

Chapter 35
EMERGENCY MANAGEMENT AND HOMELAND SECURITY
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Matters that are concerning immediate attention

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35.1. Purpose and Policy

35.1-1. The purposes of this law are to:

- (a) provide for the development and execution of plans for the protection of residents, property, and the environment in an emergency or disaster; and
- (b) provide for the direction of emergency management, response, and recovery on the Reservation; as well as coordination with other agencies, victims, businesses, and organizations; and
- (c) establish the use of the National Incident Management System (NIMS); and
- (d) designate authority and responsibilities for public health preparedness.

35.1-2. It is the policy of this law to provide:

- (a) a description of the emergency management network of the Tribe; and
- (b) authorization for specialized activities to mitigate hazardous conditions and for the preparation of Tribal emergency response management plans, as well as to address concerns related to isolation and/or quarantine orders, emergency care, and mutual aid; and
- (c) for all expenditures made in connection with such emergency management activities to be deemed specifically for the protection and benefit of the inhabitants, property, and environment of the Reservation.

35.2. Adoption, Amendment, Conflicts

35.2-1. This law was adopted by the Oneida Business Committee by resolution BC-07-15-98-A and amended by BC-12-20-06-G, and BC-05-13-09-F.

35.2-2. This law may be amended pursuant to the procedures set out in the Oneida Administrative Procedures Act by the Oneida Business Committee or Oneida General Tribal Council.

35.2-3. Should a provision of this law or the application thereof to any person or circumstances be held as invalid, such invalidity shall not affect other provisions of this law which are considered to have legal force without the invalid portions.

35.2-4. In the event of a conflict between a provision of this law and a provision of another law, the provisions of this law shall control. Provided that, nothing in this law is intended to repeal or modify any existing law, ordinance, policy, regulation, rule, resolution, or motion.

35.2-5. This law is adopted under authority of the Constitution of the Oneida Tribe of Indians of Wisconsin.

35.3. Definitions

35.3-1. This section shall govern the definitions of words or phrases as used within this law. All words not defined herein shall be used in their ordinary and everyday sense.

- (a) “Biological Agent” means an infectious disease or toxin that has the ability to adversely

affect human health in a variety of ways, from mild allergic reactions to serious medical conditions, and including death.

(b) “Communicable Disease” means any disease transmitted from one person or animal to another directly by contact with excreta or other discharges from the body, or indirectly via substances or inanimate objects that may cause a public health emergency.

(c) “Community/Public Health Officer” means an agent of the OCHS, or his or her designee(s), who is responsible for taking the appropriate actions in order to prevent a public health emergency from occurring on the Reservation.

(d) “Director” means the Director of the Tribe’s Emergency Management/Homeland Security Agency.

(e) “Emergency Management Network” means the entities, volunteers, consultants, contractors, outside agencies, and any other resources the Tribe may use to facilitate inter-agency collaboration, identify and share resources, and better prepare for local incidents and large-scale disasters.

(f) “Emergency Operations Plan” means the plan established to coordinate mitigation, preparedness, response, and recovery activities for all emergency or disaster situations within the Reservation.

(g) “Entity” means any Tribal agency, board, committee, commission, or department.

(h) “Fair Market Value” means the everyday cost of a product in an ordinary market, absent of a disaster.

(i) “Isolation” means the separation of persons or animals presumably or actually infected with a communicable disease, or that are disease carriers, for the usual period of communicability of that disease in such places and under such conditions as will prevent the direct or indirect transmission of an infectious agent to susceptible people or to those who may spread the agent to others.

(j) “National Incident Management System” or “NIMS” means the system mandated by Homeland Security Presidential Directive 5 (HSPD 5) that provides a consistent nationwide approach for federal, state, local, and tribal governments to work effectively and efficiently together to prepare for, prevent, respond to, and recover from domestic incidents, regardless of cause, size, or complexity.

(k) “OCHS” means the Oneida Community Health Services, which is authorized to issue compulsory vaccinations, require isolation, and quarantine individuals in order to protect the public health.

(l) “Oneida Nation Emergency Planning Committee” or “ONEPC” means the committee that assists the Director in the implementation of this law.

(m) “Proclaim” means to announce officially and publicly.

(n) “Public Health Emergency” means the occurrence or imminent threat of an illness or health condition which:

(1) is a quarantinable disease, or is believed to be caused by bioterrorism or a biological agent; and

(2) poses a high probability of any of the following:

(A) a large number of deaths or serious or long-term disability among humans; or

(B) widespread exposure to a biological, chemical, or radiological agent that creates a significant risk of substantial future harm to a large number of people.

- (o) “Quarantine” means the limitation of freedom of movement of persons or animals that have been exposed to a communicable disease or chemical, biological, or radiological agent, for a period of time equal to the longest usual incubation period of the disease or until there is no risk of spreading the chemical, biological, or radiological agent. The limitation of movement shall be in such manner as to prevent the spread of a communicable disease or chemical, biological, or radiological agent.
- (p) “Reservation” means all land within the exterior boundaries of the Reservation of the Oneida Tribe of Indians of Wisconsin, as created pursuant to the 1838 Treaty with the Oneida, 7 Stat. 566, and any lands added thereto pursuant to federal law.
- (q) “Tribe” or “Tribal” means the Oneida Tribe of Indians of Wisconsin.
- (r) “Vital Resources” means food, water, equipment, sand, wood, or other materials obtained for the protection of life, property, and/or the environment during a proclaimed emergency.

35.4. Emergency Management/Homeland Security

35.4-1. There is hereby created an Emergency Management/Homeland Security Agency which is responsible for planning and coordinating the response to a disaster or emergency that occurs within the boundaries of the Reservation.

35.4-2. The Director shall be responsible for coordinating and planning the operational response to an emergency and is hereby empowered to:

- (a) organize and coordinate efforts of the emergency management network of the Tribe.
- (b) implement the Emergency Operations Plan as adopted by the Oneida Business Committee.
- (c) facilitate coordination and cooperation between entities and resolve questions that may arise among them.
- (d) incorporate the HSPD 5, issued on February 28, 2003 which requires all Federal, state, local, and tribal governments to administer the best practices contained in the NIMS.
- (e) coordinate the development and implementation of the NIMS within the Tribe.
- (f) ensure that the following occurs:
 - (1) an Emergency Operations Plan is developed and maintained, and includes training provisions for applicable personnel.
 - (2) emergency resources, equipment, and communications systems are developed, procured, supplied, inventoried, and accounted for.
- (g) establish the line of authority as recorded in the Emergency Operations Plan as adopted by the Oneida Business Committee.
- (h) enter into mutual aid and service agreements with tribal, local, state, and federal governments, subject to Oneida Business Committee approval.

35.4-3. In the event of a proclamation of an emergency on the Reservation, the Director is hereby empowered:

- (a) to obtain vital resources and to bind the Tribe for the fair market value thereof, upon approval of the Emergency Management/Homeland Security purchasing agent, who is identified in the Emergency Operations Plan. If a person or business refuses to provide the resource(s) required, the Director may commandeer resources for public use and bind the Tribe for the fair market value thereof. In the event the purchasing agent is unavailable, the chain of command, as approved by the Oneida Business Committee, shall be followed.
- (b) to require emergency activities of as many Tribal members and/or employees as deemed

necessary.

(c) to execute all of the ordinary powers of the Director, all of the special powers conferred by this law or by resolution adopted pursuant thereto, all powers conferred on the Director by any agreement approved by the Oneida Business Committee, and to exercise complete emergency authority over the Reservation.

(d) to coordinate with tribal, federal, state, and local authorities.

35.5. Oneida Nation Emergency Planning Committee (ONEPC)

35.5-1. The ONEPC shall consist of representatives from entities and a community representative as identified in the ONEPC bylaws as approved by the Oneida Business Committee.

35.5-2. The ONEPC shall meet as necessary to assist the Director in drafting and maintaining the Emergency Operations Plan.

35.5-3. At the request of the Director, the ONEPC shall provide assistance to the Director in the implementation of the provisions of this law or any plan issued thereunder.

35.6. Tribal Cooperation

35.6-1. All entities shall comply with reasonable requests from the Director relating to emergency planning, emergency operations, and federal mandate compliance.

35.6-2. A person who is disabled or dies while serving as a public safety officer, as defined in the Public Safety Officers' Benefits Program, the spouse of that person and/or any children of that person may be eligible for benefits as determined by the Bureau of Justice Assistance under the Public Safety Officers' Benefits Program, 42 U.S.C. ch. 46, subch. XII.

35.7. Public Health Emergencies and Communicable Disease

35.7-1. In order to prevent a public health emergency, the Director and the Community/Public Health Officer shall take action to limit the spread of any communicable disease, in accordance with this law.

35.7-2. If the Community/Public Health Officer suspects or is informed of the existence of any communicable disease, the Community/Public Health Officer shall investigate and make or cause examinations to be made, as are deemed necessary.

35.7-3. The Community/Public Health Officer may quarantine, isolate, require restrictions, or take other communicable disease control measures as necessary. Any individual, including an authorized individual, who enters an isolation or quarantine premises may be subject to isolation or quarantine under this law.

(a) The list of quarantinable diseases shall be specified in a resolution adopted by the Oneida Business Committee as recommended by the Community/Public Health Officer.

(b) The Community/Public Health Officer shall immediately quarantine, isolate, or take other communicable disease control measures upon an individual if the Community/Public Health Officer receives a diagnostic report from a physician or a written or verbal notification from an individual or his or her parent or caretaker that gives the Community/Public Health Officer a reasonable belief that the individual has a communicable disease that is likely to cause a public health emergency.

(c) When the Community/Public Health Officer deems it necessary that an individual be quarantined or otherwise restricted in a separate place, the Community/Public Health Officer shall have that individual removed to such a designated place, if it can be done without danger to the individual's health.

Cross-reference: See also Resolution Identifying Quarantinable Diseases BC-05-13-09-G.

35.7-4. The Community/Public Health Officer shall act as necessary to protect the public, including requesting the Director to take steps to have a public health emergency proclaimed, as identified in 35.8.

35.7-5. If an individual is infected with a communicable disease and the Community/Public Health Officer determines it is necessary to limit contact with the individual, all persons may be forbidden from being in direct contact with the infected individual, except for those persons having a special written permit from the Community/Public Health Officer.

35.7-6. The Tribe's law enforcement agency shall work with the Community/Public Health Officer to execute the Community/Public Health Officer's orders and properly guard any place if quarantine or other restrictions on communicable disease are violated or intent to violate is manifested.

35.7-7. Expenses for necessary medical care, food, and other articles needed for an infected individual shall be charged against the individual or whoever is liable for the individual's support. The OCHS is responsible for the following costs accruing under this section unless the costs are payable through third party liability or through any benefit system:

- (a) the expense for law enforcement assistance under 35.7-4.
- (b) the expense of maintaining quarantine and isolation of the quarantined area.
- (c) the expense of conducting examinations and tests made under the direction of the Community/Public Health Officer.
- (d) the expense of care for dependent persons of the infected individual.

35.7-8. When a public health emergency is proclaimed, the Community/Public Health Officer may do all of the following, as necessary:

- (a) order an individual to receive a vaccination, unless the vaccination is reasonably likely to lead to serious harm to the individual or the individual, for reason of religion or conscience, refuses to obtain the vaccination.
- (b) isolate or quarantine individuals, including those who are unable or unwilling to receive the vaccination under (a).
- (c) prevent any individual, except for those individuals authorized by the Community/Public Health Officer, from entering an isolation or quarantine premises.

35.8. When an Emergency is Proclaimed

35.8-1. The Oneida Business Committee shall be responsible for proclaiming or ratifying the existence of an emergency and for requesting a gubernatorial or presidential declaration.

35.8-2. The Director may request that the Oneida Business Committee proclaim the existence of an emergency. In the event the Oneida Business Committee is unable to proclaim or ratify the existence of an emergency, the Director may proclaim an emergency which shall be in effect until such time the Oneida Business Committee can officially ratify this declaration. The Oneida Business Committee may proclaim the existence of an emergency without a request from the Director, if warranted.

35.8-3. The emergency management network of the Reservation shall be as specified in the Emergency Operations Plan, as adopted by the Oneida Business Committee.

35.8-4. The provisions of Chapter 34, *Oneida Tribal Regulation of Domestic Animals Ordinance*, shall not apply during a proclaimed emergency. During a proclaimed emergency, the Conservation Department shall be responsible for the care, disposal, and sheltering of all abandoned domestic animals and livestock.

35.8-5. No proclamation of an emergency by the Oneida Business Committee or the Director may last for longer than thirty (30) days, unless renewed by the Oneida Business Committee. After an emergency has subsided, the Director shall prepare, or shall work in conjunction with the appropriate entity to prepare, an after-action report to be presented to the Oneida Business Committee, any interested entity, and the public. This report shall be presented to the required parties no longer than sixty (60) days after the emergency has subsided, unless an extension is granted by the Oneida Business Committee.

35.9. Enforcement and Penalties

35.9-1. It shall be a violation of this law for any person to willfully obstruct, hinder, or delay the implementation or enforcement of the provisions of this law or any plan issued thereunder, whether or not an emergency has been proclaimed.

(a) Violators of this law may be subject to a fine of not more than \$200 per violation to be issued by the Oneida Police Department and paid to the Tribe. Employees of the Tribe who violate this law during their work hours or who refuse to follow the Emergency Operations Plan may be subject to disciplinary action instead of a fine.

35.9-2. All fines assessed under this section shall be paid within sixty (60) days of issuance of the citation, unless the person files an appeal with the Oneida Appeals Commission before the fine is to be paid.

35.9-3. Employees of the Tribe who are disciplined under this law may appeal the disciplinary action in accordance with the personnel policies and procedures of the Tribe.

End.

Adopted - BC-7-15-98-A

Amended -BC-12-20-06-G

Emergency Amended -BC-4-30-09-A (Influenza A (H1N1))

Amended-BC-5-13-09-F