



*Notice of*

# Public Meeting

*to be held*

**October 15, 2015 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:**

- ◆ Allow the Environmental Resource Board (ERB) to prescribe permissible and/or prohibited uses for tribal land that has been designated as Oneida Community Access, Oneida Tribal Member Access or Open Access, provided that such uses do not contradict with the Zoning and Shoreland Protection Ordinance; and
- ◆ Require ERB to report the prescribed permissible and/or prohibited uses to the Oneida Business Committee and to post the uses on the affected tribal lands.

**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 October 22, 2015**

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](http://www.oneida-nsn.gov/Register/PublicMeetings) or contact the Legislative Reference Office, 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>					
<b>Title</b>	Public Use of Tribal Land				
<b>Requester</b>	ERB	<b>Drafter</b>	Krystal John	<b>Analyst</b>	Candice E. Skenandore
<b>Reason for Request</b>	Give the Environmental Resource Board the authority to determine what actions are allowed or not allowed on designated Tribal properties.				
<b>Purpose</b>	The purpose of this Law is to prevent improper access, use and trespass to Tribal lands				
<b>Authorized/ Affected Entities</b>	Environmental Resource Board or its designated staff, Conservation Warden, Oneida Police Department, Oneida Environmental Health and Safety Division, the Oneida Division of Land Management, Geographic Land Information Systems and anyone accessing Tribal land.				
<b>Due Process</b>	A person receiving a citation can appeal to ERB; if the person is dissatisfied with ERB's decision, he/she can appeal to the Tribe's judicial system [See 38.7-2 & 38.7-3].				
<b>Related Legislation</b>	Zoning and Shoreland Protection Ordinance				
<b>Policy Mechanism</b>	A person that violates this Law may be issued a citation [See 38.7-1].				
<b>Enforcement</b>	ERB has the duty and power to carry out this Law and enforce the provisions of this Law [See 38.4-1].				

**Overview**

According to the Environmental Health and Safety Division and the Environmental Resource Board, people have been camping and/or consuming alcohol at the Oneida Lake. It is because of these actions that the Environmental Resource Board (ERB) requested emergency amendments to the Public Use of Tribal Land Law (Law). The Oneida Business Committee adopted the emergency amendments on July 8, 2015. These amendments are now being considered as permanent amendments. The amendments include the following:

- ERB or its designated staff has the authority to prescribe permissible and/or prohibited uses, as deemed necessary, for property designated as Oneida Community Access, Oneida Tribal Member Access or Open Access, provided that the permissible and/or prohibited uses do not contradict with the Zoning and Shoreland Protection Ordinance [See 38.4-1 (g)].
- ERB must also notify the Oneida Business Committee of the permissible and/or prohibited uses and must post notice of such uses on the affected Tribal land [See 38.4-1 (g)].

**Considerations**

- These amendments do not allow the ERB or its designated staff to prescribe permissible and/or prohibited uses, as it deems necessary on Tribal property that is designated as Limited Access; however, the permit or lease may limit what uses are allowed on the Limited Access Land. Limited Access lands are open to anyone who is granted permission by the Tribe through a permit or lease for specific purposes [See 38.5-1 (a)].
- Although the Law requires ERB to notify Oneida Business Committee and to post notice of permissible and/or prohibited uses on the affect Tribal land, the LOC may want to consider requiring ERB to notice to the public of any permissible and/or prohibited uses or changes to those uses in the Tribal newspaper and/or on the Tribal website.

**Miscellaneous**

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28 A public meeting has not been held. Additional minor language changes have been made  
29 to the Law which do not affect the content.  
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### 31 38.1. Purpose and Policy

32 38.1-1. *Purpose.* The purpose of this Law is to prevent improper access, use and  
33 ~~trespass~~Trespass to ~~Tribal land~~Tribal Lands.

34 38.1-2. *Policy.* It is the policy of the Tribe to limit access to ~~Tribal land~~Tribal Land to protect  
35 and preserve the environment and natural resources including forests, wildlife, air and waters,  
36 through appropriate uses of the land.  
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### 38 38.2. Adoption, Amendment, Repeal

39 38.2-1. This Law was adopted by the Oneida Business Committee by resolution BC-05-15-14-C  
40 and amended by BC-12-10-14-A.

41 38.2-2. This Law may be amended or repealed by the Oneida Business Committee pursuant to  
42 the procedures set out in the Legislative Procedures Act.

43 38.2-3. Should a provision of this Law or the application thereof to any ~~person~~Person or  
44 circumstances be held as invalid, such invalidity ~~shall~~does not affect other provisions of this  
45 Law which are considered to have legal force without the invalid portions.

46 38.2-4. In the event of a conflict between a provision of this Law and a provision of another law,  
47 the provisions of this Law ~~shall~~controls.

48 38.2-5. This Law is adopted under authority of the Constitution of the Oneida Tribe of Indians  
49 of Wisconsin.

50 38.2-6. This Law ~~shall~~may not be construed to preclude the Tribe from pursuing relief for  
51 criminal ~~trespass~~Trespass under applicable law.  
52

### 53 38.3. Definitions

54 38.3-1. This section ~~shall~~governs the definitions of words and phrases used within this Law.  
55 All words not defined herein ~~shall~~are to be used in their ordinary and everyday sense.

56 (a) “Designation” means the term used to describe the type of access granted to certain  
57 ~~Tribal land~~Tribal Lands.

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

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

62 (d) “Reservation” means all the lands and waters within the exterior boundaries of the  
63 Reservation of the Oneida Tribe of Indians of Wisconsin, as created pursuant to the 1838  
64 Treaty with the Oneida 7 Stat. 566, and any lands added thereto pursuant to federal law.

65 (e) “Trespass” means the unauthorized use or entry on ~~Tribal land~~Tribal Lands,  
66 including unauthorized uses under a Tribal law, permit or ~~lease~~Lease.

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

68 (g) “Tribal ~~land~~Land” means all Tribal trust lands, and any land or interest in land held  
69 by the Oneida Tribe in fee or in any other form on the Reservation.  
70

### 71 38.4. Environmental Resource Board

72 38.4-1. The Environmental Resource Board ~~shall have~~has the duty and power to carry out the  
73 intent and purposes of this Law and enforce the provisions of this Law. The Environmental  
74 Resource Board, or its designated staff, shall:

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

- 76 (b) Hold public hearings on proposed amendments to the Land Access Map.  
77 (c) Hear and decide, as the original hearing body, contested cases that may arise under  
78 this Law.  
79 (d) Impose hearing costs and restitution against the ~~person~~Person for damages caused by  
80 a violation of this Law.  
81 (e) Determine which ~~Tribal land~~Tribal Land will be posted and ensure the appropriate  
82 signs are posted.  
83 (f) Implement and interpret the provisions of this Law.  
84 (g) As it deems appropriate, prescribe permissible and/or prohibited uses for Tribal Land  
85 that it designates as Oneida Community Access, Oneida Tribal Member Access or Open  
86 Access, provided that such permissible and/or prohibited uses may not contradict with the  
87 Zoning and Shoreland Protection Ordinance. Upon establishment of permissible and/or  
88 prohibited uses, the Environmental Resource Board shall notify the Oneida Business  
89 Committee of the permissible and/or prohibited uses and shall post notice of such uses on  
90 the affected Tribal Land.

### 91 92 **38.5. Land Access Map**

93 38.5-1. *Designation of Tribal Lands.* A Land Access Map ~~shall~~must be created which  
94 designates ~~Tribal land~~Tribal Land as one (1) of the following:

95 (a) Limited Access: Lands designated as “Limited Access” ~~shall~~beare open to all  
96 ~~person~~Persons who are granted land access permission by the Tribe through a permit or  
97 ~~lease~~Lease for specified purposes. The Environmental Resource Board may choose to  
98 designate a portion of land as Limited Access in order to manage, preserve and protect  
99 that land for environmental, cultural or other significance.

100 (b) Oneida Community Access: Lands designated as “Oneida Community Access” ~~shall~~  
101 ~~beare~~beare open to Tribal members, and their spouses and descendants; members of other  
102 federally recognized Indian tribes, bands or communities; authorized employees of the  
103 Tribe; and ~~person~~Persons who are accompanied at all times by a Tribal member, the  
104 spouse or descendant of a Tribal member, or an authorized employee of the Tribe.

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

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

110 (c) Oneida Tribal Member Access: Lands ~~designated~~s designated as “Oneida Tribal Member Access”  
111 ~~shall~~beare open to Tribal members only. The Environmental Resource Board may  
112 designate land as Oneida Tribal Member Access to protect the land for Tribal member  
113 use due to the historical, spiritual, cultural and/or environmental significance of the land.

114 (d) Open: Lands designated as “Open Access” ~~shall~~beare generally open to all  
115 ~~person~~Persons for the land’s designated use and enjoyment. The Environmental  
116 Resource Board may designate land as Open Access where such ~~designation~~Designation  
117 is deemed beneficial to the Tribe and where such ~~designation~~Designation does not pose  
118 significant risk of damage to the policies of the Tribe and/or the land’s cultural or  
119 environmental preservation.

120 38.5-2. Notwithstanding the restrictions of 38.5-1, nothing in this Law ~~shall~~may be construed as  
121 preventing the following ~~person~~Persons from entering ~~Tribal land~~Tribal Land, regardless of the  
122 land ~~designation~~Designation:

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

124 | (b) Those ~~person~~Persons who are performing grant or contractual obligations related to  
 125 | the ~~Tribal land~~Tribal Land and on behalf of the Tribe;

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

127 | (d) Those ~~person~~Persons who have been granted access to the land by the Environmental  
 128 | Resource Board.

129 | 38.5-3. *Development of the Land Access Map.* The Environmental Resource Board shall  
 130 | develop the Land Access Map in coordination with the Oneida Environmental Health and Safety  
 131 | Division, the Oneida Division of Land Management, Geographic Land Information Systems and  
 132 | other such designated agencies of the Tribe. The Environmental Resource Board shall adopt the  
 133 | initial Land Access Map.

134 | 38.5-4. *General Land Designation.* Unless otherwise designated, ~~Tribal Land~~Tribal Land shall  
 135 | ~~be~~is designated as Limited Access.

136 | 38.5-5. *Amending the Land Access Map.* The Environmental Resource Board may, from time to  
 137 | time, in the manner hereafter set forth, amend the Land Access Map, provided that due  
 138 | consideration ~~shall~~must be made for the intent and purposes of the ~~designation~~Designation.

139 | (a) Amendments may be proposed by any ~~person~~Person by filing an application with the  
 140 | Environmental Resource Board in such format and accompanied by such information as  
 141 | required by the Board.

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

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

147 | (A) *Notice.* Not less than ten (10) business days and not more than thirty  
 148 | (30) business days prior to the public hearing, notice, including the time,  
 149 | place and purpose of the public hearing, ~~shall~~must be:

150 | (i) published in the Tribal newspaper; and

151 | (ii) mailed to all owners of land located within twelve hundred  
 152 | (1,200) feet of the outer boundaries of the land that is the subject of  
 153 | the public hearing.

154 | (B) Any ~~person~~Person who cannot attend the public hearing may be  
 155 | represented by an agent, advocate or attorney at the public hearing.

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

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

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

165 | (A) Existing uses of the land and buildings within the general area of the  
 166 | land in question.

167 | (B) Suitability of the land in question to the uses permitted under the  
 168 | existing Land Access Map.

169 | (4) The Environmental Resource Board ~~shall~~may not amend the Land Access  
 170 | Map unless it finds that adopting such amendment is in the Tribe's best interest  
 171 | and is not solely for the interest of the applicant.

172 (c) The Environmental Resource Board may grant or deny any application to amend the  
173 Land Access Map; however, amendments ~~shall~~must require a two-thirds (2/3) vote of the  
174 Environmental Resource Board if a written protest against any amendment is presented to  
175 the Environmental Resource Board and is signed by:

176 (1) the lessees, assignees and owners of at least twenty percent (20%) of the acres  
177 of land included in such amendment; or

178 (2) the lessees, assignees and owners of at least twenty percent (20%) of the land  
179 immediately adjacent to the land included in such amendment, extending in a  
180 radius of twelve hundred (1,200) feet of the outer boundaries of the land.

### 181 182 **38.6. Trespass**

183 38.6-1. A ~~person~~Person ~~trespass~~Trespasses if the ~~person~~Person enters or otherwise occupies  
184 ~~Tribal land~~Tribal Land and:

185 (a) Refuses to leave land to which the ~~person~~Person has no reasonable claim or right of  
186 possession when requested to do so.

187 (b) Enters upon such land after being noticed by the landowner or occupant that  
188 permission for the ~~person~~Person to enter such land does not exist, or has been expressly  
189 denied or revoked. A ~~person~~Person has been noticed that permission by the landowner or  
190 occupant for such ~~person~~Person to enter such land does not exist if he or she has been  
191 notified publicly, by publication of the Land Access Map on the Tribal website and/or in  
192 the Tribal newspaper, or if the land is posted. Land is considered to be posted if one (1)  
193 of the following requirements is met:

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

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

203 (c) Does any of the following without proper authorization through a ~~lease~~Lease, permit  
204 or as otherwise required under applicable law:<sup>1</sup>

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

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

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

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

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<sup>1</sup> 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.

- 212 (5) Erects, puts up, fastens, prints, or paints upon another’s property, notices,  
213 advertisements, signs or other writing designed to communicate to the general  
214 public.  
215 (6) Parks or drives any vehicle on the land.  
216 (7) Permits or allows livestock or any domesticated animal to enter upon or  
217 remain upon the land.  
218 (8) Uses or possesses ~~lease~~Leased or sub~~lease~~-Leased lands beyond the  
219 possessory rights granted by such ~~lease~~Lease or sub~~lease~~-Lease.  
220 (9) Dumps, deposits, places, throws, burns, emits or leaves rubbish, refuse,  
221 debris, substances, or other objects upon a highway, road, air, waters or any land.  
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### 223 **38.7. Violations and Appeals**

224 38.7-1. *Issuance of a Citation.* Any ~~person~~Person who violates any provision of this Law ~~shall~~  
225 ~~be~~is guilty of a civil infraction, and ~~shall~~may be issued a citation, in writing, by a Conservation  
226 Warden or Oneida Police Officer. The issuance of a citation or fine under any other law relating  
227 to the same or any other matter ~~shall~~does not preclude the issuance of a citation under this Law.

228 (a) The Oneida Business Committee, upon recommendation of the Environmental  
229 Resource Board, ~~shall~~may adopt a citation schedule.

230 (b) The citation ~~shall~~must specify the date, time and place of the hearing to contest the  
231 citation. The hearing ~~shall~~must take place ~~at least five~~within (5) business days after the  
232 citation is issued.

233 (c) The citation ~~shall~~must also state that the Environmental Resource Board may, in  
234 addition to the citation, impose hearing costs and restitution against the ~~person~~Person for  
235 damages caused by a violation of this Law.

236 38.7-2. *Citation Hearing.* Any ~~person~~Person issued a citation under this Law may contest the  
237 citation by attending a hearing before the Environmental Resource Board. The ~~person~~Person  
238 may appear in ~~person~~Person, or be represented by an agent, advocate or attorney.

239 (a) If the ~~person~~Person does not wish to contest the citation, he or she ~~shall~~must pay the  
240 citation by the hearing date specified on the citation.

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

242 (1) determine whether the ~~person~~Person is responsible for the citation, as was  
243 issued;

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

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

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

250 38.7-3. *Appeals from the Environmental Resource Board Decision.* Any party of interest may  
251 appeal a decision of the Environmental Resource Board to the Tribe’s judicial system.

252  
253 *End.*  
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255 Adopted – BC-05-15-14-C  
256 Emergency Amended – BC-07-23-14-C  
257 Amended – BC-12-10-14-A  
258 Emergency Amended – BC 07-08-15-C

**CHAPTER 38**  
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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 was adopted by the Oneida Business Committee by resolution BC-05-15-14-C and amended by BC-12-10-14-A.

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 does 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 controls.

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 may not be construed to preclude the Tribe from pursuing relief for criminal Trespass under applicable law.

**38.3. Definitions**

38.3-1. This section governs the definitions of words and phrases used within this Law. All words not defined herein are to 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.

42 **38.4. Environmental Resource Board**

43 38.4-1. The Environmental Resource Board has the duty and power to carry out the intent and  
44 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 (g) As it deems appropriate, prescribe permissible and/or prohibited uses for Tribal Land  
56 that it designates as Oneida Community Access, Oneida Tribal Member Access or Open  
57 Access, provided that such permissible and/or prohibited uses may not contradict with the  
58 Zoning and Shoreland Protection Ordinance. Upon establishment of permissible and/or  
59 prohibited uses, the Environmental Resource Board shall notify the Oneida Business  
60 Committee of the permissible and/or prohibited uses and shall post notice of such uses on  
61 the affected Tribal Land.

62  
63 **38.5. Land Access Map**

64 38.5-1. *Designation of Tribal Lands.* A Land Access Map must be created which designates  
65 Tribal Land as one (1) of the following:

- 66 (a) Limited Access: Lands designated as “Limited Access” are open to all Persons who  
67 are granted land access permission by the Tribe through a permit or Lease for specified  
68 purposes. The Environmental Resource Board may choose to designate a portion of land  
69 as Limited Access in order to manage, preserve and protect that land for environmental,  
70 cultural or other significance.
- 71 (b) Oneida Community Access: Lands designated as “Oneida Community Access” are  
72 open to Tribal members, and their spouses and descendants; members of other federally  
73 recognized Indian tribes, bands or communities; authorized employees of the Tribe; and  
74 Persons who are accompanied at all times by a Tribal member, the spouse or descendant  
75 of a Tribal member, or an authorized employee of the Tribe.
  - 76 (1) A Conservation Warden or Oneida Police Officer may require a Person to  
77 demonstrate proof of eligibility to use Oneida Community Access lands.
  - 78 (2) The Environmental Resource Board may choose to designate land as Oneida  
79 Community Access in order to manage, preserve and protect access to locations  
80 that have cultural or environmental significance.
- 81 (c) Oneida Tribal Member Access: Lands designated as “Oneida Tribal Member Access”  
82 are open to Tribal members only. The Environmental Resource Board may designate  
83 land as Oneida Tribal Member Access to protect the land for Tribal member use due to  
84 the historical, spiritual, cultural and/or environmental significance of the land.
- 85 (d) Open: Lands designated as “Open Access” are generally open to all Persons for the  
86 land’s designated use and enjoyment. The Environmental Resource Board may designate  
87 land as Open Access where such Designation is deemed beneficial to the Tribe and where

88 such Designation does not pose significant risk of damage to the policies of the Tribe  
89 and/or the land’s cultural or environmental preservation.

90 38.5-2. Notwithstanding the restrictions of 38.5-1, nothing in this Law may be construed as  
91 preventing the following Persons from entering Tribal Land, regardless of the land Designation:

- 92 (a) Employees of the Tribe who are performing their job duties;
- 93 (b) Those Persons who are performing grant or contractual obligations related to the  
94 Tribal Land and on behalf of the Tribe;
- 95 (c) Emergency personnel who are providing, or attempting to provide, services; and
- 96 (d) Those Persons who have been granted access to the land by the Environmental  
97 Resource Board.

98 38.5-3. *Development of the Land Access Map.* The Environmental Resource Board shall  
99 develop the Land Access Map in coordination with the Oneida Environmental Health and Safety  
100 Division, the Oneida Division of Land Management, Geographic Land Information Systems and  
101 other such designated agencies of the Tribe. The Environmental Resource Board shall adopt the  
102 initial Land Access Map.

103 38.5-4. *General Land Designation.* Unless otherwise designated, Tribal Land is designated as  
104 Limited Access.

105 38.5-5. *Amending the Land Access Map.* The Environmental Resource Board may, from time to  
106 time, in the manner hereafter set forth, amend the Land Access Map, provided that due  
107 consideration must be made for the intent and purposes of the Designation.

108 (a) Amendments may be proposed by any Person by filing an application with the  
109 Environmental Resource Board in such format and accompanied by such information as  
110 required by the Board.

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

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

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

- 119 (i) published in the Tribal newspaper; and
- 120 (ii) mailed to all owners of land located within twelve hundred  
121 (1,200) feet of the outer boundaries of the land that is the subject of  
122 the public hearing.

123 (B) Any Person who cannot attend the public hearing may be represented  
124 by an agent, advocate or attorney at the public hearing.

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

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

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

- 134 (A) Existing uses of the land and buildings within the general area of the  
135 land in question.  
136 (B) Suitability of the land in question to the uses permitted under the  
137 existing Land Access Map.  
138 (4) The Environmental Resource Board may not amend the Land Access Map  
139 unless it finds that adopting such amendment is in the Tribe’s best interest and is  
140 not solely for the interest of the applicant.  
141 (c) The Environmental Resource Board may grant or deny any application to amend the  
142 Land Access Map; however, amendments must require a two-thirds (2/3) vote of the  
143 Environmental Resource Board if a written protest against any amendment is presented to  
144 the Environmental Resource Board and is signed by:  
145 (1) the lessees, assignees and owners of at least twenty percent (20%) of the acres  
146 of land included in such amendment; or  
147 (2) the lessees, assignees and owners of at least twenty percent (20%) of the land  
148 immediately adjacent to the land included in such amendment, extending in a  
149 radius of twelve hundred (1,200) feet of the outer boundaries of the land.  
150

### 151 **38.6. Trespass**

152 38.6-1. A Person Trespasses if the Person enters or otherwise occupies Tribal Land and:

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

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<sup>1</sup> 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.

- 175 (2) Cuts or destroys any wood, timber, plant, vegetation, or crop standing on the
- 176 land, or carries away any wood, timber, plant, vegetation or crop on the land.
- 177 (3) Engages in any act, or attempted act of hunting, trapping or fishing.
- 178 (4) Digs, takes, or carries away earth, soil, minerals, cultural resources, or any
- 179 other property.
- 180 (5) Erects, puts up, fastens, prints, or paints upon another’s property, notices,
- 181 advertisements, signs or other writing designed to communicate to the general
- 182 public.
- 183 (6) Parks or drives any vehicle on the land.
- 184 (7) Permits or allows livestock or any domesticated animal to enter upon or
- 185 remain upon the land.
- 186 (8) Uses or possesses Leased or sub-Leased lands beyond the possessory rights
- 187 granted by such Lease or sub-Lease.
- 188 (9) Dumps, deposits, places, throws, burns, emits or leaves rubbish, refuse,
- 189 debris, substances, or other objects upon a highway, road, air, waters or any land.
- 190

191 **38.7. Violations and Appeals**

192 38.7-1. *Issuance of a Citation.* Any Person who violates any provision of this Law is guilty of a  
 193 civil infraction, and may be issued a citation, in writing, by a Conservation Warden or Oneida  
 194 Police Officer. The issuance of a citation or fine under any other law relating to the same or any  
 195 other matter does not preclude the issuance of a citation under this Law.

- 196 (a) The Oneida Business Committee, upon recommendation of the Environmental
- 197 Resource Board, may adopt a citation schedule.
- 198 (b) The citation must specify the date, time and place of the hearing to contest the
- 199 citation. The hearing must take place within (5) business days after the citation is issued.
- 200 (c) The citation must also state that the Environmental Resource Board may, in addition
- 201 to the citation, impose hearing costs and restitution against the Person for damages
- 202 caused by a violation of this Law.

203 38.7-2. *Citation Hearing.* Any Person issued a citation under this Law may contest the citation  
 204 by attending a hearing before the Environmental Resource Board. The Person may appear in  
 205 Person, or be represented by an agent, advocate or attorney.

- 206 (a) If the Person does not wish to contest the citation, he or she must pay the citation by
- 207 the hearing date specified on the citation.
- 208 (b) After the hearing, the Environmental Resource Board shall:
- 209 (1) determine whether the Person is responsible for the citation, as was issued;
- 210 (2) determine whether to impose hearing costs and/or restitution against the
- 211 Person for the value of any damage caused by a violation of this Law; and
- 212 (3) set a new date for when the citation, hearing costs and/or restitution must be
- 213 paid, if necessary.

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

216 38.7-3. *Appeals from the Environmental Resource Board Decision.* Any party of interest may  
 217 appeal a decision of the Environmental Resource Board to the Tribe’s judicial system.

218  
 219 *End.*

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221 Adopted – BC-05-15-14-C  
 222 Emergency Amended – BC-07-23-14-C

- 223 Amended – BC-12-10-14-A
- 224 Emergency Amended – BC 07-08-15-C