

NOTICE OF  
**PUBLIC MEETING**

TO BE HELD  
**January 11, 2024 - 11:00 a.m.-12:00 p.m.**

IN THE  
Land Management/Conservation Conference Room  
470 Airport Drive, Oneida, WI 54155

In accordance with the Administrative Rulemaking Law,  
Land Management and the Oneida Land Commission  
is hosting this Public Meeting to gather feedback from the community  
regarding the following rule.

## **TOPIC: Land Use License Rule**

**This is a proposal to create a rule by:**

- ◆ Replacing the current Standard Operation Procedure format to formalize through the Rulemaking process;
- ◆ Delegate Land Commission's decision making the Land Management Division Director so that requests can be responded to more timely
- ◆ Creating an Appeal process to the Oneida Land Commission;
- ◆ Creating an evaluation team to consider any land use impacts or terms and conditions that should be imposed; and
- ◆ Incorporating the Land Use Permit process for temporary structures into the Land Use License process as needed.

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).

## **PUBLIC COMMENT PERIOD OPEN UNTIL January 26, 2024**

During the Public Comment Period, all interested persons may submit written comments and/or a transcript of any testimony/spoken comments made during the Public Meeting. These may be submitted to Oneida Land Management by U.S. mail, interoffice mail, e-mail or fax.

**Oneida Land Management**  
PO Box 365, Oneida, WI 54155  
[dwilson@oneidanation.org](mailto:dwilson@oneidanation.org)  
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# DRAFT



## Title 6. Property and Land – Chapter 601 REAL PROPERTY Rule #3 – Land Use Licenses

- 3.1 Purpose and Authority
- 3.2 Adoption, Amendment and Repeal
- 3.3 Definitions
- 3.4 Land Use License Applicants
- 3.5 Land Use License Review Process
- 3.6 Licensee's Duties
- 3.7 Public Conduct During Events
- 3.8 On-Site Land Use License Enforcement

### 3.1. Purpose and Authority

3.1-1. *Purpose.* The purpose of this rule is to create processes for accepting, reviewing, and approving or denying land use license application requests where the Oneida Land Commission is the decision maker and the Land Management staff are the application processors.

3.1-2. *Authority.* The Real Property law, specifically §601.12-3(a), delegates rulemaking authority to Land Management and the Oneida Land Commission in accordance with the Administrative Rulemaking law.

### 3.2. Adoption, Amendment and Repeal

3.2-1. This rule was adopted by Land Management and the Oneida Land Commission in accordance with the procedures of the Administrative Rulemaking law.

3.2-2. This rule may be amended or repealed by the Land Management and the Oneida Land Commission and/or the Oneida Business Committee pursuant to the procedures set out in the Administrative Rulemaking law.

3.2-3. Should a provision of this rule or the application thereof to any person or circumstances be held as invalid, such invalidity shall not affect other provisions of this rule which are considered to have legal force without the invalid portions.

3.2-4. In the event of a conflict between a provision of this rule and a provision of another rule, internal policy, procedure, or other regulation; the provisions of this rule shall control.

3.2-5. This rule supersedes all prior rules, regulations, internal policies or other requirements related to Land Use Licenses.

### 3.3. Definitions

3.3-1. This section shall govern the definitions of words and phrases used within this rule. All words not defined herein shall be used in their ordinary and everyday sense.

- (a) "Land Use License" means an agreement entered into by the Nation providing a party the right to occupy and/or utilize a specified piece of Tribal land for a specific purpose and a specific duration, which may require the Nation to be compensated for such use pursuant to the Real Property Law where the Oneida Land Commission is the Nation's approver.
- (b) "Land Use License Consideration Team" means a group of professional employed by the Nation who have subject matter expertise that may affect the issuance of a Land Use License and as defined in more detail in section 3.5-1 of this Rule.
- (c) "Land Use Permit" means an approval from the Oneida Zoning Department pursuant to the Zoning and Shoreland Protection Ordinance that provides conditions to ensure

49 that a proposed use that would amount to a disturbance of the land, including but  
50 not limited to, the erection, movement, or structural alteration of any structure other  
51 than a building, is compliant with applicable law.  
52

### 53 **3.4. Land Use License Applicants**

54 3.4-1. Any person or entity requesting to use land owned by the Oneida Nation to occupy  
55 and/or utilize a specified piece of Tribal land for a specific purpose and a specific duration shall  
56 submit an application for a Land Use License to the Land Management Department. Applications  
57 will not be considered until they are complete.

58 3.4-2. *Land Use License Exceptions.* The following are events and land uses that do not require  
59 a Land Use License. In the event an exception is granted as related to a Land Use License, an  
60 independent review is required by the Zoning Department to determine if a Land Use Permit is  
61 required pursuant to the Real Property law and any corresponding rules.

- 62 (a) Use of land in accordance with the permitted use pursuant to an active lease with the  
63 Oneida Nation;
- 64 (b) Gatherings of seventy-five (75) people or less;
- 65 (c) Use of buildings in accordance with the rental agreements with various entities of  
66 the Nation, including but not limited to, the County H Recreation Building, the Veteran's  
67 Building rental spaces, and/or the Holy Apostles Hall; and
- 68 (d) Access to land owned by the Nation pursuant to a contract for services validly executed  
69 by the Nation and the service provider.

70 3.4-3. *Land Use Permit May be Required.* An application for a Land Use License may also require  
71 a Land Use Permit pursuant to the Zoning and Shoreland Protection law if temporary structures  
72 are to be erected on the site as part of the requested use or if there is any anticipated disturbance  
73 of land. To the extent a Land Use Permit is required along with the Land Use License, the Land  
74 Use License Application will also function as the request for the Land Use Permit and will be  
75 routed for Zoning Department approval by Land Management staff processing the Land Use  
76 License. The Land Use Permit review process is independent of the Land Use License process  
77 and if a Land Use Permit is not granted by the Oneida Zoning Department, said use shall not be  
78 authorized within the corresponding Land Use License. If both the Land Use License and the Land  
79 Use Permit are granted, signatory approvals are required from both Land Management and Zoning  
80 Department representatives.  
81

### 82 **3.5. Land Use License Review Process**

83 3.5-1. *Evaluating Team.* Land Management staff shall forward the Land Use License Application  
84 and all supporting materials to the Land Use License Consideration Team as soon as possible. The  
85 Land use License Consideration Team consists of:

- 86 (a) Oneida Zoning Department;
- 87 (b) Oneida Police Department;
- 88 (c) Oneida Risk Management Department;
- 89 (d) Oneida Sanitarian (when food is sold/given away as part of the Land Use  
90 License Request);
- 91 (e) Oneida Public Health Officer;
- 92 (f) Oneida Emergency Management Director;
- 93 (g) Oneida Law Office; and
- 94 (h) Any other interested stake holder within the Nation that may have control over the  
95 land subject to the Land Use License request.

96 3.5-2. *Team Feedback.* From the date the Land Use License Application and supporting materials

97 are sent to the Land Use License Consideration Team, the representatives shall have five (5)  
98 business days to return comments to Land Management for consideration in issuing the Land Use  
99 License.

100 3.5-3. *Land Management Recommendation.* Land Management shall review all comments  
101 received from the Land Use License Consideration Team and create a recommendation for  
102 approving/denying the Land Use License Request including any recommended additional terms  
103 and conditions and shall forward all information and staff's recommendation to the Environmental,  
104 Health, Safety, Land, and Agricultural (EHSLA) Division Director or his/her designee.

105 3.5-4. *Land Commission Approval and Denial.* Land Commission hereby accepts the  
106 recommendations provided by Land Management which is based on the information provided by  
107 the Land Use Consideration Team which is comprised of subject matter experts employed by the  
108 Nation in the fields of health, safety, law, risk and emergency management, law enforcement,  
109 zoning, and any other area implicated based on a requested use.

110 (a) If the EHSLA Division Director or his/her designee recommends approval of Land  
111 Use License application, Land Commission hereby automatically approves said Land Use  
112 License.

113 (b) If the EHSLA Division Director or his/her designee recommends denial of a Land  
114 Use License application, Land Commission hereby automatically denies said Land Use  
115 License.

116 3.5-5. *Appealing a Denial.* Any applicant whose Land Use License application is denied by  
117 Land Commission may request reconsideration from the Oneida Land Commission if  
118 reconsideration is requested to Oneida Land Management within ten (10) business days of the  
119 notice of denial.

120 3.5-6. *When a Land Use License Includes a Land Permit.* When a Land Use License includes a  
121 requirement for a Land Use Permit for use of a temporary structure or a disruption of land, Land  
122 Management shall forward the application to the Zoning Department for its review immediately  
123 upon receipt and shall coordinate dual signatures from the EHSLA Division Director and the  
124 Zoning Administrator when both a Land Use License and Land Use Permit is to be issued.

125 3.5-7. *Notice to Evaluating Team.* When a Land Use License is issued, Land Management  
126 staff shall provide notice of the issuance to each representative of the Land Use License  
127 Consideration Team.

### 128 **3.6. Licensee's Duties**

130 3.6-1. Once the application is granted, the applicant becomes the licensee. All licensees shall  
131 comply with all permit directions and conditions and with all applicable laws and ordinances,  
132 and shall follow all safety directives from the Police Department, Fire Department, Zoning  
133 Officers and/or Department of Public Works Staff. The licensee's failure to follow any safety  
134 directives, or their allowance of any unsafe conditions to develop or continue, shall be grounds  
135 for citation and for denial of future land use license applications.

### 137 **3.7. Public Conduct During Events**

138 3.7-1. *Generally.* All attendees at any event must obey all applicable Oneida Nation, state and  
139 federal laws and regulations. The Licensee shall take necessary remedial measures to ensure  
140 attendee compliance with applicable laws and regulations and to prevent unsafe conditions from  
141 developing or continuing, up to and including stopping the event if attendee conduct is creating a  
142 nuisance or disturbance.

143 3.7-2. *Public Conduct During Parades, Races, Walks, or Marches.* No person shall obstruct,  
144 impede, interfere with, or unreasonably hamper any parade, race, walk, march, or parade

145 assembly, nor any person, vehicle, or animal participating or used in a parade.

146 3.7-3. *Driving Through Parades, Races, Walks, or Marches.* No person shall drive a vehicle  
147 between the vehicles or persons comprising a parade, race, walk, or march when such vehicles  
148 or persons are in motion and are conspicuously designated as participating in such an event.

149 3.7-4. *Parking On Parade, Race, Walk, or March Route.* The Chief of Police may prohibit or  
150 restrict the parking of vehicles along a highway or part thereof constituting a part of the route  
151 of a parade, race, walk, or march. The Chief of Police shall post signs to such effect, and no  
152 person shall park or leave unattended any vehicle in violation thereof.

153 **3.8. On-Site Land Use License Enforcement**

154 3.8-1. Ability to Modify or Revoke the Land Use License On-Site. If an Oneida Police Officer,  
155 Zoning Office, and/or the Fire Marshall, collectively Oneida Authorities, believes an event may  
156 be becoming unsafe to the public health and safety of the community, Oneida Authorities may,  
157 regardless of compliance with applicable Land Use License terms and conditions use their  
158 discretion to:

- 159
- 160 (a) Add additional health and safety requirements to a Land Use License on the scene  
161 of the event that must be complied with in order to avoid revoking the Land Use  
162 License; and/or
  - 163 (b) Revoke the Land Use License, provided that, Oneida authorities shall work with  
164 licensees to avoid revoking a Land Use License to the extent possible. If Oneida  
165 Authorities revoke a Land Use License, there will be no reimbursement of Land Use  
166 License fees.

167 *End.*

168 127 Original effective date: [add effective date established by authorized entity] (Certified by LOC on )

**Summary Report for:**

Land Management

**Original Effective Date:** N/A  
**Amendment Effective Date:** 10/09/2023  
**Name of Rule:** Land Use Licenses  
**Name Law being Interpreted:** Real Property Law  
**Rule #:** 3  
**Other Laws or Rules that may be affected:** N/A

**Brief Summary of the proposed rule:**

- ◆ Replacing the current Standard Operation Procedure format to formalize through the Rulemaking process;
- ◆ Delegate Land Commission’s decision making the Land Management Division Director so that requests can be responded to more timely
- ◆ Creating an Appeal process to the Oneida Land Commission;
- ◆ Creating an evaluation team to consider any land use impacts or terms and conditions that should be imposed; and
- ◆ Incorporating the Land Use Permit process for temporary structures into the Land Use License process as needed.

**State of Effect:**

**Financial Analysis:**

Note: In addition- the agency must send a written request to each entity which may be affected by the rule- asking that they provide information about how the rule would financially affect them. The agency must include each entity’s response in the financial analysis. If the agency does not receive a response within 10 business days after the request is made, the financial analysis can note which entities did not provide a response.

**Financial Analysis for: Land Use License Rule**

<b><u>Type of Cost</u></b>	<b><u>Description/Comment</u></b>	<b><u>Dollar Amount</u></b>
Start Up Costs	N/A	\$0.00
Personnel	N/A	\$0.00
Office	N/A	\$0.00
Documentation Costs	N/A	\$0.00
Estimate of time necessary for an individual or agency to comply with the rule after implementation		Immediate
Other, please explain	N/A	N/A
Total	Annual Net Revenue	\$0.00



## Statement of Effect

### *Real Property Law Rule No. 3 – Land Use Licenses*

#### ***Summary***

Real Property Law Rule No. 3 – Land Use Licenses creates processes for accepting, reviewing, and approving or denying land use license application requests where the Oneida Land Commission is the decision maker and the Land Management staff are the application processors.

*Submitted by: Clorissa N. Leeman, Staff Attorney, Legislative Reference Office*

*Date: December 5, 2023*

#### ***Analysis by the Legislative Reference Office***

The Real Property law was adopted for the purpose of providing regulations and procedures for the transfer, control and management of the territory within the Reservation and all Tribal land; integrating these regulations and procedures with the real property laws and practices of other federal and state sovereigns which may hold jurisdiction within the Reservation; and establishing licensing and certification requirements for the Nation's employees dealing with real property transactions. [6 O.C. 601.1-1].

The Administrative Rulemaking law provides authorized agencies the opportunity to promulgate rules interpreting the provisions of any law enforced or administered by it; provided that, a rule may not exceed the rulemaking authority granted under the law for which the rule is being promulgated. [1 O.C. 106.4-1].

The Real Property law provides that Land Management is required to implement this law in accordance with the policy directives provided by the Oneida Land Commission. [6 O.C. 601.12-3]. The Real Property law then requires that Land Management forward requests for easements and land use licenses to the Oneida Land Commission based on the easement and land use license rules jointly developed by Land Management and the Oneida Land Commission. [6 O.C. 601.12-3(a)].

The Real Property law provides that the Oneida Land Commission is responsible for approving or denying all easements and land use licenses. [6 O.C. 601.12-2(b)].

The purpose of the Real Property Law Rule No. 3 – Land Use Licenses creates processes for accepting, reviewing, and approving or denying land use license application requests where the Oneida Land Commission is the decision maker and the Land Management staff are the application processors. [Rule 3.1-1].

#### ***Conclusion***

There are no legal bars to adopting the Real Property Law Rule No. 3 – Land Use Licenses.