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

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 This rule may be amended or repealed by the Land Management and the Oneida Land Commission and/or the Oneida Business Committee pursuant to the procedures set out in the Administrative Rulemaking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

to the Zoning and Shoreland Protection Ordinance that provides conditions to ensure that a proposed use that would amount to a disturbance of the land, including but not limited to, the erection, movement, or structural alteration of any structure other than a building, is compliant with applicable law.

2.4. Prohibited Uses

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

2.5. Land Use License Applicants

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

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

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

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

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

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

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

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

2.5. Land Use License Review Process

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

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

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

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

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

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

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

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

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

upon receipt and shall coordinate dual signatures from the EHSLA Division Director and the Zoning Administrator when both a Land Use License and Land Use Permit is to be issued.
2.5-7. *Notice to Evaluating Team*. When a Land Use License is issued, Land Management staff shall provide notice of the issuance to each representative of the Land Use License Consideration Team.

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

2.7. Public Conduct During Events
2.7-1. *Generally.* All attendees at any event must obey all applicable Oneida Nation, state and federal laws and regulations. The Licensee shall take necessary remedial measures to ensure attendee compliance with applicable laws and regulations and to prevent unsafe conditions from developing or continuing, up to and including stopping the event if attendee conduct is creating a nuisance or disturbance.
2.7-2. *Public Conduct During Parades, Races, Walks, or Marches.* No person shall obstruct, impede, interfere with, or unreasonably hamper any parade, race, walk, march, or parade assembly, nor any person, vehicle, or animal participating or used in a parade.
2.7-3. *Driving Through Parades, Races, Walks, or Marches.* No person shall drive a vehicle between the vehicles or persons comprising a parade, race, walk, or march when such vehicles or persons are in motion and are conspicuously designated as participating in such an event.
2.7-4. *Parking On Parade, Race, Walk, or March Route.* The Chief of Police may prohibit or restrict the parking of vehicles along a highway or part thereof constituting a part of the route of a parade, race, walk, or march. The Chief of Police shall post signs to such effect, and no person shall park or leave unattended any vehicle in violation thereof.

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

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

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

and/or

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

End.

Original Effective Date: 02-12-2025