sanctions and Penalties Law, Election Law Amendments, Child Support Amendments, Domestic Animals Amendments, Food Service Code Amendments, Curfew Law, and an Industrial Hemp Law.

Legislative Reference Office Update

The LRO is the support office for the LOC. The LRO drafts law, analyzes law, holds public meetings, collects public comment, and involves various departments in work meetings where the LOC discusses policy and makes decisions.

In the first quarter, the LRO focused on preparing for General Tribal Council meetings to discuss the Election Law Amendments and the Sanctions & Penalties Law early in 2019. The hope is that both these items are completed in the second quarter. In addition, the LRO focused on assisting boards, committees, and commissions with updating their bylaws for submissions by the Oneida Business Committees deadline of March 26, 2019.

Legislative Operating Committee Contact Information

- David Jordan, LOC Chairperson, djordan1@oneidanation.org
- Kirby Metoxen, LOC Vice Chairperson, kmetox@oneidanation.org
- Jennifer Webster, LOC member, jwebste1@oneidanation.org
- Daniel King-Guzman, LOC Member, dguzman@oneidanation.org
- Ernest Stevens III, LOC Member, esteven4@oneidanation.org
- LOC@oneidanation.org





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



TO: Oneida Business Committee
FROM: David P. Jordan, LOC Chairman 
DATE: February 13, 2019
RE: Amendments to Boards, Committees, and Commission Bylaws Timeline

BACKGROUND

The Oneida Business Committee adopted Amendments to the Comprehensive Policy Governing Boards, Committees, and Commissions by Resolution #09-26-18-C *Amendments to the Comprehensive Policy Governing Boards, Committees, and Commissions*. The newly named Boards, Committees, and Commissions law included several amendments that the Nation's boards, committees, and commissions now need to comply with. Primarily, the law has expanded and added more detail to the format that boards, committees, and commissions must use to develop their bylaws. This was done to streamline and update the boards, committees, and commission's bylaws. Minimum requirements now include; Authority, Officers, Meetings, Expectations, Stipends and Compensation, Records and Reporting, and Amendments.

In addition to adopting the amendments, the Business Committee directed that all boards, committees, and commissions have their amended bylaws presented for adoption by the Business Committee within six months. The six-month deadline is March 26, 2019.

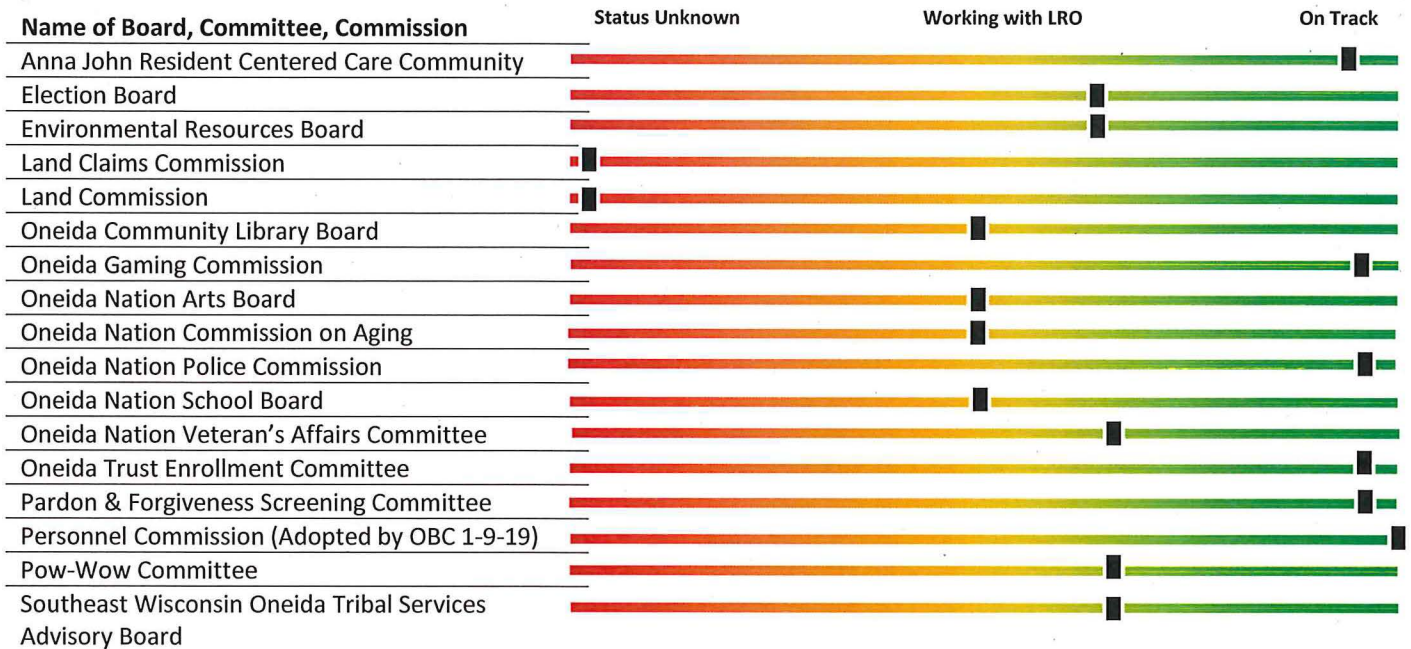
The Legislative Operating Committee (LOC) developed a timeline for the boards, committees, and commissions to follow to meet the six-month deadline. The timeline included information sessions and assistance from the Legislative Reference Office (LRO) upon request. Since September the LOC and LRO have had seventeen meetings with various entities to assist with amending bylaws. Two informational sessions were held, and entities were sent deadline reminders. Chart 1. Illustrates the project timeline.

Chart 1. Six Month Timeline for all Boards, Committees, and Commissions to Amend Bylaws



CURRENT PROJECT STATUS

As of February 1, 2019; One set of bylaws were complete, 5 sets are on track and close to LOC approval, 8 sets are being reviewed between the entity and the LRO, and 2 are of unknown status.



LOC REVIEW

The LOC is reviewing each set of bylaws for compliance with the Boards, Committees, and Commissions law prior to their approval and before forwarding them to the Business Committee. The LOC will flag policy concerns for the Business Committee, in addition to ensuring compliance with the law- so that the Business Committee is prepared to review the bylaws before considering adoption.

It has become clear that although it is possible to meet the six-month timeline, meeting it will result in work that is rushed and would be of better quality if there was more time. This is true for the LOC, the LRO, and the boards, committees, and commissions. There are several reasons for this; 1) there has been more back and forth exchanging of drafts between the LRO and the entities than anticipated, 2) some entities have missed deadlines, and 3) the Business Committee schedule and meeting materials deadlines actually provide 4.5 months- not six months 4) the office closings due to weather on January 28 and 30, 2019 resulted in lost work time for both the entities and the LRO. The LRO is monitoring the project closely and will complete a project evaluation once the project is complete- to ensure that the lessons learned are identified, and that a better process for amending bylaws is developed for the future.

LOC RECOMMENDATION

The LOC is recommending that an exception be made to BC Resolution titled #09-26-18-C "Amendments to the Comprehensive Policy Governing Boards, Committees, and Commissions", to extend the six-month deadline for amending bylaws by an additional 2 months.

The LOC believes that a two-month extension will result in better amendments, better analysis of the amendments, higher compliance rates, and in the end the Business Committee will be better prepared to consider the bylaw amendments when they come to the Business Committee for approval.

NEW DEADLINE DATE

A two-month extension would mean that the new due date for bylaws to be to the Business Committee for approval will be May 26, 2019. The LRO has determined that to meet that deadline- bylaws must be received by the LRO, in their final form by April 18, 2019.

The LOC will continue to work with those entities that are on track and who will soon be on track, and will forward bylaws to the Business Committee as they are approved by the LOC.

February 2019

February 2019

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March 2019

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SUNDAY	MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SATURDAY
Jan 27	28	29	30	31	Feb 1 1:30pm FW: LOC Work Session (BC_Exec_Conf_Room) - Maureen S. Perkins	2
3	4 1:30pm FW: LOC Work Session (BC_Exec_Conf_Room) - Brandon M. Wisneski	5	6 9:00am LOC (BC_Conf_Room) - LOC 9:00am LOC Meeting (BC_Conf_Room) 9:00am LOC Meeting	7	8 1:30pm FW: LOC Work Session (BC_Exec_Conf_Room) - Maureen S. Perkins	9
10	11 6:00pm GTC Meeting (Radisson)	12	13	14 1:30pm FW: LOC Work Session (BC_Exec_Conf_Room) - Brandon M. Wisneski	15	16
17	18	19	20 9:30am LOC Meeting (BCCR) - LOC	21	22	23
24 10:00am FW: TENTATIVE GTC meeting - Special (Radisson Hotel & Conf. Center) - TribalSecretar	25	26	27	28	Mar 1	2

March 2019

March 2019

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April 2019

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SUNDAY	MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SATURDAY
Feb 24	25	26	27	28	Mar 1	2
3	4 2:30pm LOC MEETING (BC_Conf_Room) - Clorissa N. Santiago	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20 9:30am LOC Meeting (BCCR) - LOC	21	22	23
24	25	26	27	28	29	30
31	Apr 1	2	3	4	5	6