

Chapter 36
ONEIDA FOOD SERVICE CODE

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36.1-1. Authority, Amendment, Repeal. The Oneida Nation is a federally recognized Indian tribe with the sovereign authority to enact laws as authorized in Article IV, section 1 (f) of the Oneida Constitution.

36.1-2. The policy of this Code is to ensure the safe food handling and sales by food vendors who sell their products for profit on tribal property within the exterior boundaries of the Oneida Nation in Wisconsin through licensing, regulation, control and supervision of those vendors.

36.1-3. The purpose of this Code is to protect and preserve the safety of Oneida Nation citizens and others within its jurisdiction in conjunction with the most current United States Public Health Service Food Code, hereinafter, the Federal Food Code.

36.1-4. The Federal Food Code is adopted along with this Code to provide guidelines regulating the retail sale, commercial and institutional service and vending of food; defining permit holder, person in charge, employee, food, potentially hazardous food, food establishment, safe material, sanitation, and other terms; and providing standards for employee food safety knowledge, health and practices, food sources, preparation, holding temperatures, and protection; equipment design, construction, installation, cleaning and sanitation, water and liquid and solid wastes, facilities construction and maintenance, and storage and use of poisonous and toxic materials; requiring a license to operate a food establishment; providing for the restriction or exclusion of employees, the examination and condemnation of food, and the enforcement of this code including the setting of penalties. (*Chapter 8 and the Chapter 8 annex, annex 1 of the Federal Food Code.*)

36.2-1. Adoption, Amendment, Repeal This Code is adopted by the Oneida Business Committee by Resolution# 6-13-01-B and is effective ten (10) business days after adoption.

36.2-2. This Code may be amended pursuant to the procedures set out in the Oneida Administrative Procedures Act by the Oneida Business Committee or by the Oneida General Tribal Council.

36.2-3. Should a provision of this Code or the application thereof to any person or circumstances be held as invalid, such invalidity shall not affect other provisions of this law which will continue to have legal force without the invalid portions.

36.2-4. All previously enacted or adopted Oneida laws, ordinances, policies or other regulations that are inconsistent or conflict with this Code are hereby repealed unless re-enacted after adoption of this Code.

36.3-1. Definitions This article shall govern the definitions of words and phrases used within the law. All words not defined herein shall be used in their ordinary and everyday sense.

36.3-2. "Oneida Nation" means the Oneida Tribe of Indians of Wisconsin.

36.3-3. "Tribal Property" means property that is owned by the Oneida Nation in fee or held in trust for the Oneida Nation by the United States of America.

36.3-4. "Reservation" means that area in Wisconsin within the exterior boundaries as set out in the 1838 Treaty with the United States of America.

36.3-5. "Federal Food Code" means the most current United States Public Health Service Model Food Code.

36.3-6. "Food Service Establishment" means a permanent unit or location on tribal property which food is processed on site and intended for individual consumption usually for retail sale. The term includes any such place whether consumption is on or off premises, including, but not limited to the following:

- (a) A restaurant or eating/drinking establishment
- (b) A market or grocery
- (c) A catering business
- (d) A bakery or confectionary
- (e) A convenience store or gas station store

36.3-7. "Independent Food Service Vendors" are those individuals who sell food on tribal property for profit that prepare food off site independent of a permanent establishment such as a restaurant, at a source that has been approved by the Environment Health and Safety Department.

36.3-8. "Temporary Food Service" means a food service establishment that operates at a fixed location on tribal property for a period of not more than 14 consecutive days in conjunction with a single event or celebration.

36.3-9. "Environmental Department" means the Oneida Environment Health and Safety Department, hereinafter, EHS.

36.3-10. "Compliance" means to operate a food service business, i.e. a food service establishment, an independent food service or a temporary food service in conformity with the requirements of this Code, the Federal Food Code and the EHS standard operating procedures.

36.3-11. The "Licensing Department" means that department within the organizational structure of the Compliance Division of the Oneida Nation responsible for administering and issuing licenses within the tribal jurisdiction in accordance with Oneida Laws, Ordinances and Codes.

36.3-12. "The Business Committee" means the Oneida Business Committee

36.3-13. "The Appeals Commission" means the Oneida Appeals Commission.

36.3-14. "Risk Management" means the Oneida Risk Management Department.

36.3-15. "Emergency" means that situation an unforeseen occurrence that requires immediate attention, the absence of which would endanger the health or safety of others due to the imminent nature of the circumstance.

36.3-16. "Close down" means that the food service vendor, by order of the Compliance Division in conjunction with the Business Committee and the Oneida Police Department, based upon the recommendation of the EHS, will be prohibited to be open for business to the public for the protection of the health, safety or welfare of the community.

36.3-17. Adopt all other definitions as written in the Federal Food Code.

36.4-1. Responsibilities and Duties. The EHS Department shall administer and regulate the requirements of this Code and the Federal Food Code pursuant to their updated Standard Operating Procedures, hereinafter, “SOP’s”, for Food Service Vendors.

36.4-2. The EHS Department shall conduct food handling classes that are required for licensing of independent and temporary food vendors. Food service establishment vendors are exempt from this requirement but are to uphold other requirements per the Federal Food Code.

36.4-3. The EHS Department shall have a copy of the most current Federal Food Code available for inspection at the EHS offices by any and all food service vendors during regular business hours.

36.4-4. The EHS Department shall have a copy of their SOP’s for Food Service Vendors available for inspection at the EHS offices by any and all food service vendors during regular business hours.

36.4-5. Risk Management shall make the determination to ensure that the vendor has adequate insurance coverage.

36.4-6. The Licensing Department shall issue a Food Service License, Temporary Food Service License, and a badge for Independent Food Vendors upon successful compliance of the requirements of this Code and the Federal Food Code.

36.4-7. The Licensing Department, in conjunction with the EHS Department, shall determine the fees for the Food Service Licenses annually and post these prominently in the EHS a Licensing Department.

36.4-8. The Licensing Department shall determine the monetary fines for noncompliance with this Code as approved by the Business Committee.

36.5-1. **Compliance.** Strict compliance with the specific laws found in this Code and the Federal Food Code are required.

36.5-2. Additions or modifications to the Federal Food Code found in this Code are designed to be Oneida specific.

36.5-3. Non-compliance with this Code or the Federal Food Code will be addressed by the License Department of the Compliance Division upon written complaint and or recommendation from the EHS or Risk Management Departments.

36.6-1. Requirements for Licensing. No person or person, corporation or firm shall operate a food service establishment either permanent or temporary, or sell food as an independent food service vendor on tribal property, who does not have a valid, unsuspended, unrevoked Oneida Food Vendors License issued by the License Department.

36.6-2. Only a person or persons, corporation or firm that complies with the requirements of this Code and the Federal Food Code shall be entitled to receive and retain an Oneida Food Vendors License.

36.6-3. A valid license shall be posted in every food service establishment or temporary food service premises; and every independent food vendor shall prominently display the valid badge issued by the EHS Department.

36.6-4. A Food Service License will be issued as follows:

(a) All Food Service Establishments, Independent Food Service vendors and Temporary Food Service vendors must meet the general requirements of the Federal Food Code.

(b) Independent Food Vendors and Temporary Food Vendors are required to satisfy the requirements of the EHS safe food handling instruction and certificate of completion of

training must be presented to the Licensing Department prior to the issuance of a Food Service License.

Food Service Establishments must satisfy the requirements of the EHS's pre-inspection report which will be provided to the Licensing Department prior to the issuance of a Food Service License.

(c) The Licensing Department shall issue a Food Service License pursuant to the recommendations by EHS regarding assurances that the applicant has met the conditions that are required for a satisfactory score pursuant to this Code, the EHS SOP's and the Federal Food Code guidelines with the Hazard Analysis and Critical Control Point, Techniques of Quality Control.

(d) Food Service Licenses for permanent Food Service Establishments and Independent Food Service vendors shall be issued by the License Department for a 12 month period beginning at the fiscal year, October 1 and ending September 30 of the following fiscal year.

(e) Those food vendors that initiate their business at a time other than October 1 of any given year shall have their fees prorated for that year.

(f) Renewal of a license will be for an additional 12 months per fiscal year by the License Department upon approval of the EHS Department.

(g) Temporary Food Service Licenses shall be issued for no more than 14 days at a time.

(h) Temporary Food Service Vendors must have at least one food handler that has successfully completed the EHS food handling instruction and have their certificate of completion displayed at all times during hours of operation.

(i) Food Service Licenses for Food Service Establishments and Temporary Food Service vendors shall be displayed in a conspicuous location within the permanent or temporary food service establishments.

(j) Independent Food Service Vendors must display their badges. (See Article X, below.)

(k) No food prepared by a Food Service Vendor shall be prepared in any room used as, or adjacent to, living or sleeping quarters.

36.6-5. Oneida Tribal Enterprise Units and Oneida Tribal Business Units shall be required to adhere to the requirements of this code when selling food for profit on tribal property.

36.6-6. Food Service Licenses are non-transferable.

36.7-1. Insurance. Food Service Establishments and Independent Vendors are required to have adequate insurance as determined by the Risk Management Department's Standard Operating Procedures.

36.7-2. Upon satisfying the requirements of the EHS Department, Food Service Establishments and Independent Food Service Vendors must provide the necessary documents of insurance to Risk Management Department.

36.7-3. At any time during the term of the food service license, if the vendor loses his or her insurance coverage, this must be reported immediately by the vendor to Risk Management and/or the License Department.

36.7-4. Temporary Food Service vendors are exempt from the requirement for additional insurance under this article.

36.8-1. Inspections. Food Establishment Vendors and Temporary Food Service Vendors who apply for a license must undergo a pre-inspection of the permanent or temporary establishment by the EHS Department inspector that results in a satisfactory score under the Federal Food Guidelines.

36.8-2. Independent Food Service Vendors who apply for a license must undergo a pre-inspection of the kitchen or original food preparation premises by the EHS Department inspector that results in a satisfactory score under the Federal Guidelines.

36.8-3. Inspections of the food service premises by the EHS Department will be scheduled twice a year.

36.8-4. At any time during the term of the license, either upon receipt of a complaint or upon their own volition, the EHS Department may conduct an unscheduled inspection of a vendors food preparation site.

36.8-5. A reinspection conducted as a result of a prior violation of this code or the Federal Food Code, will be an additional fee to the vendor and must achieve a satisfactory score under the Federal guidelines to cure the violation.

36.9-1. Fees. The Food Service license fees shall cover a twelve (12) month period and shall be paid in advance with the application for licensure.

36.9-2. The fee shall be paid annually at the beginning of each fiscal year which is October 1 through September 30 of the following year.

36.9-3. The license fees will be prorated for those applicants who start up their business prior to the beginning of the fiscal year.

36.9-4. The fee shall be returned in full if the application is denied.

36.9-5. The licensing agent shall keep fee records.

36.9-6. Food Service vendors that have had their license suspended or their businesses closed will not be entitled to a refund of their fees.

36.9-7. The fee for a food service license shall be pursuant to an equitable fee schedule as established by the EHS and License Department as reviewed and approved by the Business Committee and shall be available in the Licensing and EHS Departments for review.

36.9-8. The fee schedules may be adjusted annually.

36.9-9. Food Service vendor fees shall be used for the operational budget of the EHS (80%) and administrative budget of the License Department (20%).

36.9-10. Oneida Tribal Enterprise Units are required to pay the license fees under this code.

36.9-11. Oneida Tribal Business Units are exempt from the fee requirements.

36.10-1. Independent Food Service Vendors Badge. Upon compliance with the requirements of this Code and the Federal Food Code, the Independent Food Service Vendors and their employees, if any, will be issued a badge by EHS with the vendors/employee's photograph and license number clearly visible.

36.10-2. The badge must be worn by the licensed Independent Food Service Vendor and employees in a manner that is clearly visible to the public at all times while engaging in the sale of their food product.

36.10-3. Independent Food Service vendor badges are non-transferable and must be worn only by the individual to whom it was issued.

36.11-1. Exceptions and Exemptions. The following food service vendors will be exempt from the requirements of this Code:

- (a) Private rummage sales.
- (b) Community sponsored non-profit fund raising and/or charity events.
- (c) Official Tribal meetings such as GTC Meetings.
- (d) Food sold on land other than tribally owned land.

36.12-1. Violations, Enforcement. Selling food or food products on tribal property without a license is strictly prohibited and will result in a fine and/or the suspension of the vendor's right to continue to sell food, i.e., the business will be closed down.

36.12-2. A food service vendor's license will be suspended and the food service closed down if the licensed vendor is in non-compliance with the requirements of this Code, the Federal Food Code or for any other reasons related to the protection of the Oneida Nation's community public health, safety or welfare.

36.12-3. A food service vendor's loss of insurance coverage or inadequate coverage for their entity will be cause for a suspension of license and the business will be closed down until the vendor procures adequate coverage and provides the documents thereof to the Risk Management Department.

36.12-4. Failure to pass an inspection conducted by the EHS will be cause for a penalty, revocation or suspension of the license pursuant to EHS and Federal Code guidelines.

36.12-5. The vendor's food service business may be closed down by the License Department in conjunction with the Oneida Police Department for an uncorrected, critical violation of this Code or the Federal Food Code as determined by EHS and as approved by the Business Committee.

36.12-6. The EHS may close down a business immediately on an emergency basis upon evidence of a serious health and/or safety threat to the community due to the imminent nature of the food service violation.

36.12-7. Any food service vendor that has been closed down by EHS as an emergency measure due to the evidence of a serious health or safety threat must provide evidence of satisfactorily corrected compliance to the EHS prior to being allowed to reopen the business.

- (a) Any food vendor that has been closed due to a violation of the Food Code must be reinspected by EHS at the vendors cost with a resulting satisfactory score pursuant to this Code and the Federal Food Code guidelines.
- (b) Any food service vendor that has been closed down may only receive a probationary license for six months upon evidence of satisfactory compliance with this Code and the Federal Food Code,
- (c) After six months of satisfactory compliance with this Code and the Federal Food Code, as determined by EHS pursuant to follow-up inspections, the vendor may apply for an annual license as before.
- (d) Any food service vendor who violates any provision of this Code, upon conviction, shall forfeit not less than \$5.00 nor more than \$500.00, together with the costs of prosecution. In default of payment of such forfeitures and costs, the Food Service business shall be closed down or remain closed down until such forfeitures and costs are paid and all other areas of non-compliance with this Code or the Federal Food Code have been cured.

36.13-1. Appeal Rights. Parties who disagree with the decisions of the EHS, Licensing or Risk Management Departments, regarding issues of licensing, inspections, or insurance may appeal to the Appeals Commission Original Hearing Body.

36.13-2. Hearings by the Appeals Commission will be pursuant to the Administrative Procedures Act and the Oneida Appeals Commission Judicial Code.

Attachment A.

Food Service License Fees for 2001-2002

(To be adjusted annually)

1. Food Service Establishment License
 - a. Restaurants and Eating/Drinking Establishments
 1. With 0-49 seats \$100.00
 2. With 50-100 seats \$150.00
 3. With 101 + seats \$ 350.00
 - b. Retail Food Market, Grocery Store \$175.00
 - c. Retail Food Market, Grocery Store
With restaurant \$225.00
 - d. Bakery/Confectionary \$100.00
 - e. Convenience Store/Gas Station \$100.00
 - f. Catering Business \$100.00

2. Independent Food Service License
 - a. \$75.00 annually
3. Temporary Food Service License
 - a. \$25.00 for each event, not to exceed fourteen consecutive days
4. Tribal Schools No Fee

THIS LICENSE IS NOT TRANSFERABLE

All licenses expire on September 30th annually. A penalty of \$50.00 will be applied to renewal applications postmarked after October 15th. Operation in any fiscal year requires a licence.

Schedule of Fines
For Non-Compliance with this code or the Federal Food Code

Any food service vendor who violates any provision of this chapter, upon conviction, shall forfeit not less than \$5.00 nor more than \$500.00, together with costs of prosecution. In default of payment of such forfeiture and costs, the Food Service business will be closed and/or remain closed until such forfeitures and costs are paid and all areas of non-compliance with this Code or the Federal Food Code have been cured.
Oneida Food Code Article 12-10.

1 st Offense, non-critical:	<u>\$25.00</u>
2 nd Offense in Five Years, non-critical:	<u>\$100.00</u>
3 rd Offense in Five Years, non-critical:	<u>\$200.00</u>
All Subsequent Non-Critical Offenses in Five Years:	<u>\$250.00</u>
1 st Offense, Critical:	<u>\$100.00</u>
2 nd Offense in Five Years, Critical:	<u>\$300.00</u>
3 rd Offense in Five Years: Critical:	<u>\$500.00</u>
All Subsequent Critical Offenses in Five Year:	<u>\$750.00</u>

***Note:** Five or more critical offenses in five years will result in the suspension of the license for one year, the business will be closed down and a fine will be imposed to be paid prior to reinstatement.

Fees for reinspection as a result of an original finding of non-compliance by EHS is \$100.00.

ONEIDA NATION IN WISCONSIN

APPLICATION

FOR LICENSE FOR THE SALE OF FOOD ON TRIBAL PROPERTY

**-ENVIRONMENTAL HEALTH AND SAFETY DEPARTMENT-
-COMPLIANCE DIVISION LICENSE DEPARTMENT-**

In accordance with the Oneida Food Code. I the undersigned, do hereby respectfully make application to the Environmental Health and Safety Department of the Oneida Nation in Wisconsin. for a license to sell food on tribal property for the year ending September 30, 2002.

I hereby certify that I am familiar with the Federal laws and Oneida Food Code pertaining to the conditions of said establishment on Oneida Nation tribal property, and I hereby agree, if granted said license, to obey all provisions of said Federal laws and Oneida Food Code.

ESTABLISHMENT NAME _____

ESTABLISHMENT ADDRESS _____

ESTABLISHMENT TELEPHONE _____

_____AGENT/MANAGER HOME PHONE _____

LEGAL LICENSE _____

_____ (List the name of the Individual, Partnership or Corporation)

LICENSEE ADDRESS _____

PROPERTY OWNER _____

DATE WHEN ONEIDA FOOD HANDLING COURSE COMPLETED _____

NAME OF INSURER _____

_____ (Attach copy of Insurance deck sheet)

SIGNATURE OF APPLICANT _____

*** MUST BE SIGNED TO OBTAIN A CURRENT LICENSE.**

APPROVED: _____ TOTAL FEE PAID: _____

Environment Health and Safety Dept.

ONEIDA NATION

ONEIDA FOOD VENDOR'S LICENSE

October 1, 2002 through September 30, 2003

Business:

Licensee:

(Name and address of business)

(Name of Person, partnership
or corporation)

The person, firm or corporation whose name appears on this license has complied with the provisions of the Oneida Food Code and, as adopted, the Federal Food Code and is hereby authorized to engage in the activity as indicated below at the location named from October 1, 2001 to September 31, 2001. This license is non-transferrable.

(Name of type(s) of food service; restaurant, independent,
temporary, market, bakery, caterer, etc.)

(License fee)

Dated at the office of the Oneida License Department, this _____ (Date issued) _____.

Oneida License Department Officer

Oneida Health and Safety Department Officer

POST IN A CONSPICUOUS PLACE