

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 Use Licenses
Name Law being Interpreted: Real Property Law
Rule #: 2
Other Laws or Rules that may be affected: N/A

Brief Summary of the proposed rule:

- ◆ 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.

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

<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. 2 – Land Use Licenses

Summary

The Real Property Law Rule No. 2 – Land Use Licenses creates a process for accepting, reviewing, and approving or denying land use license application requests where the Oneida Land Commission is the decision maker while the Land Management staff are the application processors.

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 Land Management to jointly develop rules regarding easements and land use licenses. [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 or land use licenses. [6 O.C. 601.12-2(b)].

The purpose of the Real Property Law Rule No. 2 – Land Use Licenses ¹(“the Rule”) is to create a process for accepting, reviewing, and approving or denying land use license application requests where the Oneida Land Commission is the decision maker while the Land Management staff are the application processors. [Rule 2.1-1]. The Rule addresses:

- Prohibited uses of land use licenses [Rule 2.4];
- Land use license applicants, including when a land use license is required, land use license exceptions, and the requirement of a land use permit [Rule 2.5];
- Land use license review process, including information on the evaluating team, team feedback, Land Management recommendation, Oneida Land Commission approval or denial, appealing a denial, when a land use license includes a land permit, and notice to the evaluating team [Rule 2.5²];
- Licensee’s duties [Rule 2.6];
- Public conduct during events, including conduct, driving, and parking during parades, races, walks, or marches [Rule 2.7];
- Land use license fees [Rule 2.8]; and
- On-site land use license enforcement, including the ability to modify or revoke the land use license on-site [Rule 2.9].

Conclusion

There are no legal bars to adopting the Real Property Law Rule No. 2 – Land Use Licenses.

¹ Real Property Law Rule No. 2 – Comprehensive Housing Division Residential Sales already exists, and it is believed the intention of this new rule is not to replace the existing rule, so therefore this Real Property Law Rule No. 2 – Land Use Licenses will need to be renumbered.

² There are two sections 2.5 included in this Rule currently.



Title 6. Property and Land – Chapter 601

REAL PROPERTY LAW

Rule # 2 – Land Use Licenses

- 2.1.Purpose and Authority
- 2.2.Adoption, Amendment and Repeal
- 2.3.Definitions
- 2.4.Prohibited Uses
- 2.5.Land Use License Applicants
- 2.5.Land Use License Review Process
- 2.6.Licensee’s Duties
- 2.7.Public Conduct During Events

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2.1. Purpose and Authority

2.1-1. *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.

2.1-2. *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.

2.2. Adoption, Amendment and Repeal

2.2-1. This rule was adopted by Land Management and the Oneida Land Commission in accordance with the procedures of the Administrative Rulemaking law.

2.2-2. 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.

2.2-3. 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.

2.2-4. 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.

2.2-5. This rule supersedes all prior rules, regulations, internal policies or other requirements related to Land Use Licenses.

2.3. Definitions

2.3-1. 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 tribal member the right to have gatherings within the reservation boundaries of groups larger than 75 people and/or an agreement between the Nation and any third party granting said party the right to occupy and/or utilize a specified piece of Tribal land for a specific purpose and a specific duration.

(b) “Land Use License Consideration Team” means a group of professionals 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 2.6-1 of this Rule.

(c) “Land Use Permit” means an approval from the Oneida Zoning Department pursuant

48 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 not
50 limited to, the erection, movement, or structural alteration of any structure other than a
51 building, is compliant with applicable law.

52 53 **2.4. Prohibited Uses**

54 2.4-1. Land Use Licenses may not allow for the use of alcohol and/or drugs on the Nation's property
55 excluding individual fee and trust land and residentially leased properties.

56 57 **2.5. Land Use License Applicants**

58 2.5-1. Any tribal member seeking to host an event of 75 persons or more on their property
59 located within the Oneida Reservation and/or any person or entity requesting to use land owned
60 by the Oneida Nation to occupy and/or utilize a specified piece of Tribal land for a specific
61 purpose and a specific duration shall submit an application for a Land Use License to the Land
62 Management Department. Use of land shall extend to nontribal members and/or entities simply
63 accessing land otherwise closed to public access pursuant to the applicable tribal laws, including but not
64 limited to the Public Use of Tribal Lands law. Applications will not be considered until they are
65 complete.

66 2.5-2. *Land Use License Exceptions.* The following are events and land uses that do not require
67 a Land Use License provided that Land Management shall determine the applicability and/or
68 exemptions of Land Use Licenses to the Nation's property. In the event an exception is granted as
69 related to a Land Use License, an independent review is required by the Zoning Department to
70 determine if a Land Use Permit is required pursuant to the Real Property law and any
71 corresponding rules. Application for a Land Use License is required where there is a fire and/or
72 fireworks on the Nation's property (leased properties excluded), provided that the Nation reserves
73 the right to waive the requirements for a Land Use License based on the determination of the
74 Nation's Fire Marshal.

75 (a) Use of land in accordance with the permitted use pursuant to an active lease with the
76 Oneida Nation;

77 (b) Gatherings of seventy-five (75) people or less provided that this exemption shall not
78 apply in instances the Nation's land is being used for any commercial purpose and
79 gathering 75 or more people may invalidate other applicable exemptions in Land
80 Management's sole discretion;

81 (c) Use of buildings in accordance with the rental agreements with various entities of the
82 Nation, including but not limited to, the County H Recreation Building, the Veteran's
83 Building rental spaces, and/or the Holy Apostles Hall, provided that, this exemption shall
84 not apply to uses beyond the primary use or intended activity and capacity of the site; and

85 (d) Access to land owned by the Nation pursuant to a contract for services validly executed
86 by the Nation and the service provider.

87 2.4-3. *Land Use Permit May be Required.* An application for a Land Use License may also require
88 a Land Use Permit pursuant to the Zoning and Shoreland Protection law if temporary structures
89 are to be erected on the site as part of the requested use or if there is any anticipated disturbance
90 of land. To the extent a Land Use Permit is required along with the Land Use License, the Land
91 Use License Application will also function as the request for the Land Use Permit and will be
92 routed for Zoning Department approval by Land Management staff processing the Land Use
93 License. The Land Use Permit review process is independent of the Land Use License process

94 and if a Land Use Permit is not granted by the Oneida Zoning Department, said use shall not be
95 authorized within the corresponding Land Use License. If both the Land Use License and the Land
96 Use Permit are granted, signatory approvals are required from both Land Management and Zoning
97 Department representatives.

98 99 **2.5. Land Use License Review Process**

100 2.5-1. *Evaluating Team.* Land Management staff shall forward the Land Use License Application
101 and all supporting materials to the Land Use License Consideration Team as soon as possible. The
102 Land use License Consideration Team consists of:

- 103 (a) Oneida Zoning Department;
- 104 (b) Oneida Police Department;
- 105 (c) Oneida Risk Management Department;
- 106 (d) Oneida Sanitarian (when food is sold/given away as part of the Land Use License
107 Request);
- 108 (e) Oneida Public Health Officer;
- 109 (f) Oneida Emergency Management Director;
- 110 (g) Oneida Law Office; and
- 111 (h) Any other interested stake holder within the Nation that may have control over the land
112 subject to the Land Use License request.

113 2.5-2. *Team Feedback.* From the date the Land Use License Application and supporting
114 materials are sent to the Land Use License Consideration Team, the representatives shall
115 have five (5) business days to return comments to Land Management for consideration in issuing
116 the Land Use License.

117 2.5-3. *Land Management Recommendation.* Land Management shall review all comments
118 received from the Land Use License Consideration Team and create a recommendation for
119 approving/denying the Land Use License Request including any recommended additional terms
120 and conditions and shall forward all information and staff's recommendation to the Environmental,
121 Health, Safety, Land, and Agricultural (EHSLA) Division Director or his/her designee.

122 2.5-4. *Land Commission Approval and Denial.* Land Commission hereby accepts the
123 recommendations provided by Land Management which is based on the information provided by
124 the Land Use Consideration Team which is comprised of subject matter experts employed by the
125 Nation in the fields of health, safety, law, risk and emergency management, law enforcement,
126 zoning, and any other area implicated based on a requested use.

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

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

133 2.5-5. *Appealing a Denial.* Any applicant whose Land Use License application is denied by
134 Land Commission may request reconsideration from the Oneida Land Commission if
135 reconsideration is requested to Oneida Land Management within ten (10) business days of the
136 notice of denial.

137 2.5-6. *When a Land Use License Includes a Land Permit.* When a Land Use License includes a
138 requirement for a Land Use Permit for use of a temporary structure or a disruption of land, Land
139 Management shall forward the application to the Zoning Department for its review immediately

140 upon receipt and shall coordinate dual signatures from the EHSLA Division Director and the
141 Zoning Administrator when both a Land Use License and Land Use Permit is to be issued.

142 2.5-7. *Notice to Evaluating Team.* When a Land Use License is issued, Land Management staff
143 shall provide notice of the issuance to each representative of the Land Use License Consideration
144 Team.

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146 **2.6. Licensee's Duties**

147 2.6-1. Once the application is granted, the applicant becomes the licensee. All licensees shall
148 comply with all permit directions and conditions and with all applicable laws and ordinances,
149 and shall follow all safety directives from the Police Department, Fire Department, Zoning
150 Officers and/or Department of Public Works Staff. The licensee's failure to follow any safety
151 directives, or their allowance of any unsafe conditions to develop or continue, shall be grounds
152 for citation and for denial of future land use license applications.

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154 **2.7. Public Conduct During Events**

155 2.7-1. *Generally.* All attendees at any event must obey all applicable Oneida Nation, state and
156 federal laws and regulations. The Licensee shall take necessary remedial measures to ensure
157 attendee compliance with applicable laws and regulations and to prevent unsafe conditions from
158 developing or continuing, up to and including stopping the event if attendee conduct is creating a
159 nuisance or disturbance.

160 2.7-2. *Public Conduct During Parades, Races, Walks, or Marches.* No person shall obstruct,
161 impede, interfere with, or unreasonably hamper any parade, race, walk, march, or parade
162 assembly, nor any person, vehicle, or animal participating or used in a parade.

163 2.7-3. *Driving Through Parades, Races, Walks, or Marches.* No person shall drive a vehicle
164 between the vehicles or persons comprising a parade, race, walk, or march when such vehicles
165 or persons are in motion and are conspicuously designated as participating in such an event.

166 2.7-4. *Parking On Parade, Race, Walk, or March Route.* The Chief of Police may prohibit or
167 restrict the parking of vehicles along a highway or part thereof constituting a part of the route
168 of a parade, race, walk, or march. The Chief of Police shall post signs to such effect, and no
169 person shall park or leave unattended any vehicle in violation thereof.

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171 **2.8. Land Use License Fees**

172 2.8-1. The Oneida Land Commission may implement Land Use License fees by adopting a Land
173 Use License Fee Schedule by Oneida Land Commission Resolution. If there is no Land Use License
174 Fee Schedule adopted by Oneida Land Commission, no fees may be charged for being granted a Land
175 Use License. If/when a Land Use License Fee Schedule is adopted, it shall be provided to the Oneida
176 Legislative Reference Office to be posted on the Oneida Register along with this Rule.

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178 **2.9. On-Site Land Use License Enforcement**

179 2.9-1. *Ability to Modify or Revoke the Land Use License On-Site.* If an Oneida Police Officer,
180 Zoning Office, and/or the Fire Marshall, collectively Oneida Authorities, believes an event may
181 be becoming unsafe to the public health and safety of the community, Oneida Authorities may,
182 regardless of compliance with applicable Land Use License terms and conditions use their
183 discretion to:

184 (a) Add additional health and safety requirements to a Land Use License on the scene
185 of the event that must be complied with in order to avoid revoking the Land Use License;

186 and/or
187 (b) Revoke the Land Use License, provided that, Oneida authorities shall work with
188 licensees to avoid revoking a Land Use License to the extent possible. If Oneida
189 Authorities revoke a Land Use License, there will be no reimbursement of Land Use
190 License fees.

191
192 *End.*

193

194 Original Effective Date:

DRAFT



Oneida Nation Land Use License Fees

Application Fees

Land Management shall assess a \$50.00 (fifty dollar) application fee to cover the administration cost of processing the Land Use License which shall be submitted with the application and may be paid only by money order. The application fee will be refunded only to the extent an exemption is granted.

Event Fees

These set of fees apply to all requests for Land Use Licenses for the purpose of hosting an event.

Event Type	Tribal Entity	Tribal Member	Non-Oneida Resident of the Reservation	Other
Small Event (75 – 500 attendees)	\$ 0	\$ 0	\$ 50	\$ 100
Medium Event (501 – 1500 attendees)	\$ 0	\$ 0	\$ 75	\$ 150
Large Event (over 1500 attendees)	\$ 0	\$ 0	\$ 150	\$ 300
Cultural/Educational/Fundraiser	\$ 0	\$ 0	\$ 50	\$50

Use/Access Fees

These set of fees apply to all requests for Land Use Licenses for the purpose of non-Oneida citizens accessing land that is otherwise deemed not open to the public.

Use Type	Tribal Member	Community Member	Business Entity	Governmental Entity
Access or Cross Property	\$ 0	\$50.00 per parcel	\$100.00 per parcel	\$100.00 per parcel
Continual Access for Longer Than 2 Weeks	\$100/month, unless waived	TBD	TBD	TBD
Groundbreaking or Earth Moving Activity	<i>Subject to Land Use Permit pursuant to the Oneida Zoning and Shoreland Protection Law which can be issued simultaneously with the Land Use License.</i>			