

Oneida Nation

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BC Resolution # 04-28-21-A Emergency Amendments to the Pardon and Forgiveness Law

- WHEREAS,** the Oneida Nation is a federally recognized Indian government and a treaty tribe recognized by the laws of the United States of America; and
- WHEREAS,** the Oneida General Tribal Council is the governing body of the Oneida Nation; and
- WHEREAS,** the Oneida Business Committee has been delegated the authority of Article IV, Section 1, of the Oneida Tribal Constitution by the Oneida General Tribal Council; and
- WHEREAS,** the Pardon and Forgiveness law (“Law”) was adopted and subsequently amended by the Oneida Business Committee through resolutions BC-05-25-11-A and BC-01-22-14-B, respectively; and
- WHEREAS,** the purpose of the Law is to provide a fair, efficient and formal process by which: (1) a member of the Nation may receive a pardon for the conviction of a crime; (2) a member of the Nation may receive forgiveness for acts that render him or her ineligible for housing or other benefits through the Nation; and (3) a member or non-member of the Nation may receive forgiveness for acts that render him or her ineligible to be employed with the Nation, receive a Nation-issued occupational license, certification or permit, and/or obtain housing or other benefits through the Nation; and
- WHEREAS,** Section 126.4-1 of the Law establishes a Pardon and Forgiveness Screening Committee (“PFSC”) to carry out various responsibilities that include, but are not limited to: processing applications for a pardon or forgiveness; conducting, as well as presiding over, hearings on the applications; and providing formal, written recommendations to the Oneida Business Committee on whether to approve or deny requests for a pardon or forgiveness; and
- WHEREAS,** on March 12, 2020, Chairman Tehassi Hill signed a “*Declaration of Public Health State of Emergency*” in response to the COVID-19 outbreak, which declared a Public Health State of Emergency for the Nation until April 12, 2020 and set into place the necessary authority for the Nation to take action, as well as seek reimbursement of emergency management actions that may result in unexpected expenses; and
- WHEREAS,** the Nation’s Public Health State of Emergency has since been extended until May 12, 2021, through the adoption of the following resolutions: BC-03-26-20-A, BC-05-06-20-A, BC-06-10-20-A, BC-07-08-20-A, BC-08-06-20-A, BC-09-09-20-A, BC-10-08-20-A, BC-11-10-20-A, BC-12-09-20-D, BC-01-07-21-A, BC-02-10-21-A, and BC-03-10-21-D; and
- WHEREAS,** on March 24, 2020, the Nation’s COVID-19 Core Decision Making Team (“COVID-19 Team”) issued a “*Safer at Home*” declaration which prohibits all public gatherings of any

number of people and orders all individuals present within the Oneida Reservation to stay at home or at their place of residence, with certain exceptions allowed; and

WHEREAS, on April 8, 2020, the Oneida Business Committee adopted resolution BC-04-08-20-B, placing certain of the Nation's boards, committees and commissions, including the PFSC, in temporary closure status for the remainder of Fiscal Year 2020 and during any continuing resolution for Fiscal Year 2021; and

WHEREAS, the April 8, 2020 resolution further directed that the posting of vacancies for those boards, committees and commissions placed in temporary closure status shall be discontinued for the remainder of Fiscal Year 2020 and during any continuing resolution for Fiscal Year 2021; and

WHEREAS, thereafter, the COVID-19 Team modified its March 24, 2020 "*Safer at Home*" declaration through the issuance of its April 21, 2020 "*Updated Safer at Home*" declaration; May 19, 2020 "*Safer at Home Declaration, Amendment, Open for Business*" declaration; June 10, 2020 "*Stay Safer at Home*" declaration; and July 17, 2020 "*Safe Re-Opening Governmental Offices*" declaration; and

WHEREAS, on August 12, 2020 the Oneida Business Committee adopted resolution BC-08-12-20-J titled, *Continuing Resolution for Fiscal Year 2021*, which, per resolution BC-04-08-20-B, meant that, like the other listed boards, committees and commissions, the PFSC, was to remain in temporary closure status pending the adoption of a Fiscal Year 2021 budget; and

WHEREAS, through adoption of resolution BC-11-24-20-C titled, *Continuation of Temporary Closure of Listed Boards, Committees and Commissions for Fiscal Year 2021*, the Oneida Business Committee decided to continue the temporary closure of those boards, committees and commissions, regardless of budget adoption, for the entirety of 2021; and

WHEREAS, the Oneida Business Committee expressly exempted the PFSC from resolution BC-11-24-20-C's application and the PFSC was soon placed back into active status, with vacancies for the community-at-large positions being posted shortly thereafter; and

WHEREAS, while in temporary closure status, three (3) applications for a pardon or forgiveness have been submitted to the PFSC; however, hearings on those applications have yet to be conducted; and

WHEREAS, the Supervisor of the Boards, Committees and Commissions has requested emergency amendments to the Pardon and Forgiveness law to address the impact COVID-19 has had on the PFSC's ability to process applications and conduct hearings on those applications in a fair, efficient and safe manner; and

WHEREAS, the proposed emergency amendments to the Law will add an option, along with a process, for the PFSC to conduct hearings on applications for a pardon or forgiveness virtually, instead of just in-person as is currently the only option allowed for under the Law; and

WHEREAS, the Legislative Procedures Act authorizes the Oneida Business Committee to enact legislation on an emergency basis, to be in effect for a period of six (6) months, renewable for an additional six (6) months; and

WHEREAS, emergency adoption of legislation is allowed when legislation is necessary for the immediate preservation of the public health, safety, or general welfare of the Reservation population, and the amendment of the legislation is required sooner than would be possible under the Legislative Procedures Act; and

WHEREAS, the emergency adoption of the amendments to the Law are necessary for the preservation of the public health, safety and general welfare of the Reservation population to protect the Reservation population against the public health crisis that is the COVID-19 pandemic by providing a virtual option that will eliminate unnecessary contact between individuals who may have been exposed to or could spread the virus, while still affording individuals a fair and efficient process to seek a pardon or forgiveness that may make them a more fulfilled and productive member of society; and

WHEREAS, observance of the requirements under the Legislative Procedures Act for adoption of this amendment would be contrary to public interest since the Nation's Public Health State of Emergency does not expire until May 12, 2021 and, with applications pending and more submissions likely, the process and requirements of the Legislative Procedures Act cannot be completed in time to ensure applicants receive the fair and efficient procedure required under the Law without unnecessarily exposing them, as well as the public, to the risks associated with the COVID-19 virus; and

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

NOW THEREFORE BE IT RESOLVED, the Oneida Business Committee hereby adopts emergency amendments to the Pardon and Forgiveness law effective immediately.

CERTIFICATION

I, the undersigned, as Secretary of the Oneida Business Committee, hereby certify that the Oneida Business Committee is composed of 9 members of whom 5 members constitute a quorum; 9 members were present at a meeting duly called, noticed and held on the 28th day of April, 2021; that the forgoing resolution was duly adopted at such meeting by a vote of 8 members for, 0 members against, and 0 members not voting*; and that said resolution has not been rescinded or amended in any way.



Lisa Liggins, Secretary
Oneida Business Committee

*According to the By-Laws, Article I, Section 1, the Chair votes "only in the case of a tie."