

# ONEIDA INDIAN NATION



ONEIDA NATION TERRITORY, VIA ONEIDA, NEW YORK

## ONEIDA INDIAN NATION OF NEW YORK BUSINESS LICENSE ORDINANCE Ordinance No. 0-94-04

Pursuant to the authority vested in the Oneida Indian Nation of New York (hereinafter referred to as the "Nation"), by virtue of its sovereignty and sovereign powers of self-government, the Nation hereby establishes the office of Director of Commerce (hereinafter sometimes referred to as the "Director") and the procedures by which the Director shall issue licenses to persons who request to engage in business on Nation land.

### Article I - Definitions

1. "Business" means any trade, professional or commercial activity of any sort.
2. "Nation land" means land owned or rented by, and in the possession of, the Nation, except that in the context of any business owned or operated by any Indian or any person who trades with Indians, Nation land shall mean simply any land owned by the Nation.
3. "Person" means any human being or group of human beings or any entity recognized as a person under the law of any jurisdiction, including sole proprietorships, partnerships, associations, joint ventures and corporations. "Person" does not mean the Oneida Indian Nation of New York, its enterprises or agents.
4. "Principal" means any person with management responsibility for a business.
5. "Applicant" means any person acting on his behalf or authorized to act on behalf of any other person for the purpose of securing a license.
6. "Licensee" means the person to or for whom a license is issued.

### Article II - License Requirement

No person shall engage in any type of business on Nation land without a license from the Nation. A valid license shall entitle the licensee to engage in those business activities for

which the Nation issued the license. Each place of business on Nation land requires a separate license, provided, however, those businesses without a fixed place of business may have one license.

### Article III - License Standard

No license shall issue to, or be held by, any person determined by the Director to present a threat to the effective regulation of Commerce on Nation land or to the health, safety, welfare, morals, or well-being of the Nation, its members, residents, or neighbors. Misrepresentation in an application for a license shall result in the denial of a license.

### Article IV - License Text

Each license issued by the Nation shall provide the full name of the licensee, the business for which the license is granted, the location at which such business is to be conducted, the date upon which the license issued and the date of its expiration.

### Article V - License Posting and Duration

1. Posting - The holder of a valid business license from the Nation shall post the license in a conspicuous place at the business location listed on the license. The holder shall display a copy of that license on the windshield or dashboard of each vehicle used by the licensee for business on Nation lands. Any licensee without a place of business shall carry his license with him. The license and all copies thereof shall be accessible at all times for inspection by the Director of Commerce, his agents, Nation police and other agents of the Nation.

2. Duration - Each license issued pursuant to this Ordinance shall remain in effect for one (1) year from the date of issuance unless revoked by the Director of Commerce pursuant to the standard set forth in Article III.

### Article VI - Establishment of Director of Commerce

1. The Nation establishes the Office of the Director of Commerce of the Oneida Indian Nation of New York to administer this Ordinance.

2. The Director shall be appointed by the Nation Representative.

3. The Director shall have those powers and duties common to offices of its kind. The Director may in his discretion promulgate regulations to implement this Ordinance, providing they are consistent with its terms.

4. The Director shall recuse himself from serving regarding a matter that would create for him an actual, or an appearance of, a conflict of interest.

5. In the event that the Director is unable temporarily to serve, the Nation

Representative shall appoint a replacement for the Director to serve in his stead during that time.

6. The Director shall be paid by the Nation for his or her services and reasonable expenses and shall be assisted by such staff, other public bodies or offices of the Nation, and counsel from time to time as deemed necessary by the Nation Representative to fulfill the purposes of the Ordinance.

#### Article VII - Licensing Procedures

1. Any person may apply for a business license from the Nation.

2. The application shall include the following information and shall be accompanied by a \$25 non-refundable fee.

- a. Name of the applicant;
- b. Form of the applicant's business (sole proprietorship, association, corporation, other) and, if a corporation, the name of the jurisdiction in which the corporation is registered;
- c. The business address and telephone for which the license would apply;
- d. Nature of the applicant's business;
- e. Full name, social security number, if any, birthdate, place of birth, citizenship, gender, driver's license number, address, and telephone number of the applicant, each owner, and each principal of the business;
- f. Number of employees during prior calendar year and anticipated for current calendar year (include identification of the actual and anticipated number of Indian employees);
- g. Name, address, and telephone number of an agent for the applicant who resides on Nation land and who is designated to accept service of process on behalf of the applicant;
- h. The name and address of any licensing or regulatory agency with which the person has filed an application for a business or occupational license or permit, whether or not such license or permit was granted;
- i. Such other information as may be necessary to properly evaluate the applicant; and
- j. Statement by the applicant that the information provided in the application is true and complete, that the applicant will cooperate with the Nation and any of

its agencies in any reasonable investigation deemed necessary regarding the fitness of the applicant to be licensed, and that the applicant will abide by the laws and requirements, and submit to the jurisdiction, of the Oneida Indian Nation of New York.

3. The Director shall review an application for a business license pursuant to the standard set forth in Article III of this Ordinance.

4. The Director shall issue or deny the license within ten working days of receipt of the application, unless exceptional circumstances exist, in which case the Director shall notify the applicant within the first ten days of the reason for, and the amount of, the extension of time.

#### Article VIII - Renewal and Transfer

1. Renewal - A person may renew a license by applying for a renewal at least thirty (30) days prior to the expiration of the license to be renewed. The renewal application shall be accompanied by a \$25 non-refundable fee. The Director of Commerce shall review a renewal application pursuant to the standard and procedures set forth in Articles III and VII, respectively, of this Ordinance.

2. Assignment or Transfer - Licenses granted pursuant to the Ordinance may be assigned or transferred on application to the Director and upon satisfaction of the standard applicable to granting original licenses. Upon approval of an application for assignment or transfer upon the payment by the applicant of a \$25 non-refundable fee. The Director of Commerce shall sign each certification of assignment or transfer. The certification shall be displayed with the license at all times. Assignment or transfer shall not alter the expiration date set forth on the license.

3. Operation Under License by Others Prohibited - No person holding a valid license may allow any other person chargeable with a separate license to operate under his license.

#### Article IX - Appeal Procedure

If the Director denies or revokes a license, its renewal or its assignment or transfer, then the Director shall provide the applicant with written notice setting out the reason(s) for the denial and providing an opportunity for the applicant to appeal the denial with thirty days of receipt of notice. An appeal shall be addressed to the Nation Representative and his decision on appeal is final.

#### Article X - Penalties

1. Fines -

a. The Director of Commerce may levy and collect appropriate civil fines, not to exceed \$1,000 a day, plus interest, against any person for any violation of any

provision of this Ordinance, following notice to that person of the relevant violation(s). Each day that a violation continues shall constitute a separate violation for purposes of calculating fines.

b. Property of the person fined that is located on Nation land may be used to satisfy the payment of such fine(s) and the Nation may also use any other means available to it under law to collect such fines.

c. The Director of Commerce shall provide an opportunity for an appeal to him by the person against whom a fine is levied. An appeal, if made, shall be submitted to the Director within thirty (30) days of the imposition of the fine and shall not stay the Director from collecting the fine.

2. Closure - The Director of Commerce may order the temporary closure of a business for violation of this Ordinance. Any such order shall be made permanent or dissolved by the Director following an opportunity for a hearing before him by the affected person. A hearing, if requested, must occur within thirty (30) days after the issuance of the order of temporary closure.

3. Final Review - A person penalized for violating this Ordinance may challenge the penalty in an appeal to the Nation Representative within ten days following the exhaustion of administrative remedies within the jurisdiction of the Director of Commerce. The decision of the Nation Representative on appeal is final.

#### Article XI - Interpretation

1. Sovereign Immunity - The Nation does not by enacting this Ordinance waive in any respect its sovereign immunity, or that of its agents, under either state or federal law or arising from native existence.

2. No Right of Action - This Ordinance does not create any right, cause of action or benefit enforceable at law or in equity by any person against the Nation, its agencies, its officers or employees, or any other person.

3. Sole Procedure - This Ordinance establishes the sole procedure for a person to obtain a license to engage in business on Nation land. This Nation Ordinance is not subject to review, enforcement, or modification in any state or federal court or by any authority outside the Nation.

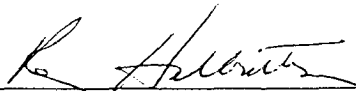
4. Grandfather Clause - Notwithstanding any other provision of the Ordinance, any person engaging in business on Nation land on the date this Ordinance is enacted shall have sixty days to apply for and obtain a license during which the time he may continue to conduct business on Nation land unless the Director of Commerce notifies him in writing otherwise.

5. Outstanding Fees or Penalties - No license shall be issued, renewed, or

transferred if the person seeking the license has failed or refused to pay any fee or penalty imposed by this Ordinance. Provided, however, that, the Director in his discretion, for cause shown, may, on such terms or conditions as he may determine or prescribe, waive the restriction of the previous sentence.

Article XII - Effective Date

This Ordinance is effective upon enactment. Enacted as of the 10<sup>th</sup> day of October, 1994.

  
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Ray Halbritter  
Nation Representative