

Chapter 5
ONEIDA PARDON ORDINANCE

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5.1-1 Purpose and Policy

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5.1-1. Purpose and Policy. *Purpose.* To forgive, by formal pardon, a member of the Oneida Tribe of Indians of Wisconsin who has been convicted of a crime in another jurisdiction which conviction would render such person ineligible for Tribal employment. Such forgiveness should address the nature of the crime, when and where it occurred, conviction date and sentence, character investigation and recommendation of a Tribal entity delegated responsibility for processing the application.

5.1-2. *Policy.* It is the policy of the Oneida Tribe to grant limited pardons to members of the Oneida Tribe of Indians of Wisconsin who have been convicted of crimes, both felony and misdemeanor, when such persons have demonstrated full rehabilitation, trustworthiness and commitment to lawful behavior.

It is the further policy to provide a fair and efficient regulatory process for persons who may seek pardons of the Oneida Tribe. Nothing contained herein shall be construed as permitting the employment of individuals who are otherwise disqualified for employment for certain positions under State or Federal law.

5.2-1. Adoption, Amendment, Repeal

This law is adopted by the Oneida Business Committee by Resolution # BC-7-31-02A.

5.2-2. This law may be amended pursuant to the procedures set out in the Oneida Administrative Procedures Act by the Oneida Business Committee or the General Tribal Council.

5.2-3. Should a provision of this law or the application thereof to any person or circumstance be held invalid, such invalidity shall not affect other provisions of this law which are considered to have legal force without the invalid portions.

5.2-4. All other Oneida laws, policies, regulations, rules, resolutions, motions and all other similar actions which are inconsistent with this law are hereby repealed unless specifically re-enacted after the adoption of this law. Specifically, the following resolutions are superseded by this law:

- (a) BC-2-19-93-I, adoption of the Oneida Pardon Ordinance.
- (b) BC-11-24-93-A, adoption of the Oneida Pardon Procedures Policy.
- (c) BC-11-24-93-B, temporary pardons.

5.3-1. Definitions:

- (a) Convictions shall mean conviction of any crime in any court of competent jurisdiction.

- (b) Crimes shall mean as defined in any body of law, Tribal, federal, state or municipal, excluding laws enacted by the Oneida Tribe of Indians of Wisconsin.
- (c) Oneida Business Committee shall mean the duly elected representatives of the Oneida General Tribal Council.
- (d) Pardon shall mean the formal and public act of forgiveness of the Oneida Tribe of Indians of Wisconsin to a Tribal member who has been convicted of a crime for the purposes of future employment.
- (e) Petitioner shall mean an enrolled member of the of the Oneida Tribe of Indians of Wisconsin who, due to a criminal record, is ineligible for employment.
- (f) Related to shall mean any of the following relationships: Father, Father-in-law, Mother, Mother-in-law, Husband, Wife, Brother, Brother-in-law, Sister, Sister-in-law, Daughter, Daughter-in-law, Son, Son-in-law, Grandparent, Grandchild.
- (g) Tribal member shall mean any person whose name appears on the official rolls of the of the Oneida Tribe of Indians of Wisconsin.

5.4-1. Oneida Pardon Screening Committee

Creation. There is hereby recreated the Oneida Pardon Screening Committee.

5.4-2. *Authority.* The Pardon Screening Committee is delegated the authority:

- (a) to accept applications from petitioners;
- (b) to investigate petitioner’s backgrounds;
- (c) to hold Public Hearings to accept testimony;
- (d) to make recommendations to the Oneida Business Committee regarding granting or denying a pardon to a petitioner; and
- (e) to take other actions reasonably related to the purpose of this entity.

5.4-3. *Purpose.* The Pardon Screening Committee is delegated the responsibility to:

- (a) process applications for a pardon in a confidential and timely manner;
- (b) present a recommendation regarding granting or denying a pardon to the Oneida Business Committee.

5.4-4. *Membership.* The Pardon Screening Committee shall be composed of Tribal members approved by the Oneida Business Committee as soon as is practicable after the commencement of a new term of the Oneida Business Committee. Member terms on the Pardon Screening Committee shall run concurrently with the term of office of the Oneida Business Committee. The membership shall be as follows:

- (a) three delegates from the Oneida Police Department;
- (b) one delegate from Social Services; and
- (c) one delegate from the Oneida Business Committee.

5.4-5. The Oneida Pardon Screening Committee shall be subject to the Comprehensive Policy Governing Boards Committees and Commissions, but shall be exempt from the stipend provisions.¹

5.5-1. Application Procedure

¹As employees of the Tribe who are on a committee which often meets during the regular Tribal workday, Screening Committee members do not receive stipends.

Application. The petitioner shall obtain from the Tribal Secretary a petition to be filled out and returned to the Secretary.

5.5-2. *Petitioners Ineligible for Pardons.* Petitioners on parole, probation or deferred prosecution shall not be eligible and applications shall not be processed.

5.5-3. *How initiated.* Each person seeking a pardon from the Oneida Tribe must:

- (a) Prove enrollment in the Oneida Tribe of Indians of Wisconsin.
- (b) Agree to cooperate and provide necessary releases and permissions for investigations.
- (c) Submit a Petition as described in Section 5-4.
- (d) Submit, with the petition, a filing fee of \$25.00. The filing fee shall be non-refundable.
- (e) Petitioners are responsible for submitting all requirements of the petition.

5.5-4. *Petitions.* Petitions must disclose the following information:

- (a) Nature of crime or crimes.
- (b) Conviction date, place and sentence for each crime.
- (c) Length of time since conviction.
- (d) Character investigation, including victim statement, if available.
- (e) Certified document showing completion of sentence.
- (f) Verification of rehabilitation, as determined by the Pardon Screening Committee.
- (g) And any other relevant information as required in any form approved by the Pardon Screening Committee.

5.5-5. *Process.*

- (a) The Petitioner must submit his/her Petition to the Pardon Screening Committee via the Tribal Secretary's office.
- (b) The Pardon Screening Committee shall then request the Backgrounds Department to conduct a security check on the Petitioner, the results of which shall be forwarded to the Pardon Screening Committee and the Oneida Gaming Commission.
- (c) Upon completion of the investigation, the Pardon Screening Committee shall hold a Public Hearing to obtain oral testimony from the Petitioner and any witnesses for or against the granting of a pardon. Notice of the Public Hearing shall be placed in places of prominence one week prior to the Public Hearing. The Public Hearing shall take place at the discretion of the Pardon Screening Committee.
- (d) After the Public Hearing, the Pardon Screening Committee shall review the petition and investigation and shall forward such information to the Oneida Business Committee with a recommendation to grant or deny a pardon.
- (e) The petition forwarded to the Oneida Business Committee shall contain the following items:
 - (1) Original petition from petitioner.
 - (2) Investigation report from the Backgrounds Department.
 - (3) Transcript or summary of testimony given in the Public Hearing.
 - (4) Summary memo created by Pardon Screening Committee stating reasons for granting or denying pardon.
 - (5) Recommendation by the Oneida Gaming Commission.
 - (6) Resolution.
- (g) All information gathered in this process will be confidential before and after a final decision is made. Information regarding the review process may only be obtained by the

Backgrounds Department, the Pardon Screening Committee, the Oneida Business Committee, and the Petitioner with a signed request.

5.5-6. *Recommendation.*

(a) The Oneida Business Committee shall by formal Resolution, if deemed meritorious, grant the Pardon.

(1) Members of the Oneida Business Committee who are related to the petitioner, as defined in 5.3-1(f), may not participate in the decision making process.

(2) If granted, all members of the Oneida Business Committee shall sign the resolution granting the pardon.

(3) If denied, then the Tribal Secretary shall sign the resolution checking the appropriate box, noting the vote for denying the pardon.

(4) The Tribal Secretary shall check the appropriate box on the resolution to indicate the recommendation of the Oneida Gaming Commission.

(5) To grant a pardon, two-thirds of a quorum of the Oneida Business Committee not excluded under section 5-6(a)(1) must vote in favor of the Resolution. The Chair shall vote only in the event of a tie vote.

(b) In the event of denial of Petitioner's application, Petitioner shall not be eligible for re-application under this ordinance for a period of one year from the date of the decision by the Oneida Business Committee. Any such re-application made by the Petitioner must comply with the process set forth in this ordinance.

(c) The discussion of whether to grant or deny a petition shall take place in Executive Session.

(1) The Oneida Business Committee may request that the Petitioner present himself/herself for giving testimony or answering questions prior to decision making.

5.6-1. Oneida Gaming Commission. The Oneida Gaming Commission shall be notified of all pardon petitions filed, and shall be provided a copy of the petitioner's application. The Oneida Gaming Commission shall present a recommendation regarding a pardon to the Pardon Screening Committee which shall be included in recommendations made to the Oneida Business Committee.

Adopted - BC-7-31-02A