

ONEIDA INDIAN NATION

CULTURAL, HISTORICAL OR ARCHEOLOGICAL RESOURCES ORDINANCE

Ordinance No.: O-~~99~~⁰⁰-01

Pursuant to the authority vested in the Oneida Indian Nation by virtue of its sovereign and inherent powers of self-government, the Nation hereby sets forth the procedure for protecting Cultural, Historical or Archeological Resources.

ARTICLE 1 - PURPOSE

The Ordinance protects resources of cultural, historical, and archeological importance on Nation land by requiring internal review of an area's cultural, historical or archeological potential before any construction or land development activities begin in that area. It creates a Historic Preservation Committee to evaluate cultural, historical or archeological sensitivity of a site or of a potential construction site. If construction is likely to harm something of cultural, historical or archeological value, the Historic Preservation Committee is empowered to recommend further work to evaluate or mitigate such harm. This Ordinance complements and expands the existing Environmental Protection Ordinance by establishing a specific procedure for identifying, evaluating and protecting Cultural, Historical or Archeological Resources of the Nation.

ARTICLE 2 - DEFINITIONS

The following definitions shall apply to this Ordinance:

"Construction" or "Construction Project" is hereby defined to include: building, demolition, excavation, restoration, development, rehabilitation, trenching, remodeling, redesigning or rebuilding any structure or area. A liberal interpretation of these words shall govern their application. The interpretation given by the Historic Preservation Committee shall be presumed to apply.

"Construction Area" is any location, building, structure, district, area or site upon or in which "Construction" is performed or for which "Construction" has been planned.

"Cultural, Historical or Archeological Resources" include, without limitation:

- a) Any location, structure, district, area, or site including underground and underwater sites, that are of significance in the history, archeology or culture of the Nation which are located on Nation land.

- b) Any location, building, structure, district, area, or site including underground and underwater sites that contain, or, in the reasonable opinion of the Historic Preservation Committee, may contain items, articles, artifacts or remains which bear significance to the history, archeology or culture of the Nation.
- c) "Historic" when used in a) and/or b) above means having a special character or value by reason of significance in, or relationship to, the history of the Nation.
- d) The application, interpretation and designation of the term "Cultural, Historical or Archeological Resources" shall be liberally construed. The Interpretation of the term "Cultural, Historical or Archeological Resources" by the Historic Preservation Committee shall be presumed to apply.

ARTICLE 3 - ESTABLISHMENT OF HISTORIC PRESERVATION COMMITTEE

1) An Historic Preservation Committee is hereby established to oversee the protection of the Nation's Cultural, Historical or Archeological Resources. The Historic Preservation Committee membership shall include the following persons:

A. Nation Historian. It is the responsibility of the Nation Historian to conduct preliminary assessments of the cultural, historical or archeological potential of any Construction, Construction Area or Construction Project and to generally fulfill other obligations as set forth in this Ordinance.

B. Environmental Manager. It is the responsibility of the Environmental Manager to integrate cultural, historical or archeological concerns with environmental procedures to ensure administrative consistency and the effectuation of the purposes set forth in this Ordinance.

C. Council Representative for Historic Preservation. It is the responsibility of the Council Representative for Historic Preservation to link the Historic Preservation Committee to the Nation's government. The Council Representative shall serve as a preservation official to contact, be contacted by, and to interact with outside entities regarding the Nation's cultural, historical or archeological sites, both on and off Nation land.

2) The Historic Preservation Committee may appoint, from time to time, any other members that, in its opinion, will assist the Historic Preservation Committee with effectuating the purposes of this Ordinance. The Historic Preservation Committee also has the power to employ employees and retain outside expert services to effectuate the

purposes of this Ordinance in accordance with Nation law, regulations, rules, policies and budgetary requirements.

3) The Historic Preservation Committee shall have on its staff or in its membership at least one (1) member who meets one or more of the following qualifications:

- A. History. The minimum professional qualifications in history are a graduate degree in history or closely related field; or a bachelor's degree in history or closely related field plus one of the following:
 - (1) At least two years of full-time experience in research, writing, teaching, interpretation, or other demonstrable professional activity with an academic institution, historical organization or agency, museum, or other professional institution; or
 - (2) Substantial contribution through research and publication to the body of scholarly knowledge in the field of history.
- B. Archeology. The minimum professional qualifications in archeology are a graduate degree in archeology, anthropology, or closely related field plus:
 - (1) At least one year of full-time professional experience or equivalent specialized training in archeological research, administration, or management;
 - (2) At least four months of supervised field and analytic experience in general archeology; and
 - (3) Demonstrated ability to carry research to completion.
- C. Architectural History. The minimum professional qualifications in architectural history are a graduate degree in architectural history, art history, historic preservation, or closely related field, with course work in architectural history, or a bachelor's degree in architectural history, art history, historic preservation, or closely related field plus one of the following:
 - (1) At least two years of full-time experience in research, writing, or teaching in architectural history or restoration architecture with an academic institution, historical organization or agency, museum, or other professional institution; or
 - (2) Substantial contribution through research and publication to the body of scholarly knowledge in the field of architectural history.

ARTICLE 4 - COMMITTEE POWERS

The Historic Preservation Committee is authorized:

- a) to evaluate the likelihood of Cultural, Historical or Archeological Resources existing at any location or site, including "Construction Area" as defined in this Ordinance;
- b) to evaluate and determine the importance for the Nation of any Cultural, Historical or Archeological Resources;
- c) to estimate and determine the degree of threat posed to those Cultural, Historical or Archeological Resources by any Construction or Construction Project as defined in this Ordinance;
- d) to recommend additional measures, research or time to research necessary to satisfactorily evaluate any issues raised by the Historic Preservation Committee with regard to Construction;
- e) to recommend archeological excavation to identify Cultural, Historical or Archeological Resources and/or mitigate damage to such Resources;
- f) to recommend construction or development options to protect Cultural, Historical or Archeological Resources;
- g) to maintain, update and expand the inventory of Cultural, Historical, or Archeological Resources of the Nation and maintain such records as are necessary to fulfill the purposes of this Ordinance;
- h) to implement such other powers and take such other steps as are necessary and consistent with the exercise of the powers set forth above, to effectuate the goals of the Ordinance.

ARTICLE 5 - PROCEDURES

1. The Historic Preservation Committee is authorized to conduct a preliminary assessment of any Construction, Construction Area or Construction Project from the point of view of its potential to contain or affect Cultural, Historical or Archeological Resources, as defined in this Ordinance.

2. The Nation officials charged with designing Construction Projects shall inform the Historic Preservation Committee of possible or impending Construction Areas, Construction Projects or Construction early in the planning process and before actual contracts have been negotiated and finalized. They shall provide clear information about location and character of possible Construction, Construction Areas or Construction Projects.

The Nation Historian shall conduct a background search concerning any Construction, Construction Area, or Construction Project so as to identify Cultural, Historical or Archeological Resources using traditional sources and other sources the

Nation Historian deems appropriate to determine whether the proposed Construction, Construction Area or Construction Project is likely to contain or affect Cultural, Historical or Archeological Resources. The Historian will furnish the results of this work to the Historic Preservation Committee.

4. Upon review, the Historic Preservation Committee may:
- i) declare a finding of no significant impact on Cultural, Historical or Archeological Resources for the Construction Project; or
 - ii) recommend changes to the Construction Project to avoid or minimize impact on the Cultural, Historical or Archeological Resources; or
 - iii) recommend further testing, excavation or research be conducted; or
 - iv) recommend such additional measures as it deems necessary including, but not limited to, archeological salvage measures to mitigate or eliminate damages or harm which may be caused by the Construction, Construction Area or the Construction Project.

5. The Historic Preservation Committee shall have sufficient time from the time it receives the information required by paragraph 2 hereof to render its findings/recommendations under paragraph 4 hereof. Construction shall be held in abeyance pending the findings/recommendations of the Historic Preservation Committee.

6. The Nation official responsible for the Construction, Construction Area or Construction Project must implement the Historic Preservation Committee's recommendation to the greatest extent possible.

7. In the event an issue cannot be resolved between the responsible Nation official and the Historic Preservation Committee, the Nation Representative(s) shall make the final determination after reviewing the findings and recommendations of both parties.

ARTICLE 6 - INTERPRETATION

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

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 agents, its agencies, its officers or employees, or any other person, nor shall any person have any claim against the Nation including, but not limited to, claims for delay, increased cost or inconvenience, arising from or pursuant to this Ordinance.

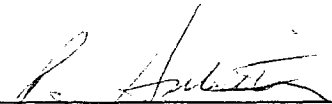
3. Not Subject to Review. This Ordinance is not subject to review or modification in any state or federal court or by any authority outside the Nation.

4. Sole Procedure. This Ordinance establishes the sole procedure concerning Cultural, Historical or Archeological Resources. Any claim or dispute pursuant to or arising from this Ordinance shall be decided as provided in this Ordinance.

ARTICLE 7 - EFFECTIVE DATE

This Ordinance is effective upon an enactment.

Enacted this 17th day of April, 2000.



Ray Halbritter
Nation Representative