

AMENDED BUSINESS LICENSE ORDINANCE

Ordinance No. O-22-02 (amending Ordinance No. 0-94-04)

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

1. "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.
2. "Business" means making, buying, selling or supplying goods and services for a profit.
3. "Licensee" means the person to or for whom a license is issued.
4. "Nation land" means lands possessed by the Nation within the Oneida Reservation.

5. "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" shall not include the Oneida Indian Nation, its governmental entities, agencies and instrumentalities and businesses, corporations, or entities owned by the Oneida Indian Nation or its agents.

6. "Principal" means any person with management responsibility for a business.

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Article II – Regulations, Rules and Administrative Guidelines

The Nation Representative(s) shall have the duty and authority to implement this Ordinance, and specifically have the authority to promulgate regulations, rules and administrative guidelines to be issued under this Ordinance, or a the Nation Representative(s) deems appropriate to carry out the purposes of this Ordinance.

Article III - 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 IV - License Standard

No license shall issue to, or be held by, any person determined by the Nation Representative(s) to present a threat to the health, safety, welfare, morals, or well-being of the Nation, its members, or residents. Misrepresentation in an application for a license shall result in the denial of a license. Inasmuch as Nation economic activity supports Nation programs and services for members, absent prior written approval of the Nation Representative(s) or his designee, no license shall be issued to a person or business that competes against any economic development activity of the Nation.

Article V - License

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, and the date upon which the license issued.

Article VI - 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. Any licensee without a place of business shall carry his/her license with him/her. The license and all copies thereof shall be accessible at all times for inspection by the Nation Representative(s) or his designee, Nation police and other agents of the Nation.

2. Duration - Each license issued pursuant to this Ordinance shall remain in effect for a period of time to be determined by the Nation Representative(s) or his designee, unless revoked pursuant to the standard set forth in Article IV.

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 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 ordinances, rules, regulations, and standards of the Oneida Indian Nation and requirements, and submit to the jurisdiction, of the Oneida Indian Nation.

3. The Nation Representative(s) or his designee shall view an application for a business license pursuant to the standard set forth in Article IV of this Ordinance.

4. The Nation Representative(s) or his designee shall issue or deny the license within ten (10) working days of receipt of the application, unless exceptional circumstances exist, in which case the Nation Representative(s) or his designee 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 Nation Representative(s) or his designee shall review a renewal application pursuant to the standard and procedures set forth in Articles IV 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 Nation Representative and upon satisfaction of the standard applicable to granting original licenses. The Nation Representative(s) or his designee 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 or her license.

Article IX - Appeal Procedure

If the Nation Representative(s) denies or revokes a license, its renewal or its assignment or transfer, then the Nation Representative(s) 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. A final decision by the Nation Representative(s) may be challenged in Oneida Indian Nation Court by filing with the Court a complaint pursuant to the Oneida Indian Nation Rules of Civil Procedure. Oneida Indian Nation Court shall apply an arbitrary and capricious standard of review in all cases involving a denial or revocation of a license, its renewal or its assignment or transfer of a license under this Ordinance.

Article X - Penalties

1. Fines-

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

2. Closure - The Nation Representative(s) or his designee may order the temporary closure of a business for violation of this Ordinance. Any such order shall be made permanent or dissolved by the Nation Representative(s) 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 Oneida Indian Nation Court by filing with the Court a complaint pursuant to the Oneida Indian Nation Rules of Civil Procedure within ten days following the exhaustion of administrative remedies.

Article XI - Interpretation

1. The Nation does not by enacting this Ordinance waive in any respect its sovereign immunity, or that of its agents, in any manner, under any law, for any purpose, or in any place.

2. This Ordinance establishes the sole procedure for a person to obtain a license to engage in business on Nation land. This Ordinance is not subject to review or modification in any state or federal court or by an authority outside the Nation and is not subject to review or modification in any Nation court.

3. 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 agents, its officers or employees, or any other person.

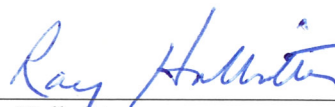
4. Notwithstanding any other provision of the Ordinance, any person engaging in business on Nation land on the date this Ordinance is enacted shall have sixty (60) days to apply for and obtain a license during which the time such person may continue to conduct business on Nation land unless otherwise notified in writing.

5. 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 Nation Representative(s) 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 22nd day of April 2022.



Ray Halbritter
Nation Representative