

**ONEIDA INDIAN NATION
PARKING ORDINANCE**

Ordinance No.: O-04-04

Pursuant to the authority vested in the Oneida Indian Nation (the “Nation”) by virtue of its sovereignty and inherent powers of self-government, the Nation hereby enacts this Ordinance to regulate the stopping, standing and parking of vehicles on Nation land.

ARTICLE 1 – Purpose and Definitions

The Nation owns, operates and maintains a number of government offices, departments, enterprises, businesses and other public structures and facilities on Nation land that employ thousands of people and receive millions of visitors, guests and patrons annually. This Ordinance is required both to promote and ensure the safety and well being of these persons and all who have occasion to be on Nation land, and to provide patrons, guests, and visitors to Nation land with safe, convenient and adequate parking.

As used in this ordinance, the term “*Police Department*” means the Oneida Indian Nation Police Department.

ARTICLE 2 - Designation of Parking Spaces

The Nation shall designate parking areas and parking spaces on Nation land for employees, visitors, guests, patrons and others on Nation land, and may limit, restrict or prohibit parking in other areas. In addition thereto, the Nation may designate certain areas or spaces for handicapped parking or for other special purposes. The Nation shall ensure that all persons or agencies affected by parking designations are made aware of such designations by communicating such designations to the affected persons or agencies, or by clearly and conspicuously marking any space or area where parking is prohibited, limited or otherwise restricted.

ARTICLE 3 - Continuation of Bureau of Traffic Adjudication

The Nation hereby continues the Bureau of Traffic Adjudication (“Bureau”), which shall have civil jurisdiction over parking violations. The Bureau shall be administered by the Director of Traffic Adjudication (“Director”), which shall be appointed by the Nation Representative and shall have such powers and duties as are necessary and consistent with the exercise of its jurisdiction. The Director shall preside over parking adjudications or appoint hearing examiner(s) to do the same. The Director shall be assisted by such staff and counsel as deemed necessary by the Nation to protect public safety in accordance with this Ordinance.

ARTICLE 4 - Violations

1. It shall be a violation of this Ordinance to park a vehicle, other than an authorized emergency vehicle, on Nation land except in spaces and areas designated by the Nation pursuant to Article 2 of this Ordinance.

2. It shall be a violation of this Ordinance to park a vehicle, other than an authorized emergency vehicle, on Nation land in violation of any sign, marking or posted restriction, or to park a vehicle on any access road, thoroughfare, fire lane, crosswalk or roadway, or on any grass or dirt area, or to park a vehicle in any method or manner that disrupts or obstructs the smooth and orderly flow of pedestrian or vehicular traffic or poses a hazard or inconvenience to patrons, guests, visitors, employees or residents of the Nation.

3. Notwithstanding any other provisions in this article, it shall be a complete defense to any allegations of a violation of this Ordinance that a vehicle parked at an otherwise unauthorized location due to an emergency situation and that an authorized location was not reasonably available under the emergency circumstances.

4. It shall be a violation of this Ordinance to park a vehicle, other than an authorized emergency vehicle, on Nation land in any space designated for handicapped parking unless a valid permit issued by the Nation or any state jurisdiction within the United States is displayed conspicuously on the vehicle authorizing the vehicle to park in a space designated for handicapped parking.

5. This Ordinance is civil in nature. No adjudication under this Ordinance shall be deemed criminal in nature or be considered to be a conviction of a crime.

ARTICLE 5 - Notice of Violation

1. The police department shall have authority to issue a notice of violation, on a form created by the department, to the owner and/or registrant of a vehicle that is parked in violation of this Ordinance. The notice of violation shall be returnable to the Bureau and shall inform the owner and/or registrant of the vehicle of the parking violation, the fine for the violation, the requirement that the owner and/or registrant respond to the notice within seven days, either by paying the fine (and thereby admitting liability) or by requesting a hearing to contest the fine, the manner in which to request a hearing, that failure to respond to the notice of violation shall be deemed to be an admission of liability by the owner and/or registrant and that a default judgment may be entered upon an admission of liability.

2. Except as provided in subdivision 3 of this Article, the owner and/or registrant of a vehicle shall be liable for all violations of this Ordinance.

3. In the case of a vehicle owned by and/or registered to a car rental company or agency, upon receiving proof from the car rental company or agency of the identity and location of the person, partnership, firm, corporation or other entity renting the vehicle on the date the

violation occurred, the Bureau may dismiss the notice of violation against the car rental company or agency and issue a new ticket to the person, partnership, firm, corporation or other entity that had possession and control of the vehicle on the day the violation occurred.

4. The notice of violation shall be served upon the owner and/or registrant personally or by affixing the notice of violation to the vehicle in a conspicuous place.

ARTICLE 6 - Hearing Notice and Conduct

1. Notice of Hearing. Whenever the owner and/or registrant of a vehicle with a parking violation requests a hearing in the space provided on the notice of violation for such a request, and returns the notice to the Bureau within seven days of its issuance, the Bureau shall advise such person or entity by first class or overnight mail, as the Director may direct, of the date and time on which the person or entity must appear to contest the violation at a hearing. The form and content of such notice of hearing shall be prescribed by the Director, and shall contain a warning advising the person or entity that failure to appear on the date designated, or on any subsequent adjourned date, shall be deemed an admission of liability and that a default judgment may be entered thereon.

2. Fines in Properly Contested Cases. Whenever parking violation is being contested in the time and manner provided herein, and a hearing upon the merits has properly been requested, but has not yet been held, no fine shall be assessed or due prior to the date of the hearing.

3. Conduct of hearings.

- a. The adjudication on a parking violation shall be held by a hearing examiner, who shall be the Director or his/her designee, in accordance with rules of the Bureau.
- b. No parking violation may be established except upon proof by a preponderance of the evidence that the owner and/or registrant's vehicle was parked in violation of this Ordinance.
- c. The hearing examiner shall not be bound by the rules of evidence in the conduct of the hearing.
- d. The hearing examiner may request the appearance at a hearing of the person who served the notice of violation or of other persons to give testimony, and may request the production, for examination or introduction into evidence, of any book, paper or other thing relevant to the violation.
- e. Upon the conclusion of the hearing, the hearing examiner shall make a written record of his or her judgment and any order of fine. The judgment and any order of fine shall be served upon the owner and/or registrant of

the vehicle (or, in the case of a rented vehicle where the notice of violation against the car rental company or agency has been dismissed pursuant to Article 5, upon the person, partnership, firm, corporation or other entity that had possession and control of the vehicle on the day the violation occurred) by first class or overnight mail as the Director may direct.

ARTICLE 7 - Penalties

Violation of this Ordinance shall result in the following:

1. The owner and/or registrant of the vehicle (or, in the case of a rented vehicle where the notice of violation against the car rental company or agency has been dismissed pursuant to Article 5, the person, partnership, firm, corporation or other entity that had possession and control of the vehicle on the day the violation occurred) shall be fined in accordance with the following fine schedule:

- a. For the first violation, except as set forth in paragraph 1(d) of this Article: a fine not to exceed \$10.00
- b. For the second violation, except as set forth in paragraph 1(d) of this Article: a fine not to exceed \$25.00
- c. For all subsequent violations, except as set forth in paragraph 1(d) of this Article: a fine not to exceed \$40.00 for each subsequent violation.
- d. For any violation involving illegal parking in a handicapped-designated zone: a fine not to exceed \$50.00 for each violation.

2. The vehicle may be towed and impounded, and the owner and/or registrant of the vehicle (or, in the case of a rental vehicle where the notice of violation against the car rental company or agency has been dismissed pursuant to Article 5, the person, partnership, firm, corporation or other entity that had possession and control of the vehicle on the day the violation occurred) shall be responsible for all towing and storage fees.

ARTICLE 8 - Duty to Pay Fines and Late Fees

1. Any person, partnership, firm, corporation or other entity required to pay a fine pursuant to this Ordinance shall promptly pay all fines to the Bureau within 30 days of the date the notice of violation was issued or, in contested cases, within 30 days of the date of service of the judgment and order of fine.

2. Any person, partnership, firm, corporation or other entity required to pay a fine pursuant to this Ordinance that fails to pay the fine due in a timely manner shall be assessed a late fee of \$10.00.

3. Any person, partnership, firm, corporation or other entity that fails to pay the fine due in a timely manner may, at the discretion of the Nation, be prohibited from entering or remaining upon Nation land, or a portion thereof.

4. Upon request, the Director or hearing examiner may grant a person, partnership, firm, corporation or other entity required to pay a fine additional time to pay the fine without late fee or penalty. Upon request and for a good cause, the Director or hearing examiner may waive any late fee or other penalty assessed pursuant to this Article.

ARTICLE 9 - Interpretation

1. Sovereign Immunity. By enacting this Ordinance, the Nation does not 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 against the Nation, its agencies, its officers or employees, or any other person or entity.


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. Repeal of Existing Parking Ordinance. Nation Ordinance No. 0-98-01 is hereby expressly repealed in its entirety.

ARTICLE 10 - Effective Date

This Ordinance is effective upon enactment.

Enacted this 8th day of March, 2004.



Ray Halbritter
Nation Representative(s)