

NOTICE OF
PUBLIC MEETING

To be held on
Tuesday, October 8, 2024
10:00 a.m.

In the
Little Bear Development Center Conference Room
N7332 Water Circle Place, Oneida, WI 54155

In accordance with the Administrative Rulemaking Law, the Environmental, Health, Safety, Land and Agricultural Division, the General Manager and Oneida Land Commission are hosting this Public Meeting to gather feedback regarding the following new proposed rules:

Real Property Rule #1— Land Assessments for the Nation’s Decisionmaker’s to Build an Autonomous Community (LANDBAC)

- ◆ Replaces the former Land Use Technical Unit (LUTU) process as the Nation’s process for assessing land uses to prioritize greatest and best use by the Nation to provide for the community;
- ◆ The process distinguishes between offerings to the Nation’s internal entities and requests from external parties to use the Nation’s land wherein all possible available uses are governed by separate rules (see various leasing rules, Land Use License Rule, and Easements Rule).

Real Property Rule #2— Land Use Licenses

- ◆ Formalizes a former general practice and SOP into an administrative rule while expanding the scope to apply to large gatherings (75 people or more) on land owned by tribal members.

Real property Rule #3—Easements

- ◆ Formalizes a former SOP into an administrative rule which applies to third party requests to use/access the Nation’s land and individual trust land owners requests for easement processing through the Bureau of Indian Affairs (BIA) on their land.

To obtain copies of the Public Meeting documents for this proposal, please visit www.oneida-nsn.gov/Register/PublicMeetings.

PUBLIC COMMENT PERIOD
OPEN UNTIL Wednesday, October
16, 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 Land Management by U.S. mail, interoffice mail, e-mail or fax.

Land Management
PO Box 365, Oneida, WI 54155
Email: nrommel@oneidanation.org
Phone: 920-869-6505

Summary Report for:

Land Management

Original Effective Date: N/A

Amendment Effective Date: 08/12/2024

Name of Rule: Land Assessments for the Nation's Decisionmaker's to Build an Autonomous Community (LANDBAC)

Name Law being Interpreted: Real Property Law

Rule #: 1

Other Laws or Rules that may be affected: N/A

Brief Summary of the proposed rule:

- ◆ Replaces the former Land Use Technical Unit (LUTU) process as the Nation's process for assessing land uses to prioritize greatest and best use by the Nation to provide for the community.
- ◆ The process distinguishes between offerings to the Nation internal entities and requests from external parties to use the Nation's land wherein all possible available uses are governed by separate rules (see various leasing rules, Land Use License Rule, and Easements Rule).

Statement 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 Assessments for the Nation's Decisionmaker's to Build an Autonomous Community

<u>Type of Cost</u>	<u>Description/Comment</u>	<u>Dollar Amount</u>
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. 1 – Land Assessments for the Nation’s Decisionmakers to Build an Autonomous Community

Summary

The Real Property Law Rule No. 1 – Land Assessments for the Nation’s Decisionmakers to Build an Autonomous Community provides set consistent practices and expectations for Land Management’s reviewing and assigning of land uses to Tribal land in a way that incorporates all approved land policies to care for the land while working towards building an autonomous community.

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

Date: September 20, 2024

Analysis by the Legislative Reference Office

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]. Rulemaking authority is defined as the delegation of authority to authorized agencies found in the Nation’s laws, other than the Administrative Rulemaking law, which allows authorized agencies to implement, interpret and/or enforce a law of the Nation. [1 O.C. 106.3-1(i)]. An authorized agency is defined as “any board, committee, commission, department, program or officer of the Nation that has been granted rulemaking authority.” [1 O.C. 106.3-1(a)].

The Real Property law provides regulations and procedures for the transfer, control and management of the territory within the Reservation and all Tribal land; to integrate 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 to establish licensing and certification requirements for the Nation’s employees dealing with real property transactions. [6 O.C. 601.1-1]. It is the policy of the Nation to set out the responsibilities and expectations for persons purchasing and/or managing real property on behalf of the Nation and/or within the Reservation and to provide real property holder’s rights and responsibilities. [6 O.C. 601.1-1].

The Real Property law delegates joint administrative rulemaking authority to the Oneida Land Commission and the Oneida Planning Department any other affected Oneida divisions and

departments for the purpose of developing Land Use Technical Unit rules. [6 O.C. 601.12-2(e)]. The Real Property law provides that the Oneida Land Commission is responsible for allocating and assigning land uses to all Tribal lands in accordance with the Land Use Technical Unit rules.

The purpose of the Real Property Law Rule No. 1 – Land Assessments for the Nation’s Decisionmakers to Build an Autonomous Community (“the Rule”) is to provide set consistent practices and expectations for Land Management’s reviewing and assigning of land uses to Tribal land in a way that incorporates all approved land policies to care for the land while working towards building an autonomous community. [Rule 1.1-1]. The Rule addresses:

- Making the Nation’s land available to internal entities, including:
 - Applying the land policy framework;
 - Proof of available land;
 - Land Management’s Leasing and Rental Portfolio [Rule 1.4];
- External land use requests, including:
 - Defining external land use requests [Rule 1.5].

Conclusion

There are no legal bars to adopting the Real Property Law Rule No. 1 – Land Assessments for the Nation’s Decisionmakers to Build an Autonomous Community.



Title 6. Property and Land – Chapter 601

REAL PROPERTY LAW

Rule # 1 – Land Assessments for the Nation’s Decisionmakers to Build an Autonomous Community (LANDBAC)

- 2.1. Purpose and Policy
- 2.2. Adoption and Authority
- 2.3. Definitions
- 2.4. Making the Nation’s Land Available to its Internal Entities
- 2.5. External Land Use Requests

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1.1. Purpose and Policy

1.1-1. *Purpose.* The purpose of this rule is to set consistent practices and expectations for Land Management’s reviewing and assigning of land uses to Tribal land in a way that incorporates all approved land policies to care for the land while working towards building an autonomous community.

1.1-2. *Policy.* The policy behind this rule is to utilize the Nation’s various subject matter experts when making land use decisions through consistent application of approved processes.

1.2. Adoption and Authority

1.2-1. This rule was jointly adopted by Land Management and the Oneida Land Commission in accordance with the Administrative Rulemaking law.

1.2-2. This rule may be amended or repealed by the joint approval of the Land Management and the Oneida Land Commission pursuant to the procedures set out in the Administrative Rulemaking law.

1.2-3. Should a provision of this rule or the application of this rule 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.

1.2-4. 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 controls.

1.2-5. This rule supersedes all prior rules, regulations, internal policies or other requirements relating to the Leasing Law.

1.3. Definitions

1.3-1. This section governs the definitions of words and phrases used within this rule. All words not defined herein are to be used in their ordinary and everyday sense.

(a) *External Land Use Requests.* Means a request to rent, lease or otherwise make use of tribal land where the requesting party is not acting as a representative of a department of the Nation that reports under the Nation’s federal Tax ID.

(b) *Land Policy Framework.* Means, in relevant part, the outline approved by the Nation that describes the desired future character of places on and around the Reservation to include a range of possible uses and/or activities.

(c) *Internal Entity.* Means an entity of the Nation operating under the direction of the Oneida Business Committee and within the management structure of the Nation.

(d) *Land Management Senior Management.* Means the Environmental, Health, Safety, Land and Agricultural Division Director and Deputy Director and the management team they build to implement this Rule.

(e) *Land Assessment Team.* Means a group of professionals employed by the Nation with varying subject matter expertise related to the review and assessment of real

50 property that is assembled by Land Management to review and assess the Nation's land
51 uses.

52 (f) *Land Data Sheet*. Means a comprehensive summary of the status of a specific
53 parcel of land owned by the Nation to include information related to any encumbrances,
54 contracts, encroachments, improvements, assigned uses and/or preliminary uses the
55 format of which is approved by the Oneida Land Commission.

56 (g) *Acquisition Data Sheet*. Means an acquisition review tool prepared by the
57 Acquisition Manager to provide summary information about the proposed acquisition to
58 include property identifying information, which Land Commission priorities it meets,
59 how it compares to similar properties that have recently sold, and any concerns
60 highlighted by the Nation's subject matter experts.

61 (h) *Preliminary Use Report*. Means a report prepared by the Land Assessment Team
62 that identifies the physical characteristics of a specific parcel owned by the Nation and
63 which identifies general uses that are permitted and not permitted based on the parcels
64 specific characteristics and designations in accordance with effective land laws, rules and
65 policies.

66 (i) *Specific Use Report*. Means a report prepared by the Land Assessment Team that
67 reviews a proposed specific use of a specific parcel of land owned by the Nation that
68 provides recommendations for Land Commission's consideration in reviewing a specific
69 use request.

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71 **1.4. Making the Nation's Land Available to its Internal Entities.**

72 1.4-1. *Applying the Land Policy Framework*. Land owned by the Nation shall be made available
73 to the Nation's entities for uses that align with the Land Policy Framework. When Land
74 Management is evaluating use of a parcel, Land Management shall submit the Land Data Sheet
75 for the parcel to the Planning and Development Director to eliminate possible uses of the parcel
76 based on the Land Policy Framework. Upon receipt of the updated Land Data Sheet with any
77 potential uses required to be eliminated by the Land Policy Framework reflected, Land
78 Management shall send the parcel's Land Data Sheet to the Land Assessment Team to request a
79 Preliminary Use Report, which will be used to identify potential uses for the subject parcel.

80 (a) *Potential Uses of the Nation's Land*. All uses of the Nation's land shall be classified
81 into one of the following categories of use which can be further classified as uses by
82 internal or external parties:

- 83 (1) Residential;
- 84 (2) Commercial;
- 85 (3) Agricultural;
- 86 (4) Institutional;
- 87 (5) Industrial;
- 88 (6) Conservancy;
- 89 (7) Mixed Use;
- 90 (8) Open Space; or
- 91 (9) Flex Use.

92 (b) *Land Assessment Team*. The Land Assessment Team shall be comprised of the
93 following professionals employed by the Nation:

- 94 (1) Land Management Senior Management;
- 95 (2) Planning and Development Area Manager;

96 (3) Environmental Specialist;
97 (4) Tribal Historical Preservation Officer;
98 (5) GLIS Specialist;
99 (6) Zoning Administrator;
100 (7) Other subject matter experts based on the characteristics of the parcel to
101 include:
102 A. If there is a house, then Comprehensive Housing Division Maintenance
103 and Rehabilitation Area Manager;
104 (c) *Preliminary Use Report*. Land Management shall generate a preliminary use report
105 template that allows space for each member of the Land Assessment Team to provide
106 subject matter expertise feedback regarding a subject parcel. The template shall ask each
107 team member if there are any potential use that should be eliminated based on their
108 assessment of the parcel. Upon receipt of a Land Data Sheet and a request to complete a
109 preliminary use report, each team member shall have 30 calendar days to complete their
110 entry in the Preliminary Use Report.
111 (1) *Governmental Land Hold*. A governmental land hold removes the parcel from
112 the pool of land available for use. The Planning and Development Area
113 Manager’s entry on the Preliminary Use Report shall ask whether Planning and
114 Development is requesting a governmental hold on the parcel for the Nation’s
115 future development or for use as open space.
116 (d) *Land Data Sheet*. When the Preliminary Use Report is complete, Land Management
117 shall enter the potential uses that were not eliminated into the parcel’s Land Data Sheet as
118 “allowed” and shall enter “disallowed” for all used that were eliminated by the team.
119 (e) *Holding Land for Governmental Development or Open Space*. When the Preliminary
120 Use Report is complete, if the Planning Area Manager requested the parcel to be held for
121 governmental development or open space use, then the Planning Manager shall submit an
122 approval request to hold the parcel to the General Manager with a memorandum in
123 support which cites to support in the Land Policy Framework and any pertinent zoning
124 recommendations based on the requested hold. The approval request shall be submitted
125 to the General Manager within 30 calendar days of the date the Preliminary Use Report is
126 finalized, and the General Manager shall have 10 calendar days to issue an approval or
127 denial of the Planning and Development Area Manager’s request wherein a declination to
128 respond to the request within the provided timeframe shall be deemed an approval.
129 (1) *General Manager Response*. The General Manager shall issue his or her
130 response to both the Planning Manager and Land Management.
131 (A) *Approve*. If the General Manager approves the Planning Manager’s
132 request to hold the land for the Nation’s development or open space use,
133 then the Planning and Development Area Manager shall submit the
134 request to hold the parcel(s) along with supporting documentation and the
135 General Manager’s approval to the next available Oneida Land
136 Commission meeting.
137 (B) *Modify*. If the General Manager approves the Planning Manager’s
138 request to hold the land for the Nation’s development or open space use
139 subject to modifications, then the Planning Manager shall implement all
140 modifications required by the General Manager and submit the modified
141 request to hold the parcel(s) along with supporting documentation and the

142 General Manager’s approval to the next available Oneida Land
143 Commission meeting.

144 (B) *Deny*. If the General Manager denies the Planning Manager’s request
145 to hold the land for the Nation’s development or open space use, then
146 Land Management shall file the request and the denial in the parcel’s data
147 file and continue processing the land for inclusion in the Pool of Available
148 Land as provided in section 2.4-2 below.

149 (2) *Oneida Land Commission Response*. If the General Manager approved or
150 modified the Planning Manager’s request to hold land out of the Pool of Available
151 Land, when the request is brought before the Oneida Land Commission, the
152 Oneida Land Commission shall take one of the following actions:

153 (A) *Approve*. If the Oneida Land Commission approves the request to
154 hold the land for the Nation’s development or open space use, then Land
155 Management shall update the status of the parcel(s) accordingly on the
156 Land Data Sheet(s) and shall remove said parcel(s) from the Pool of
157 Available Land, as provided in section 2.4-2 below.

158 (B) *Modify*. If the General Manager approves the Planning Manager’s
159 request to hold the land for the Nation’s development or open space use
160 subject to modifications, then Land Management shall implement all
161 modifications required by the Land Commission, update the status of the
162 parcel(s) accordingly on the Land Data Sheet(s) and remove said parcel(s)
163 from the Pool of Available Land, as provided in section 2.4-2 below.

164 (B) *Deny*. If the Oneida Land Commission denies the request to hold the
165 land for the Nation’s development or open space use, then Land
166 Management shall file the request and the denial in the parcel’s data file
167 and continue processing the land for inclusion in the Pool of Available
168 Land as provided in section 2.4-2 below.

169 (3) *Zoning Verification*. If Land Commission approves any land hold for
170 governmental development and/or open space use, then Land Management shall
171 request confirmation from the Zoning Administrator that the parcel’s current
172 zoning designation aligns with Land Commission’s approved land hold. If the
173 Zoning Administrator determines either an initial Oneida zoning or a rezoning of
174 Oneida’s prior zoning designation is required, the Zoning Administrator shall
175 engage the Oneida Zoning and Shoreland Protection law to execute the required
176 zoning actions. The Zoning Administrator shall inform Land Management of any
177 approved zoning actions affecting the parcel for tracking in the Land Data Sheet;
178 Land Management shall update the Land Data Sheet with zoning information as
179 soon as possible.

180 1.4-2. *Pool of Available Land*. Land Management shall maintain a list of all parcels that are
181 available for use, internally or externally, where said list shall include all parcels except those
182 that are held for governmental development and/or open space use as provide in 2.4-1 above.

183 (a) *Advertising Parcels for Internal Use*. Land Management shall create a list of the pool
184 of available land to be advertised for internal entities on the Oneida intranet.

185 (1) At a minimum, the list shall include:

186 A. Parcel number and address (if available);

187 B. Link to the Preliminary Use Report; and

188 C. Summary of potential uses based on the Preliminary Use Report.

189 (2) Land Management shall ensure that all parcels are posted in the pool of
190 available land advertised for internal entities for a minimum of ninety (90)
191 calendar days before Land Management may assign said lands to any of its rental
192 or leasing portfolios.

193 (3) Any internal entities with interest in any advertised parcels shall submit the
194 Parcel Interest Form to Land Management wherein the Parcel Interest Form shall
195 be available with the Pool of Available Land advertisement on the Oneida
196 Intranet. The form shall indicate to internal entities that they may request the land
197 be available for a future use so that any use assigned by Land Management are
198 short term in nature to make the future use possible.

199 (4) When Land Management receives a Parcel Interest Form, Land Management
200 shall reassemble the Land Assessment Team for development of a specific use
201 report that includes each professional's recommendations in relation to the
202 specific use requested by the internal entity. Land Management shall assemble
203 the team's recommendations related to the requested use and formulate an
204 overarching recommendation in the Specific Use Report for Oneida Land
205 Commission's consideration. When the Specific Use Report is complete, Land
206 Management shall submit the request along with the Specific Use Report and any
207 corresponding supporting documentation to the next available Oneida Land
208 Commission agenda and shall notify the requestor of the Land Commission's
209 meeting date and how the requestor may attend the meeting.

210 A. *Specific Use Report.* Land Management shall generate a specific use
211 report template that allows space for each member of the Land
212 Assessment Team to provide subject matter expertise feedback regarding a
213 subject parcel.

214 B. *Land Commission Approval.* If Land Commission approved the,
215 current or future requested use of a parcel by an internal entity, then:

216 i. *Current Use.* If Land Commission approved a current use,
217 Land Management shall process an Internal Building and Land
218 Assignment to the Internal Entity for the use approved by the Land
219 Commission.

220 ii. *Future Use.* If Land Commission approved a future use, Land
221 Management shall note that the parcel be available for internal use
222 at a future date on the Land Data Sheet to ensure and agreements
223 entered on the parcel expire before the internal entity's requested
224 use start date.

225 iii. *Zoning Actions.* If the Specific Use Report notes any required
226 zoning actions in order to implement the requested use, the Zoning
227 Administrator shall take said execute the required zoning action
228 following Land Commission's approval of a specific use. The
229 Zoning Administrator shall inform Land Management of any
230 approved zoning actions affecting the parcel for tracking in the
231 Land Data Sheet; Land Management shall update the Land Data
232 Sheet with zoning information as soon as possible. All required

233 zoning actions must be complete before an Internal Building and
234 Land Assignment may be executed.

235 C. *Land Commission Denial.* If Land Commission denies an internal
236 entity's specific use request, Land Management shall file the request in the
237 parcel file and notify the requestor of Land Commission's denial.

238 1.4-3. *Land Management's Leasing and Rental Portfolio.* Any land that is not subject to a
239 governmental hold or assigned to any internal entity shall be available for including in the Land
240 Management leasing portfolio after the parcel has been advertised for internal entities a
241 minimum on 90 calendar days on the Oneida Intranet. At least once a year, Land Management
242 shall assess its leasing and rental programs and assign an inventory portfolio to each active
243 program for Land Commission's consideration. Land Management shall comply with the
244 specific requirements of the individual laws and rules for allowing external entities to use the
245 Nation's land, provided that, prior to leasing land commercially to an external party, Land
246 Management shall offer the commercial parcel to 1822.

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248 **1.5. External Land Use Requests**

249 1.5-1. *Defining External Land Use Requests.* All external land use requests are subject to
250 processes contained in the specific rules governing the rental, lease, easement, license, and/or
251 permit processes; the Nation may not assign a land use to an external third party outside of the
252 processes contained in the applicable laws, rules and procedures. To the extent the Nation
253 receives an external request for land use outside of the applicable prescribed process, Land
254 Management shall treat the request as a general request to add the subject land to the applicable
255 land management portfolio such that it could become available for advertisement pursuant to the
256 applicable process in the future.

257 (a) *Agricultural Leasing and Renting.* All external land use requests for agricultural
258 land are subject to the Leasing Law, Rule # X, Agricultural Leasing, and Landlord-
259 Tenant Law, Rule #X Agricultural Rentals.

260 (b) *Commercial Leasing.* All external land use requests for commercial land are
261 subject to the Leasing Law, Rule # X, Commercial Leasing.

262 (c) *Residential Rentals.* All external land use requests for residential land to rent (the
263 Nation owns the land and the home) are subject to the Landlord-Tenant Law, Rule #'s 1-
264 X identifying processes for the following rental programs:

265 (1) Income-based rentals;

266 (2) General Rentals;

267 (3) Elder Rentals;

268 (4) Rent-to-Own Program rentals; and

269 (5) VASH Vouchers.

270 (d) *Residential Leases.* All external land use requests for residential land to lease (the
271 Nation owns the land and the lessee owns the home) are subject to the Leasing Law, Rule
272 #s X – X identifying processes for the following residential leasing programs:

273 (1) Residential Leasing (in general);

274 (2) Home Build Opportunities Residential Leasing (HBO); and

275 (3) Homeownership by Independent Purchase (HIP) Residential Leasing.

276 (e) *Land Use Licenses/Special Event Permits.* All external land use requests to
277 temporarily use tribal land are subject to the Real Property law, Rule # X, Land Use
278 Licenses/Special Event Permits.

279 (f) *Land Permits.* All external land use requests to move earth on tribal land are
280 subject to the Zoning and Shoreland Protection law, specifically those provisions related
281 to Land Use Permits.

282 (g) *Easements.* All external land use requests for easements from the Nation (on
283 fee or trust land) and easements on land subject to the Nation’s jurisdiction shall be
284 evaluated and administered in accordance with the Real Property Rule #X, Easements.

285 (h) *Various Other Land Use Requests.* Various other specific land use requests may
286 be required pursuant to applicable Oneida laws, for example a Tree Cutting Permit is
287 required pursuant to the Wood Cutting law. External parties seeking information as to
288 what permits are required prior to engaging in various activities on land owned by the
289 Nation or subject to the Nation’s jurisdiction should contact Land Management, a
290 department within the Environmental, Health, Safety, Land and Agricultural Division.

291 *End.*

292

293 Original Effective Date:

DRAFT