



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)

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 This rule may be amended or repealed by the joint approval of the Land Management and the Oneida Land Commission pursuant to the procedures set out in the Administrative Rulemaking law.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

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

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

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

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

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

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

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

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

- (1) Residential;
- (2) Commercial;
- (3) Agricultural;
- (4) Institutional;
- (5) Industrial;
- (6) Conservancy;
- (7) Mixed Use;
- (8) Open Space; or
- (9) Flex Use.

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

- (1) Land Management Senior Management;
- (2) Planning and Development Area Manager;
- (3) Environmental Specialist;

- (4) Tribal Historical Preservation Officer;
- (5) GLIS Specialist;
- (6) Zoning Administrator;
- (7) Other subject matter experts based on the characteristics of the parcel to include:

A. If there is a house, then Comprehensive Housing Division Maintenance and Rehabilitation Area Manager.

(c) *Preliminary Use Report.* Land Management shall generate a preliminary use report template that allows space for each member of the Land Assessment Team to provide subject matter expertise feedback regarding a subject parcel. The template shall ask each team member if there are any potential use that should be eliminated based on their assessment of the parcel. Upon receipt of a Land Data Sheet and a request to complete a preliminary use report, each team member shall have 30 calendar days to complete their entry in the Preliminary Use Report.

(1) *Governmental Land Hold.* A governmental land hold removes the parcel from the pool of land available for use. The Planning and Development Area Manager's entry on the Preliminary Use Report shall ask whether Planning and Development is requesting a governmental hold on the parcel for the Nation's future development or for use as open space.

(d) *Land Data Sheet.* When the Preliminary Use Report is complete, Land Management shall enter the potential uses that were not eliminated into the parcel's Land Data Sheet as "allowed" and shall enter "disallowed" for all used that were eliminated by the team.

(e) *Holding Land for Governmental Development or Open Space.* When the Preliminary Use Report is complete, if the Planning Area Manager requested the parcel to be held for governmental development or open space use, then the Planning Manager shall submit an approval request to hold the parcel to the General Manager with a memorandum in support which cites to support in the Land Policy Framework and any pertinent zoning recommendations based on the requested hold. The approval request shall be submitted to the General Manager within 30 calendar days of the date the Preliminary Use Report is finalized, and the General Manager shall have 10 calendar days to issue an approval or denial of the Planning and Development Area Manager's request wherein a declination to respond to the request within the provided timeframe shall be deemed an approval.

(1) *General Manager Response.* The General Manager shall issue his or her response to both the Planning Manager and Land Management.

(A) *Approve.* If the General Manager approves the Planning Manager's request to hold the land for the Nation's development or open space use, then the Planning and Development Area Manager shall submit the request to hold the parcel(s) along with supporting documentation and the General Manager's approval to the next available Oneida Land Commission meeting.

(B) *Modify.* If the General Manager approves the Planning Manager's request to hold the land for the Nation's development or open space use subject to modifications, then the Planning Manager shall implement all modifications required by the General Manager and submit the modified request to hold the parcel(s) along with supporting documentation and the

General Manager's approval to the next available Oneida Land Commission meeting.

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

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

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

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

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

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

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

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

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

- A. Parcel number and address (if available);
- B. Link to the Preliminary Use Report; and

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

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

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

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

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

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

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

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

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

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

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

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

1.5. External Land Use Requests

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

(a) *Agricultural Leasing and Renting.* All external land use requests for agricultural land are subject to the Leasing Law, Rule # 2, Agricultural Leasing, and Landlord-Tenant Law, Rule #X Agricultural Rentals.

(b) *Commercial Leasing.* All external land use requests for commercial land are subject to the Leasing Law, Rule # 3, Commercial Leasing.

(c) *Residential Rentals.* All external land use requests for residential land to rent (the Nation owns the land and the home) are subject to the Landlord-Tenant Law, Rule #'s 1-4 identifying processes for the following rental programs:

(1) Income-based rentals;

(2) General Rentals;

A. VASH Vouchers

(3) Elder Rentals;

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

(d) *Residential Leases.* All external land use requests for residential land to lease (the Nation owns the land and the lessee owns the home) are subject to the Leasing Law, Rule #s 1, 4, and 6, identifying processes for the following residential leasing programs:

(1) Residential Leasing (in general);

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

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

(e) *Land Use Licenses/Special Event Permits.* All external land use requests to temporarily use tribal land are subject to the Real Property law, Rule # 2, Land Use Licenses/Special Event Permits.

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

(g) *Easements.* All external land use requests for easements from the Nation (on fee or trust land) and easements on land subject to the Nation's jurisdiction shall be evaluated and administered in accordance with the Real Property Rule #3, Easements.

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

End.

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