



Notice of
Public Meeting

to be held

November 6, 2014 at 12:15 p.m.

OBC Conference Room—2nd Floor, Norbert Hill Center



Topic: Public Use of Tribal Land Law Amendments

The Legislative Operating Committee is hosting this Public Meeting to gather feedback from the community regarding a legislative proposal that would:

- ◆ Enable employees of the Tribe who are not Tribal members to access land otherwise restricted to them to complete their assigned duties.
- ◆ Give non-Tribal contractors the authority to access land to conduct work activities they were contracted to perform.
- ◆ Provide an exception for emergency personnel to access otherwise restricted land as necessary to provide emergency services.
- ◆ Give the Environmental Resource Board the ability to grant permission for land access to other individuals/groups that are not covered by these exceptions.

All community members are invited to attend this meeting to learn more about this proposal and/or to submit comments concerning this proposal.

Public Comment Period—Open until November 14, 2014

During the Public Comment Period, all interested persons may submit written comments regarding this legislative proposal; and/or a transcript of any testimony/spoken comments made during the Public Meeting. Written comments may be submitted to the Tribal Secretary's Office or to the Legislative Reference Office in person or by U.S. mail, interoffice mail, e-mail or fax.

For more information about the public meeting process, or to obtain copies of the Public Meeting documents for this proposal, please visit www.oneida-nsn.gov/Register/PublicMeetings or contact the Legislative Reference Office (LRO), which is located on the second floor of the Norbert Hill Center, Oneida WI.

Mail: **Legislative Reference Office**
PO Box 365
Oneida, WI 54155

Phone: **(920) 869-4376 or (800) 236-2214**
 E-Mail: **LOC@Oneidanation.org**
 Fax: **(920) 869-4040**

**CHAPTER 38
 PUBLIC USE OF TRIBAL LAND**

38.1. Purpose and Policy
 38.2. Adoption, Amendment, Repeal
 38.3. Definitions
 38.4. Environmental Resource Board

38.5. Land Access Map
 38.6. Trespass
 38.7. Violations and Appeals

<i>Analysis by the Legislative Reference Office</i>					
Title	Public Use of Tribal Land Law (The Law)				
Requester	Environmental Health & Safety Division	Drafter	Lynn Franzmeier	Analyst	Tani Thurner
Reason for Request	To create limited exceptions to the restricted access for certain designated types of land. Amendments have been adopted on an emergency basis; this proposal now seeks to make those amendments permanent.				
Purpose	Regulating access to Tribal lands to prevent improper use, access and trespass.				
Authorized/ Affected Entities	Environmental Resource Board (ERB) has primary implementation and enforcement responsibilities. The Environmental Health and Safety Division, Division of Land Management, Geographic Land Information Systems and “other designated agencies of the Tribe” are responsible for coordinating with ERB in developing a Land Access Map. Conservation Wardens and Oneida Police Officers issue citations for violations.				
Due Process	Citations can be contested through a hearing held before ERB				
Related Legislation	OBC Resolution #05-15-14-D sets out a schedule of fines for violations.				
Policy Mechanism	Posting signs on lands that identify how that land is designated.				
Enforcement	Conservation Wardens and Oneida Police Officers are authorized to issue citations for violations of this Law, ERB is given authority to conduct hearings as an original hearing body when a citation is appealed.				

Overview

The proposed amendments to the Law (the Amendments) have been requested in order to resolve access-related issues that could arise under the current Law.

Proposed Amendments

Community Access to include persons accompanying an authorized employee

Under the current Law, which was adopted by the OBC on May 15, 2014, some Tribal lands are designated as “Oneida Community Access” which means those lands can only be accessed by Tribal members and their spouses/descendants, members of other Indian tribes, authorized employees of the Tribe, and persons accompanied at all times by a Tribal member or a Tribal member’s spouse or descendant. However, some tours of the Reservation may enter Oneida Community Access land. If the tour guide is a Tribal employee who is not a Tribal member or a spouse/descendant, then under the current Law that employee may be authorized to access those lands, but the tourists would still not be eligible to access those lands. The amendments resolve this by expanding Oneida Community Access to include persons who are accompanied at all times by an employee of the Tribe. [38.5-1(b)]

Other Exceptions

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2 The current Law also permits lands to be designated as “Oneida Tribal Member Access”
3 – accessible by Tribal members only, and “Limited Access” – accessible only when the Tribe
4 grants a permit or lease for specified purposes. However, there are situations where persons may
5 need to enter Community Member, Limited, or Tribal Member Access-designated lands. To
6 address this, a new provision is added to clarify that this Law should not be construed as
7 preventing the following persons from entering Tribal land, regardless of its designation:

- 8 • Tribal employees performing job duties.
- 9 • Persons performing grant or contractual obligations related to the Tribal land and
10 on behalf of the Tribe
- 11 • Emergency personnel who are providing, or attempting to provide, services.
- 12 • Persons granted access by the Environmental Resource Board. [38.5-2]

13 **Miscellaneous**

14 Amendments were adopted on an emergency basis on July 23, 2014, and are set to expire
15 on January 23, 2014; unless the emergency adoption is extended an additional six months or the
16 amendments are permanently adopted.

17 A public meeting has not been held.

19
20 **CHAPTER 38**
21 **PUBLIC USE OF TRIBAL LAND**
22

23 **38.1. Purpose and Policy**

24 38.1-1. *Purpose.* The purpose of this Law is to prevent improper access, use and trespass to
25 Tribal lands.

26 38.1-2. *Policy.* It is the policy of the Tribe to limit access to Tribal land to protect and preserve
27 the environment and natural resources including forests, wildlife, air and waters, through
28 appropriate uses of the land.

29
30 **38.2. Adoption, Amendment, Repeal**

31 38.2-1. This Law is adopted by the Oneida Business Committee by resolution BC-05-15-14-C
32 and shall be effective sixty (60) days after adoption.

33 38.2-2. This Law may be amended or repealed by the Oneida Business Committee pursuant to
34 the procedures set out in the Legislative Procedures Act.

35 38.2-3. Should a provision of this Law or the application thereof to any person or circumstances
36 be held as invalid, such invalidity shall not affect other provisions of this Law which are
37 considered to have legal force without the invalid portions.

38 38.2-4. In the event of a conflict between a provision of this Law and a provision of another law,
39 the provisions of this Law shall control.

40 38.2-5. This Law is adopted under authority of the Constitution of the Oneida Tribe of Indians
41 of Wisconsin.

42 38.2-6. This Law shall not be construed to preclude the Tribe from pursuing relief for criminal
43 trespass under applicable law.

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45 **38.3. Definitions**

46 38.3-1. This section shall govern the definitions of words and phrases used within this Law. All
47 words not defined herein shall be used in their ordinary and everyday sense.

48 (a) "Designation" means the term used to describe the type of access granted to certain
49 Tribal lands.

50 (b) "Lease" means any lease or agreement, including business site leases, entered into by
51 the Tribe and any person to allow the use of Tribal lands.

52 (c) "Person" means any individual, group of individuals, corporation, partnership,
53 limited liability company, or any other form of business organization.

54 (d) "Reservation" means all the lands and waters within the exterior boundaries of the
55 Reservation of the Oneida Tribe of Indians of Wisconsin, as created pursuant to the 1838
56 Treaty with the Oneida 7 Stat. 566, and any lands added thereto pursuant to federal law.

57 (e) "Trespass" means the unauthorized use or entry on Tribal lands, including
58 unauthorized uses under a Tribal law, permit or lease.

59 (f) "Tribal" or "Tribe" means the Oneida Tribe of Indians of Wisconsin.

60 (g) "Tribal land" means all Tribal trust lands, and any land or interest in land held by the
61 Oneida Tribe in fee or in any other form on the Reservation.

62

63 **38.4. Environmental Resource Board**

64 38.4-1. The Environmental Resource Board shall have the duty and power to carry out the intent
65 and purposes of this Law and enforce the provisions of this Law. The Environmental Resource
66 Board, or its designated staff, shall:

67 (a) Develop, approve and maintain the Land Access Map.

68 (b) Hold public hearings on proposed amendments to the Land Access Map.

69 (c) Hear and decide, as the original hearing body, contested cases that may arise under
70 this Law.

71 (d) Impose hearing costs and restitution against the person for damages caused by a
72 violation of this Law.

73 (e) Determine which Tribal land will be posted and ensure the appropriate signs are
74 posted.

75 (f) Implement and interpret the provisions of this Law.

76

77 **38.5. Land Access Map**

78 38.5-1. *Designation of Tribal Lands.* A Land Access Map shall be created which designates
79 Tribal land as one (1) of the following:

80 (a) Limited Access: Lands designated as "Limited Access" shall be open to all persons
81 who are granted land access permission by the Tribe through a permit or lease for
82 specified purposes. The Environmental Resource Board may choose to designate a
83 portion of land as Limited Access in order to manage, preserve and protect that land for
84 environmental, cultural or other significance.

85 (b) Oneida Community Access: Lands designated as "Oneida Community Access" shall
86 be open to Tribal members, and their spouses and descendants; members of other
87 | federally recognized Indian tribes, bands or communities; authorized employees of the

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88 Tribes; and persons who are accompanied at all times by a Tribal member, ~~or~~ the spouse
 89 or ~~descendent~~descendant of a Tribal member; ~~;~~ or an authorized ~~employees~~employee of
 90 the Tribe.

91 (1) A Conservation Warden or Oneida Police Officer may require a person to
 92 demonstrate proof of eligibility to use Oneida Community Access lands.

93 (2) The Environmental Resource Board may choose to designate land as Oneida
 94 Community Access in order to manage, preserve and protect access to locations
 95 that have cultural or environmental significance.

96 (c) Oneida Tribal Member Access: Land designated as “Oneida Tribal Member Access”
 97 shall be open to Tribal members only. The Environmental Resource Board may
 98 designate land as Oneida Tribal Member Access to protect the land for Tribal member
 99 use due to the historical, spiritual, cultural and/or environmental significance of the land.

100 (d) Open: Lands designated as “Open Access” shall be generally open to all persons for
 101 the land’s designated use and enjoyment. The Environmental Resource Board may
 102 designate land as Open Access where such designation is deemed beneficial to the Tribe
 103 and where such designation does not pose significant risk of damage to the policies of the
 104 Tribe and/or the land’s cultural or environmental preservation.

105 38.5-2. Notwithstanding the restrictions of 38.5-1, nothing in this Law shall be construed as
 106 preventing the following persons from entering Tribal land, regardless of the land designation:

107 (a) Employees of the Tribe who are performing their job duties;

108 (b) Those persons who are performing grant or contractual obligations related to the
 109 Tribal land and on behalf of the Tribe;

110 (c) Emergency personnel who are providing, or attempting to provide, services; and

111 (d) Those persons who have been granted access to the land by the Environmental
 112 Resource Board.

113 38.5-3. Development of the Land Access Map. The Environmental Resource Board shall
 114 develop the Land Access Map in coordination with the Oneida Environmental Health and Safety
 115 Division, the Oneida Division of Land Management, Geographic Land Information Systems and
 116 other such designated agencies of the Tribe. The Environmental Resource Board shall adopt the
 117 initial Land Access Map.

118 38.5-~~34~~. General Land Designation. Unless otherwise designated, Tribal Land shall be
 119 designated as Limited Access.

120 38.5-~~45~~. Amending the Land Access Map. The Environmental Resource Board may, from time
 121 to time, in the manner hereafter set forth, amend the Land Access Map, provided that due
 122 consideration shall be made for the intent and purposes of the designation.

123 (a) Amendments may be proposed by any person by filing an application with the
 124 Environmental Resource Board in such format and accompanied by such information as
 125 required by the Board.

126 (b) Public Hearing. The Environmental Resource Board shall hold a public hearing on
 127 each application to amend the Land Access Map.

128 (1) The Environmental Resource Board shall set a date for the public hearing and
 129 meet the notice requirements of the public hearing as soon as possible after the
 130 filing of the application is complete.

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- 131 (A) *Notice*. Not less than ten (10) business days and not more than thirty
 132 (30) business days prior to the public hearing, notice, including the time,
 133 place and purpose of the public hearing, shall be:
 134 (i) published in the Tribal newspaper; and
 135 (ii) mailed to all owners of land located within twelve hundred
 136 (1,200) feet of the outer boundaries of the land that is the subject of
 137 the public hearing.
- 138 (B) Any person who cannot attend the public hearing may be represented
 139 by an agent, advocate or attorney at the public hearing.
- 140 (C) The Environmental Resource Board shall issue a decision or
 141 recommendation regarding amendments to the Land Access Map within
 142 seven (7) business days after the public hearing is held.
- 143 (2) The Environmental Resource Board together with the Environmental Health
 144 and Safety Division shall, after holding a public hearing and reviewing any
 145 comments received, make written findings of fact and determine whether to
 146 amend the Land Access Map.
- 147 (3) The Environmental Resource Board shall make findings based upon the
 148 evidence presented to it with respect to the following matters:
 149 (A) Existing uses of the land and buildings within the general area of the
 150 land in question.
 151 (B) Suitability of the land in question to the uses permitted under the
 152 existing Land Access Map.
- 153 (4) The Environmental Resource Board shall not amend the Land Access Map
 154 unless it finds that adopting such amendment is in the Tribe's best interest and is
 155 not solely for the interest of the applicant.
- 156 (c) The Environmental Resource Board may grant or deny any application to amend the
 157 Land Access Map; however, amendments shall require a two-thirds (2/3) vote of the
 158 Environmental Resource Board if a written protest against any amendment is presented to
 159 the Environmental Resource Board and is signed by:
 160 (1) the lessees, assignees and owners of at least twenty percent (20%) of the acres
 161 of land included in such amendment; or
 162 (2) the lessees, assignees and owners of at least twenty percent (20%) of the land
 163 immediately adjacent to the land included in such amendment, extending in a
 164 radius of twelve hundred (1,200) feet of the outer boundaries of the land.
 165

166 **38.6. Trespass**

167 38.6-1. A person trespasses if the person enters or otherwise occupies Tribal land and:

- 168 (a) Refuses to leave land to which the person has no reasonable claim or right of
 169 possession when requested to do so.
 170 (b) Enters upon such land after being noticed by the landowner or occupant that
 171 permission for the person to enter such land does not exist, or has been expressly denied
 172 or revoked. A person has been noticed that permission by the landowner or occupant for
 173 such person to enter such land does not exist if he or she has been notified publicly, by

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174 publication of the Land Access Map on the Tribal website and/or in the Tribal
 175 newspaper, or if the land is posted. Land is considered to be posted if one (1) of the
 176 following requirements is met:

177 (1) A sign at least eleven (11) inches square is placed in at least two (2)
 178 conspicuous places for every forty (40) acres of land to be protected. The sign
 179 shall provide an appropriate notice and the name of the person giving the notice,
 180 followed by the word “owner” if the person is the holder of legal title to the land
 181 or by the word “occupant” if the person is a lawful occupant of the land, but not
 182 the holder of legal title.

183 (2) Markings at least one (1) foot long and, in a contrasting color, the phrase
 184 “private land” and the name of the owner, are made in at least two (2)
 185 conspicuous places for every forty (40) acres of land.

186 (c) Does any of the following without proper authorization through a lease, permit or as
 187 otherwise required under applicable law:¹

188 (1) Destroys land, waters, livestock, poultry, buildings, equipment, or any
 189 property without consent or permission.

190 (2) Cuts or destroys any wood, timber, plant, vegetation, or crop standing on the
 191 land, or carries away any wood, timber, plant, vegetation or crop on the land.

192 (3) Engages in any act, or attempted act of hunting, trapping or fishing.

193 (4) Digs, takes, or carries away earth, soil, minerals, cultural resources, or any
 194 other property.

195 (5) Erects, puts up, fastens, prints, or paints upon another’s property, notices,
 196 advertisements, signs or other writing designed to communicate to the general
 197 public.

198 (6) Parks or drives any vehicle on the land.

199 (7) Permits or allows livestock or any domesticated animal to enter upon or
 200 remain upon the land.

201 (8) Uses or possesses leased or subleased lands beyond the possessory rights
 202 granted by such lease or sublease.

203 (9) Dumps, deposits, places, throws, burns, emits or leaves rubbish, refuse,
 204 debris, substances, or other objects upon a highway, road, air, waters or any land.
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206 **38.7. Violations and Appeals**

207 38.7-1. *Issuance of a Citation.* Any person who violates any provision of this Law shall be
 208 guilty of a civil infraction, and shall be issued a citation, in writing, by a Conservation Warden or
 209 Oneida Police Officer. The issuance of a citation or fine under any other law relating to the same
 210 or any other matter shall not preclude the issuance of a citation under this Law.

¹ Current Tribal laws that authorize conduct described in 38.6-1(c): Chapter 12, Protection and Management of Archeological and Historical Resources; Chapter 34, Oneida Tribal Regulation of Domestic Animals Ordinance; Chapter 40, Tribal Environmental Response Law; Chapter 42, Wood Cutting Ordinance; Chapter 44, Recycling and Solid Waste Disposal; Chapter 45, Hunting, Fishing and Trapping Law; Chapter 49: All-Terrain Vehicle Law; Chapter 69, Zoning and Shoreland Protection Law.

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211 (a) The Oneida Business Committee, upon recommendation of the Environmental
212 Resource Board, shall adopt a citation schedule.

213 (b) The citation shall specify the date, time and place of the hearing to contest the
214 citation. The hearing shall take place at least five (5) business days after the citation is
215 issued.

216 (c) The citation shall also state that the Environmental Resource Board may, in addition
217 to the citation, impose hearing costs and restitution against the person for damages caused
218 by a violation of this Law.

219 38.7-2. *Citation Hearing.* Any person issued a citation under this Law may contest the citation
220 by attending a hearing before the Environmental Resource Board. The person may appear in
221 person, or be represented by an agent, advocate or attorney.

222 (a) If the person does not wish to contest the citation, he or she shall pay the citation by
223 the hearing date specified on the citation.

224 (b) After the hearing, the Environmental Resource Board shall:

225 (1) determine whether the person is responsible for the citation, as was issued;

226 (2) determine whether to impose hearing costs and/or restitution against the
227 person for the value of any damage caused by a violation of this Law; and

228 (3) set a new date for when the citation, hearing costs and/or restitution shall be
229 paid, if necessary.

230 (c) Any restitution funds received shall be used to repair the damages caused by a
231 violation of this Law.

232 38.7-3. *Appeals from the Environmental Resource Board Decision.* Any party of interest may
233 appeal a decision of the Environmental Resource Board to the Tribe's judicial system.

234
235 *End.*

236
237 _____
238 Adopted – BC-05-15-14-C

CHAPTER 38
PUBLIC USE OF TRIBAL LAND

38.1. Purpose and Policy
38.2. Adoption, Amendment, Repeal
38.3. Definitions
38.4. Environmental Resource Board

38.5. Land Access Map
38.6. Trespass
38.7. Violations and Appeals

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38.1. Purpose and Policy

38.1-1. *Purpose.* The purpose of this Law is to prevent improper access, use and trespass to Tribal lands.

38.1-2. *Policy.* It is the policy of the Tribe to limit access to Tribal land to protect and preserve the environment and natural resources including forests, wildlife, air and waters, through appropriate uses of the land.

38.2. Adoption, Amendment, Repeal

38.2-1. This Law is adopted by the Oneida Business Committee by resolution BC-05-15-14-C and shall be effective sixty (60) days after adoption.

38.2-2. This Law may be amended or repealed by the Oneida Business Committee pursuant to the procedures set out in the Legislative Procedures Act.

38.2-3. 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.

38.2-4. 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.

38.2-5. This Law is adopted under authority of the Constitution of the Oneida Tribe of Indians of Wisconsin.

38.2-6. This Law shall not be construed to preclude the Tribe from pursuing relief for criminal trespass under applicable law.

38.3. Definitions

38.3-1. This section shall govern the definitions of words and phrases used within this Law. All words not defined herein shall be used in their ordinary and everyday sense.

(a) “Designation” means the term used to describe the type of access granted to certain Tribal lands.

(b) “Lease” means any lease or agreement, including business site leases, entered into by the Tribe and any person to allow the use of Tribal lands.

(c) “Person” means any individual, group of individuals, corporation, partnership, limited liability company, or any other form of business organization.

(d) “Reservation” means all the lands and waters 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.

(e) “Trespass” means the unauthorized use or entry on Tribal lands, including unauthorized uses under a Tribal law, permit or lease.

(f) “Tribal” or “Tribe” means the Oneida Tribe of Indians of Wisconsin.

(g) “Tribal land” means all Tribal trust lands, and any land or interest in land held by the Oneida Tribe in fee or in any other form on the Reservation.

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42 **38.4. Environmental Resource Board**

43 38.4-1. The Environmental Resource Board shall have the duty and power to carry out the intent
44 and purposes of this Law and enforce the provisions of this Law. The Environmental Resource
45 Board, or its designated staff, shall:

- 46 (a) Develop, approve and maintain the Land Access Map.
47 (b) Hold public hearings on proposed amendments to the Land Access Map.
48 (c) Hear and decide, as the original hearing body, contested cases that may arise under
49 this Law.
50 (d) Impose hearing costs and restitution against the person for damages caused by a
51 violation of this Law.
52 (e) Determine which Tribal land will be posted and ensure the appropriate signs are
53 posted.
54 (f) Implement and interpret the provisions of this Law.
55

56 **38.5. Land Access Map**

57 38.5-1. *Designation of Tribal Lands.* A Land Access Map shall be created which designates
58 Tribal land as one (1) of the following:

- 59 (a) Limited Access: Lands designated as “Limited Access” shall be open to all persons
60 who are granted land access permission by the Tribe through a permit or lease for
61 specified purposes. The Environmental Resource Board may choose to designate a
62 portion of land as Limited Access in order to manage, preserve and protect that land for
63 environmental, cultural or other significance.
64 (b) Oneida Community Access: Lands designated as “Oneida Community Access” shall
65 be open to Tribal members, and their spouses and descendants; members of other
66 federally recognized Indian tribes, bands or communities; authorized employees of the
67 Tribe; and persons who are accompanied at all times by a Tribal member, the spouse or
68 descendant of a Tribal member, or an authorized employee of the Tribe.
69 (1) A Conservation Warden or Oneida Police Officer may require a person to
70 demonstrate proof of eligibility to use Oneida Community Access lands.
71 (2) The Environmental Resource Board may choose to designate land as Oneida
72 Community Access in order to manage, preserve and protect access to locations
73 that have cultural or environmental significance.
74 (c) Oneida Tribal Member Access: Land designated as “Oneida Tribal Member Access”
75 shall be open to Tribal members only. The Environmental Resource Board may
76 designate land as Oneida Tribal Member Access to protect the land for Tribal member
77 use due to the historical, spiritual, cultural and/or environmental significance of the land.
78 (d) Open: Lands designated as “Open Access” shall be generally open to all persons for
79 the land’s designated use and enjoyment. The Environmental Resource Board may
80 designate land as Open Access where such designation is deemed beneficial to the Tribe
81 and where such designation does not pose significant risk of damage to the policies of the
82 Tribe and/or the land’s cultural or environmental preservation.

83 38.5-2. Notwithstanding the restrictions of 38.5-1, nothing in this Law shall be construed as
84 preventing the following persons from entering Tribal land, regardless of the land designation:

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- 85 (a) Employees of the Tribe who are performing their job duties;
86 (b) Those persons who are performing grant or contractual obligations related to the
87 Tribal land and on behalf of the Tribe;
88 (c) Emergency personnel who are providing, or attempting to provide, services; and
89 (d) Those persons who have been granted access to the land by the Environmental
90 Resource Board.

91 38.5-3. *Development of the Land Access Map.* The Environmental Resource Board shall
92 develop the Land Access Map in coordination with the Oneida Environmental Health and Safety
93 Division, the Oneida Division of Land Management, Geographic Land Information Systems and
94 other such designated agencies of the Tribe. The Environmental Resource Board shall adopt the
95 initial Land Access Map.

96 38.5-4. *General Land Designation.* Unless otherwise designated, Tribal Land shall be
97 designated as Limited Access.

98 38.5-5. *Amending the Land Access Map.* The Environmental Resource Board may, from time to
99 time, in the manner hereafter set forth, amend the Land Access Map, provided that due
100 consideration shall be made for the intent and purposes of the designation.

101 (a) Amendments may be proposed by any person by filing an application with the
102 Environmental Resource Board in such format and accompanied by such information as
103 required by the Board.

104 (b) *Public Hearing.* The Environmental Resource Board shall hold a public hearing on
105 each application to amend the Land Access Map.

106 (1) The Environmental Resource Board shall set a date for the public hearing and
107 meet the notice requirements of the public hearing as soon as possible after the
108 filing of the application is complete.

109 (A) *Notice.* Not less than ten (10) business days and not more than thirty
110 (30) business days prior to the public hearing, notice, including the time,
111 place and purpose of the public hearing, shall be:

- 112 (i) published in the Tribal newspaper; and
113 (ii) mailed to all owners of land located within twelve hundred
114 (1,200) feet of the outer boundaries of the land that is the subject of
115 the public hearing.

116 (B) Any person who cannot attend the public hearing may be represented
117 by an agent, advocate or attorney at the public hearing.

118 (C) The Environmental Resource Board shall issue a decision or
119 recommendation regarding amendments to the Land Access Map within
120 seven (7) business days after the public hearing is held.

121 (2) The Environmental Resource Board together with the Environmental Health
122 and Safety Division shall, after holding a public hearing and reviewing any
123 comments received, make written findings of fact and determine whether to
124 amend the Land Access Map.

125 (3) The Environmental Resource Board shall make findings based upon the
126 evidence presented to it with respect to the following matters:

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- 127 (A) Existing uses of the land and buildings within the general area of the
 128 land in question.
- 129 (B) Suitability of the land in question to the uses permitted under the
 130 existing Land Access Map.
- 131 (4) The Environmental Resource Board shall not amend the Land Access Map
 132 unless it finds that adopting such amendment is in the Tribe's best interest and is
 133 not solely for the interest of the applicant.
- 134 (c) The Environmental Resource Board may grant or deny any application to amend the
 135 Land Access Map; however, amendments shall require a two-thirds (2/3) vote of the
 136 Environmental Resource Board if a written protest against any amendment is presented to
 137 the Environmental Resource Board and is signed by:
- 138 (1) the lessees, assignees and owners of at least twenty percent (20%) of the acres
 139 of land included in such amendment; or
- 140 (2) the lessees, assignees and owners of at least twenty percent (20%) of the land
 141 immediately adjacent to the land included in such amendment, extending in a
 142 radius of twelve hundred (1,200) feet of the outer boundaries of the land.

144 **38.6. Trespass**

145 38.6-1. A person trespasses if the person enters or otherwise occupies Tribal land and:

- 146 (a) Refuses to leave land to which the person has no reasonable claim or right of
 147 possession when requested to do so.
- 148 (b) Enters upon such land after being noticed by the landowner or occupant that
 149 permission for the person to enter such land does not exist, or has been expressly denied
 150 or revoked. A person has been noticed that permission by the landowner or occupant for
 151 such person to enter such land does not exist if he or she has been notified publicly, by
 152 publication of the Land Access Map on the Tribal website and/or in the Tribal
 153 newspaper, or if the land is posted. Land is considered to be posted if one (1) of the
 154 following requirements is met:
- 155 (1) A sign at least eleven (11) inches square is placed in at least two (2)
 156 conspicuous places for every forty (40) acres of land to be protected. The sign
 157 shall provide an appropriate notice and the name of the person giving the notice,
 158 followed by the word "owner" if the person is the holder of legal title to the land
 159 or by the word "occupant" if the person is a lawful occupant of the land, but not
 160 the holder of legal title.
- 161 (2) Markings at least one (1) foot long and, in a contrasting color, the phrase
 162 "private land" and the name of the owner, are made in at least two (2)
 163 conspicuous places for every forty (40) acres of land.
- 164 (c) Does any of the following without proper authorization through a lease, permit or as
 165 otherwise required under applicable law:¹

¹ Current Tribal laws that authorize conduct described in 38.6-1(c): Chapter 12, Protection and Management of Archeological and Historical Resources; Chapter 34, Oneida Tribal Regulation of Domestic Animals Ordinance; Chapter 40, Tribal Environmental Response Law; Chapter 42, Wood Cutting Ordinance; Chapter 44, Recycling and

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- 166 (1) Destroys land, waters, livestock, poultry, buildings, equipment, or any
 167 property without consent or permission.
- 168 (2) Cuts or destroys any wood, timber, plant, vegetation, or crop standing on the
 169 land, or carries away any wood, timber, plant, vegetation or crop on the land.
- 170 (3) Engages in any act, or attempted act of hunting, trapping or fishing.
- 171 (4) Digs, takes, or carries away earth, soil, minerals, cultural resources, or any
 172 other property.
- 173 (5) Erects, puts up, fastens, prints, or paints upon another's property, notices,
 174 advertisements, signs or other writing designed to communicate to the general
 175 public.
- 176 (6) Parks or drives any vehicle on the land.
- 177 (7) Permits or allows livestock or any domesticated animal to enter upon or
 178 remain upon the land.
- 179 (8) Uses or possesses leased or subleased lands beyond the possessory rights
 180 granted by such lease or sublease.
- 181 (9) Dumps, deposits, places, throws, burns, emits or leaves rubbish, refuse,
 182 debris, substances, or other objects upon a highway, road, air, waters or any land.
 183

184 **38.7. Violations and Appeals**

185 38.7-1. *Issuance of a Citation.* Any person who violates any provision of this Law shall be
 186 guilty of a civil infraction, and shall be issued a citation, in writing, by a Conservation Warden or
 187 Oneida Police Officer. The issuance of a citation or fine under any other law relating to the same
 188 or any other matter shall not preclude the issuance of a citation under this Law.

189 (a) The Oneida Business Committee, upon recommendation of the Environmental
 190 Resource Board, shall adopt a citation schedule.

191 (b) The citation shall specify the date, time and place of the hearing to contest the
 192 citation. The hearing shall take place at least five (5) business days after the citation is
 193 issued.

194 (c) The citation shall also state that the Environmental Resource Board may, in addition
 195 to the citation, impose hearing costs and restitution against the person for damages caused
 196 by a violation of this Law.

197 38.7-2. *Citation Hearing.* Any person issued a citation under this Law may contest the citation
 198 by attending a hearing before the Environmental Resource Board. The person may appear in
 199 person, or be represented by an agent, advocate or attorney.

200 (a) If the person does not wish to contest the citation, he or she shall pay the citation by
 201 the hearing date specified on the citation.

202 (b) After the hearing, the Environmental Resource Board shall:

203 (1) determine whether the person is responsible for the citation, as was issued;

204 (2) determine whether to impose hearing costs and/or restitution against the
 205 person for the value of any damage caused by a violation of this Law; and

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206 (3) set a new date for when the citation, hearing costs and/or restitution shall be
207 paid, if necessary.

208 (c) Any restitution funds received shall be used to repair the damages caused by a
209 violation of this Law.

210 38.7-3. *Appeals from the Environmental Resource Board Decision.* Any party of interest may
211 appeal a decision of the Environmental Resource Board to the Tribe's judicial system.

212
213 *End.*

214
215

Adopted – BC-05-15-14-C
216