

## Chapter 69

### ZONING AND SHORELAND PROTECTION

Twaʼnikuhlálake Atsyaʼktate Olihwaʼke Oʼkhale Niʼyohuntsyaʼté

The matters concerning protection of our shorelines and the territory of our nation

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#### 69.1. Purpose, Policy, Authority and Scope

69.1-1. *Purpose.* The purpose of this law is to:

- (a) establish a zoning plan for tribal lands held in trust and fee, heirship lands, and individual trust and fee lands within the Reservation by dividing the Reservation into districts.
- (b) regulate the use of land and buildings on lots and the density of the population, and provide for the administration and enforcement of this law.
- (c) assist in guiding the future development of the Reservation.
- (d) protect the character and stability of residential, commercial, industrial, agricultural, and other districts within the Reservation, and assure the orderly and beneficial development of such areas.

69.1-2. *Policy.* The provisions of this law shall extend to all tribal lands and waters held in trust; all tribal lands and waters held in fee status; all fee status lands under the control of individual members of any federally or state recognized Indian tribe, band or community; all heirship lands and waters; all individual trust lands and waters within the present confines of the Reservation; and to such other lands as may be hereafter added thereto under any law of the United States, except as otherwise provided by applicable law.

69.1-3. From and after the effective date of this law, the use of all land and every building or portion of a building erected, altered in respect to height and area, added to, or relocated, and every use within a building or use accessory thereto, on the Reservation shall be in conformity with the provisions of this law. Any existing building and any existing use or properties not in conformity with the regulations herein prescribed, shall be regarded as non-conforming, but may be continued, subject to the special regulations provided in 69.6-5 with respect to non-conforming buildings or uses.

69.1-4. The language set forth in this law shall be interpreted in accordance with the following rules of construction:

- (a) The singular number includes the plural and plural, the singular.
- (b) The present tense includes the past and future tense and the future, the present.
- (c) The word “shall” is mandatory and the word “may” is permissive.
- (d) The masculine gender indicates the feminine and neuter genders.
- (e) Whenever a word or term defined hereinafter appears in the text of this law, its meaning shall be constructed as set forth in such definition thereof.
- (f) All measured distances expressed in feet shall be rounded to the nearest foot and shall

be measured horizontally, unless otherwise specified.

(g) The phrase “used for” shall include the phrases “arranged for”, “designed for”, “intended for”, “maintained for”, and “occupied for”.

## **69.2. Adoption, Amendment, Conflicts**

69.2-1. This law was adopted by the Oneida Business Committee by motion on June 5, 1990 and amended by BC-03-01-06-D, BC-04-02-08-F, BC-04-13-11-E and BC-07-13-11-E.

69.2-2. This law may be amended pursuant to Tribal law by the Oneida Business Committee or Oneida General Tribal Council.

69.2-3. Should a provision of this law or the application thereof to any person or circumstances be held as invalid, such invalidity shall not affect other provisions of this law which are considered to have legal force without the invalid portions. If any court of competent jurisdiction shall adjudge invalid the application of any provision of this law to a particular property, building or structure, such judgment shall not affect other property, buildings or structures.

69.2-4. In the event of a conflict between a provision of this law and a provision of another law, the provisions of this law shall control. It is not intended by this law to repeal, abrogate, annul, impair, modify or interfere with any existing easements, covenants, or agreements between parties or with any rules, regulations, laws, ordinances, policies, resolutions, motions or permits previously adopted or issued pursuant to Tribal law; provided, however, that where the conditions imposed by any provision of this law are either more restrictive or less restrictive than comparable conditions imposed by any other applicable easement, covenant, agreement, law, statute, resolution, or regulation of any kind, the conditions which are more restrictive or which impose higher standards or requirements shall prevail.

69.2-5. This law is adopted under authority of the Constitution of the Oneida Tribe of Indians of Wisconsin.

## **69.3. Definitions**

69.3-1. This section shall govern the definitions of words and phrases used within this law. All words not defined herein shall be used in their ordinary and everyday sense.

69.3-2. Accessory building. *See Building, Accessory building.*

69.3-3. Accessory use. *See Use, Accessory use.*

69.3-4. “Adult entertainment” means adult sexually-oriented businesses and services, including, but not limited to: movie theaters, bookstores, video stores, adult-only hotels/motels, massage parlors, peep shows, and erotic dancing establishments.

69.3-5. “Aesthetic value” means the utility of an area for its beauty in satisfying, directly or indirectly, the needs or desires of human beings.

69.3-6. “Agricultural use” means the use of land for one (1) or more of the following: soil tillage for the production of crops, dairying, pasturage, grazing, horticulture, floriculture, viticulture, truck farming, forestry, sod farming, wild crop farming, animal and poultry husbandry, and/or the necessary accessory uses for packing, treating, or storing of produce; provided that the operation of any such accessory uses shall be secondary to that of the primary agricultural activities occurring thereon.

69.3-7. “Airport” means any area of land, water or a structure which is used or intended for use for the landing and taking off of aircraft, including helicopters, and any appurtenant land or

structures which are used or intended for use for airport buildings or other airport facilities or runways, including all necessary taxiways, aircraft storage and tie-down areas, hangers, and other necessary buildings and open spaces.

69.3-8. "Alley" means a public thoroughfare which affords a secondary means of access to abutting property and is generally less than twenty (20) feet wide.

69.3-9. Attached garage. *See Garage, Attached garage.*

69.3-10. "Automobile body shop" means any land, structure, or premises used for the construction, reconstruction, painting, or repair of fenders or bodies of automobiles, trucks, or other vehicles for profit.

69.3-11. "Bank" means, when referring to water, the land surface abutting the bed of any water body which, either prior to any project or alteration of land contours, or as a result of the proposed project or alteration, slopes or drains without complete interruption into the water body.

69.3-12. "Barnyard" means a fenced area directly adjacent to a structure which houses a high density of livestock and is usually devoid or nearly devoid of vegetation.

69.3-13. "Basement" means that portion of a building that is partly or completely below grade plane.

69.3-14. "Bed" means, when referring to water, all material which lies below the ordinary high-water mark; or the land that lies at the bottom of a body of water and includes all material that rests upon the bottom such as mud, flocculent material, sand, clay, silt, rock, organic debris, logs, and stumps.

69.3-15. "Bed and breakfast" means any place of lodging that provides four (4) or fewer rooms for rent for more than ten (10) nights in a twelve (12) month period, is the owner's personal residence, is occupied by the owner at the time of rental, and in which the only meal served to guests is breakfast. The maximum stay of any one (1) guest shall not exceed fourteen (14) days per stay.

69.3-16. "Best management practices" means a practice, technique or measure which is determined to be an effective means of preventing or reducing pollutants generated from non-point sources to a level compatible with established water quality objectives.

69.3-17. "Billboard" means any sign of more than one hundred and fifty (150) square feet per side which directs attention to a business, commodity, service, activity, or entertainment not necessarily conducted, sold, or offered upon the premises where such sign is located.

69.3-18. "Boarding house" means a building arranged or used for lodging for compensation, with or without meals, and not occupied as a single-family dwelling.

69.3-19. "Boathouse" means a building located on or adjacent to water designed for the sheltering of boats or related marine equipment.

69.3-20. "Building" means any structure used or intended for supporting or sheltering any use or occupancy. "Building" also means "structure" or "improvement."

(a) "Accessory building" means a subordinate building or structure on the same lot as the principal building and devoted exclusively to an accessory use. This may include private garages attached or detached, open sheds, roof-covered patios, tool sheds and similar structures. On any lot on which a dwelling is located, any building used for, or incidental to any agricultural use, shall be deemed to be an "accessory building."

(b) "Non-conforming building" means a structure or portion thereof, or a lawful use which does not conform to the regulations of the district in which it is located.

(c) “Principal building” means a building in which is conducted the principal use of the lot on which it is situated. The “principal building” in any residential district shall be any dwelling on a lot.

69.3-21. “Building line” means the line established by law, beyond which a building shall not extend, except as specifically provided by law.

69.3-22. “Bulkhead” means a retaining wall or embankment along a waterfront that acts as a protective barrier.

69.3-23. “Campground” means an area, including buildings, used for the accommodation of members of various organizations or groups using equipment designed for the purpose of temporary camping.

69.3-24. “Channel” means a natural or artificial water course of perceptible extent, with definite bed and banks to confine and conduct continuously or periodically flowing water.

69.3-25. Conditional use. *See Use, Conditional use.*

69.3-26. “Condominium” means a single real-estate unit in a multi-unit development in which a person has both separate ownership of a unit and a common interest, along with the development’s other owners, in the common areas.

69.3-27. “Conservation practices” means any practice which is designed to enhance or improve the environment and is approved as a conservation practice by the Environmental Health and Safety Division.

69.3-28. Corner lot. *See Lot, Corner lot.*

69.3-29. “Day” or “Days” means calendar days, unless otherwise specified.

69.3-30. Detached garage. *See Garage, Detached garage.*

69.3-31. “Development” means any man-made change to land and/or buildings, including, but not limited to, construction of, additions to, or substantial improvements to, buildings, other structures, or accessory uses. “Development” is synonymous with “activity” and may refer to any construction, alteration, dredging, drilling, dumping, filling, removal, obstruction, occupancy, participation, practice, enterprise, or event within a Shoreland Area. “Development” does not include agricultural, best management or restoration practices.

69.3-32. “District” means a section of the Reservation within which the zoning regulations are uniform.

69.3-33. “Dock” means any structure, including a pier, built in or over or floating upon the water, which may or may not extend from the shore and may be used as a landing place for watercraft.

69.3-34. “Domestic animal” means all animals commonly owned as household pets, including, but not limited to, dogs, cats, weasels, rabbits, guinea pigs, turtles, tropical birds, pigeons, hamsters, and non-venomous reptiles, amphibians and arachnids.

69.3-35. “Drainage way” means any waterway which has a defined bed and bank and which is a direct tributary to navigable waters, and, at least seasonally, has water flow.

69.3-36. “Dredging” means to remove any amount of sand, mud, debris, or other materials from the bed of a water body with the use of a device.

69.3-37. “Dwelling” means a building that contains one (1) or more dwelling units used, intended or designed to be used, rented, leased, let or hired out to be occupied for living purposes.

(a) “Multiple-family dwelling” means a building or portion thereof used or designed for use as a residence for three (3) or more families living independently of each other, and

doing their own cooking in said building, including, but not limited to apartment houses, apartment hotels, and condominiums.

(b) “Single-family dwelling” means a building designed for, and occupied exclusively by, one (1) family.

(c) “Two-family dwelling” means a building designed for, and occupied exclusively by, two (2) families living independently of each other.

69.3-38. “Dwelling unit” means a single unit providing complete, independent living facilities for one (1) or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation.

69.3-39. “Easement” means the quantity of land set aside or over which a liberty, privilege, or advantage in land, existing distinct from the ownership of the land, is granted to the public, a utility, or some particular person, corporation, or part of the public for limited right of use.

69.3-40. “Ecological relationship” means the relationship between organisms and the environment in which they live.

69.3-41. Electric sign. *See Sign, Electric sign.*

69.3-42. “Electronic message center” means any electronic advertising medium utilizing moving or intermittent messages with the use of direct illumination for its primary readability to display said messages; including, but not limited to, public service and time and temperature displays.

69.3-43. “Encroachment” means an intrusion into another’s property or an intrusion over required setbacks.

69.3-44. “Erosion” means the dislodgement and removal of soil particles by physical forces including, but not limited to: wind, rain-drop splash, water currents, and gravity. The activities of people in disturbing the ground surface can accelerate this process.

69.3-45. “Excavating” means digging out and removing materials from the land. Any work involving less than five hundred (500) square feet shall not constitute “excavating”. Where smaller areas are involved, a consolidated area of one thousand (1000) square feet or more per acre shall constitute “excavating”.

69.3-46. “Extreme property loss” means any loss of property beyond that which would be considered normal.

69.3-47. “Family” means:

(a) an individual; or

(b) two (2) or more persons related by blood, marriage, adoption, or foster care arrangement; or

(c) a group of not more than five (5) persons who are not related by blood or marriage, but live together as a single-housekeeping unit.

69.3-48. “Farm” means any parcel of land which is used in the raising of agricultural products, livestock, poultry, aquaculture, and/or fish.

69.3-49. “Feedlot” means an open area devoid or nearly devoid of vegetation where livestock is contained and where it is necessary and usual to bring food from outside the area to feed the livestock.

69.3-50. “Fence” means an artificially constructed barrier of any material or combination of materials erected to enclose or screen areas of land.

- 69.3-51. "Fertilize" means to apply compost, manure, or commercial fertilizer to a medium, like soil, to provide nutrients or make available nutrients already there, so as to promote the growth of vegetation.
- 69.3-52. "Filling" means the placement of any material so as to fill, raise, or otherwise cover an area.
- 69.3-53. Flashing sign. *See Sign, Flashing sign.*
- 69.3-54. "Frontage" means that boundary of a lot which abuts a street.
- 69.3-55. "Flood" means a general and temporary condition of partial or complete inundation of normally dry land areas from the overflow of inland or tidal waters, or the unusual and rapid accumulation or runoff of surface waters from any source.
- 69.3-56. "Flood proofing" means any combination of structural provisions, changes, or adjustments to properties and structures subject to flooding, primarily for the purpose of reducing or eliminating flood damage to properties, water and sanitary facilities, structures, and contents of buildings in flood hazard areas.
- 69.3-57. "Flood protection elevation" means a point two (2) feet above the water surface profile associated with the one hundred year floodplain.
- 69.3-58. "Floodplain" means the relatively flat area or low lands adjoining the channel of a river, or stream, or the water course or lake, or other body of standing water which has been or may be covered by flood water including, but not limited to, the one hundred year flood.
- 69.3-59. "Floodway" means the channel of the river, creek or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.
- 69.3-60. Free standing sign. *See Sign, Free standing.*
- 69.3-61. Front yard. *See Yard, Front yard.*
- 69.3-62. "Garage" means a building used for the storage of motor vehicles.
- (a) "Attached garage" means a garage which is connected to another building by at least one (1) wall or part of one (1) wall.
  - (b) "Detached garage" means a garage that is not connected to another building by a wall or part of a wall.
  - (c) "Private garage" means any accessory building or portion of a main building used for the storage of motor vehicles of the occupants of the premises.
  - (d) "Public garage" means any premises, except those herein defined as a private garage, used for the storage or care of motor vehicles, or where any such vehicles are equipped for operations or repaired, or kept for sale, hire, or remuneration. "Repair," as used in this definition, shall not include an automobile body shop nor the rebuilding, dismantling or storage of wrecked, junked, or unlicensed vehicles.
- 69.3-63. "Grade plane" means the reference plane representing the average of finished ground level adjoining a building at exterior walls.
- 69.3-64. "Grading" means the physical disturbance of an area by the addition, removal, or redistribution of topsoil or other material.
- 69.3-65. "Green space" means open, undeveloped land that has natural vegetation. "Green space" does not include a golf course.
- 69.3-66. "Gross sign area" means the entire area within a single continuous perimeter enclosing the extreme limits of such sign, but shall not include any structural elements outside the limits of such sign and not forming an integral part of the display. If the sign consists only of individual

letters affixed directly to the wall of the building, only the perimeter of each letter is counted as part of the gross sign area.

69.3-67. Ground Sign. *See Sign, Ground sign.*

69.3-68. "Group foster home" means a home in which a family cares for up to eight (8) non-related persons. Such a home shall be of a non-profit nature and primarily designed for the rehabilitation of the residents on a short term or long term basis.

69.3-69. "Growth" means any object of natural growth, such as trees, shrubs, or foliage, but does not include farm crops which are cut at least once a year.

69.3-70. Half-story. *See Story, Half-story.*

69.3-71. "Hedge" means a dense barrier comprised of planted vegetation designed to enclose or screen areas of land.

69.3-72. "Height" means the vertical length of a structure, including any appurtenance installed thereon, or the top of any object of natural growth.

69.3-73. "Home occupation" means any gainful occupation conducted by members of a family entirely within their residence.

69.3-74. "Hotel" means any building or portion thereof, which provides or which is intended to provide meals and/or lodging to guests for direct or indirect compensation, and contains five (5) or more sleeping rooms for such guests, and in which ingress and egress to and from all rooms is made through a central supervised lobby.

69.3-75. Identification sign. *See Sign, Identification sign.*

69.3-76. Illuminated sign. *See Sign, Illuminated sign.*

69.3-77. "Junkyard" means land or buildings where waste is brought, sold, exchanged, stored, baled, cleaned, packed, disassembled, or handled, including, but not limited to scrap metal, rags, paper, rubber products, plastics, glass products, lumber products, products resulting from wrecking or salvage of automobiles or other vehicles, and/or outdoor storage of two (2) or more unregistered vehicles, except as otherwise authorized. Such use shall not include landfill, organic waste, hazardous waste, or toxic material.

69.3-78. "Kennel" means any structure or premises on which six (6) or more domestic animals of one type over five (5) months of age are kept, owned, boarded, groomed, sheltered, protected, bred, or offered for sale or any other merchandising.

69.3-79. "Lagooning" means an artificial enlargement of a waterway.

69.3-80. "Landfill" means a system of trash, waste, refuse, debris, salvaged material, or garbage disposal, in which the waste is buried between layers of soil. Animal waste, agricultural waste, hazardous waste and toxic material are prohibited in a landfill.

69.3-81. "Livestock" means horses, bovine, sheep, goats, pigs, domestic or game fowl, or other animals, that are not domestic animals, ordinarily found on a farm.

69.3-82. "Lot" means a portion or parcel of land considered as a unit.

(a) "Corner lot" means a lot abutting on two (2) or more streets at their intersection.

69.3-83. "Lot line" means a line dividing one lot from another, or from a street or any public place.

69.3-84. "Lot width" means the distance between the side lines of the lot at the building line.

69.3-85. "Manure" means material, especially barnyard or stable dung, often with discarded animal bedding, used to fertilize soil.

69.3-86. "Mobile home" means any vehicle or structure which is, or was as originally constructed, designed to be transported by a motor vehicle and designed, equipped, used, or

intended to be used primarily for human habitation, including any addition, attachments, annexes, foundations, and appurtenances thereto. Excluded under this provision are prefabricated homes and those trailers which are designed as recreational (camping) vehicles or motor homes.

(a) "Class A mobile home" means a new mobile home which has never been used for human habitation.

(b) "Class B mobile home" means a mobile home constructed since 1976 that has been or is currently being used for human habitation and is decent, safe, and sanitary, as determined by an inspector who shall be designated by the Land Commission.

69.3-87. "Mobile office" means any vehicle or structure which is, or was as originally constructed, designed to be transported by a motor vehicle and designed, equipped, used, or intended to be used primarily as an office for a business, service, or industry, including any additions, attachments, annexes, foundations, and appurtenances thereto. "Mobile office" shall not include temporary offices located on a construction site for eighteen (18) months or less.

69.3-88. Mobile mounted sign. *See Sign, Mobile mounted sign.*

69.3-89. "Motel" means a building or group of detached, semi-detached, or attached buildings containing guest rooms or dwellings, with a garage or parking space conveniently located to each unit, and which is designed, used or intended to be used primarily for the accommodation of automobile transients.

69.3-90. "Motor vehicle" means any passenger vehicle, truck, trailer, or semi-trailer propelled or drawn by mechanical power.

69.3-91. Multiple-family dwelling. *See Dwelling, Multiple-family.*

69.3-92. "Navigable waters" means all rivers, streams, lakes, ponds, sloughs, flowages, and other natural or artificial waterways which are floatable by a shallow draft craft-canoe during flooding conditions which are a regularly recurring event.

69.3-93. Non-conforming building. *See Building, Non-conforming building.*

69.3-94. Non-conforming use. *See Use, Non-conforming use.*

69.3-95. "Obstruction" means any hindrance, obstacle or barrier.

69.3-96. "One hundred year flood" means a flood determined to be representative of large floods known to have generally occurred in Wisconsin and which may be expected to occur on a particular stream because of like physical characteristics. The flood frequency of the one hundred year flood is once every one hundred (100) years.

69.3-97. "Ordinary high-water mark" means the point on the bank or slope of a water body up to which the presence and action of waters are so common and usual, and so long contained in all ordinary years, as to leave a distinct mark either by erosion, destruction of terrestrial vegetation, or other easily recognizable characteristics. Where the bank or shore at a particular place is of such character that it is impossible or difficult to ascertain where the ordinary high-water mark is, the ordinary high-water mark adjoining that place on the same stream or lake may be used to determine whether a given stage of water is above or below the ordinary high-water mark for that place.

69.3-98. "Parking space" means a gravel or other all-weather surfaced area whether covered or uncovered, permanently reserved for the intermittent storage of one (1) automobile and connected with a street or alley by a graveled or other all-weather surfaced driveway which affords ingress and egress for an automobile without requiring another automobile to be moved.

69.3-99. "Party of interest" means any party, including a neighbor, county, town, village, city, and/or state, which would be affected by the action of another party to intensify a land use or change the natural character of a shoreland area, including the waterway. Other parties may be considered parties of interest upon substantiating relevancy of the matter to them.

69.3-100. "Pasture" means an area used to graze a relatively low density of animals.

69.3-101. "Permit" means an official document or certificate which authorizes performance of a specified activity.

69.3-102. "Person" means an individual or group of individuals and any firm, association, organization, partnership, trust, company, corporation, family, separate household, state, county, city, village, town, sanitary district, or other government corporation.

69.3-103. "Pollution" means man-made or man-induced alteration of the chemical, physical, biological, or radiological integrity of air or water.

69.3-104. "Prefabricated home" means a non-mobile housing unit, the walls, floors and ceilings of which are constructed at a central factory and transported to a building site where final construction is completed, permanently affixing the unit to the site.

69.3-105. "Premises" means a lot together with all buildings and structures thereon.

69.3-106. Principal building. *See Building, Principal building.*

69.3-107. Principal use. *See Use, Principal use.*

69.3-108. Private garage. *See Garage, Private garage.*

69.3-109. "Private sewage system" means a sewage treatment disposal system serving a single building with a septic tank and soil absorption field located on the same parcel as the building. "Private sewage system" also means an alternative substitute for the septic tank or soil absorption field, a holding tank, a system serving more than one building, or a system located on a different parcel than the building.

69.3-110. "Professional office" means the office of a doctor, practitioner, dentist, clergyman, architect, landscape architect, engineer, lawyer, author, musician, or other recognized profession.

69.3-111. Projecting sign. *See Sign, Projecting sign.*

69.3-112. Public garage. *See Garage, Public garage*

69.3-113. "Public nuisance" means a thing, act, occupation, condition, or use of property which continues for such length of time as to:

- (a) Substantially annoy, injure, or endanger the comfort, health, repose, or safety of the public; or
- (b) In any way render the public insecure in life or in the use of property; or
- (c) Greatly offend the public morals or decency; or
- (d) Unlawfully and substantially interfere with, obstruct, or tend to obstruct or render dangerous for passage any street, alley, highway, navigable waters or other public way, or the use of public property.

69.3-114. Rear yard. *See Yard, Rear yard.*

69.3-115. "Recreational area" means a park, playground, sports field, swimming pool, and/or other facility or area constructed, owned and/or operated by a public or private organization for recreational activity.

69.3-116. "Reservation" means all land within the exterior boundaries of the Reservation of the Oneida Tribe of Indians of Wisconsin, as created pursuant to the 1838 Treaty with the Oneida, 7 Stat. 566, and any lands added thereto pursuant to federal law.

69.3-117. Revolving sign. *See Sign, Revolving sign.*

69.3-118. “Right-of-way” means a parcel of land dedicated to or reserved by a governmental unit for street or sidewalk or other public purposes.

69.3-119. “Roadside stand” means an accessory building not permanently affixed to the ground that is readily removable in its entirety, covered or uncovered, and not wholly enclosed, and used solely for the sale of farm products produced on the premises.

69.3-120. Roof sign. *See Sign, Roof sign.*

69.3-121. Seasonal business sign. *See Sign, Seasonal business sign.*

69.3-122. “Setback” means the minimum distance between the street line or lot line and the outside perimeter of a building, excluding steps, uncovered porches, and permitted encroachments.

69.3-123. “Shorecover” means any vegetation which grows upon the ground and is within a shoreland area.

69.3-124. “Shoreland area” means all lands which are within three hundred (300) feet of a navigable waterway or six hundred twenty-five (625) feet of Duck Creek, all lands which are adjacent to the floodplain and have a slope of twelve percent (12%) or greater, all wetlands, and the bed of all navigable waterways or drainage ways.

69.3-125. Side yard. *See Yard, Side yard.*

69.3-126. “Sign” means any letter, figure, character, mark, plane, point, marquee sign, design, poster, pictorial, picture, stroke, stripe, line, trademark, reading matter or illuminated service, which shall be constructed, placed, attached, painted, erected, fastened or manufactured in any manner whatsoever, so that the same shall be used for the attraction of the public to any place, subject, person, public performance, article, machine or merchandise, which is displayed in any manner outdoors. Types of signs for purposes of this law:

(a) “Electric sign” means a sign containing electric wiring, but does not include signs illuminated by an exterior light source.

(b) “Flashing sign” means any directly or indirectly illuminated sign on which the artificial light is not constant in intensity and color at all times when such sign is in use, except for electronic message centers, which are not considered flashing signs for purposes of this law.

(c) “Free standing sign” means a sign supported by structures or supports that are placed on, or anchored in, the ground, and that are independent from any building or any other structure.

(d) “Ground sign” means a billboard or similar type of sign which is supported by one or more uprights, poles or braces in or upon the ground and not attached to any part of a building.

(e) “Identification sign” means an on-premise sign limited to identification or the name and address of occupants thereon, except that of registered trademarks and corporate logos.

(f) “Illuminated sign” means any sign:

(1) which emanates light either by means of exposed tubing or lamps on its surface, or by means of illumination transmitted through the sign faces; or

(2) illuminated with a light so shielded that no direct rays from it are visible elsewhere than on the lot where illumination occurs.

(g) “Mobile mounted sign” means a temporary sign which is mounted or designed for mounting on wheels or a mobile platform.

(h) "Projecting sign" means a sign other than a wall sign, which projects more than eighteen (18) inches from, and is supported by, a wall of a building.

(i) "Revolving sign" means any sign or portion of a sign which moves in a revolving three hundred sixty (360) degree motion.

(j) "Roof sign" means any sign erected upon a roof or above a parapet of a building.

(k) "Seasonal business sign" means a sign that advertises the sale of seasonal products, such as vegetables, fireworks or Christmas trees.

(l) Wall banner. *See Wall banner*

(m) "Wall sign" means any sign attached to or erected against the wall of a building, with the exposed face of the sign in a plane parallel to the plane of said wall.

(n) "Window sign" means any sign affixed to or visible through an exterior window or an enclosed building.

69.3-127. "Sign structure" means any structure which supports or is capable of supporting a sign. A sign structure may be a single pole and is not required to be an integral part of a building.

69.3-128. "Siltation" means the deposition or accumulation of unconsolidated materials.

69.3-129. Single-family dwelling. *See Dwelling, Single-family dwelling.*

69.3-130. "Storage capacity of the floodplain" means the volume of space directly above the floodplain land that can be occupied by flood water of a given stage at a given time, regardless of whether the water is moving.

69.3-131. "Story" means that portion of a building included between the upper surface of a floor and the upper surface of the floor or roof next above. It is measured as the vertical distance from top to top of two (2) successive tiers of beams or finished floor surfaces and, for the topmost story, from the top of the floor finish to the top of the ceiling joists or, where there is not a ceiling, to the top of the roof rafters.

(a) "Half-story" means a story with at least two (2) opposite exterior sides meeting a sloping roof not more than three (3) feet above the floor of such story.

69.3-132. "Street" means a public right-of-way, generally twenty (20) feet or more in width, which affords a primary means of access to abutting property whether designated as a street, avenue, road, or highway, or other such designation, but not including driveways to buildings.

69.3-133. "Structural alteration" or "structurally altered" means any change other than incidental repairs, in the supporting members of a building, such as bearing walls, columns, beams, or girders, or any change that would increase the floor space, area, or height of a building, or change the exterior dimensions.

69.3-134. "Structure" means anything constructed or erected, the use of which requires a permanent or temporary location on or in the ground, stream bed, or lake bed, which includes, but is not limited to, objects such as buildings, factories, sheds, cabins, mobile homes, gas or liquid storage tanks, bridges, and culverts.

69.3-135. "Substantial detriment" means anything which causes significant pollution, sedimentation (siltation), alteration of water morphology, diminution of aesthetic value, loss of wildlife habitat or disturbance to ecological relationships.

69.3-136. "Townhouse" means a single-family dwelling constructed in a group of three (3) or more attached units in which each unit extends from the foundation to roof and with open space on at least two (2) sides.

69.3-137. "Toxic material" means material which is capable of causing injury to living organisms by chemical means, including disease-causing agents which after discharge and upon

exposure, ingestion, inhalation or assimilation into any organism either directly from the environment or indirectly by ingestion through food chains, will cause death, disease, behavioral abnormalities, cancer, genetic mutations and/or physiological malfunctions.

69.3-138. "Travel trailer" means a vehicular or vehicular portable structure designed as a temporary dwelling for travel, recreation, and vacation use, and includes recreational vehicles, but does not include mobile homes.

69.3-139. "Tribe" means the Oneida Tribe of Indians of Wisconsin.

69.3-140. Two-family dwelling. *See Dwelling, Two-family.*

69.3-141. "Unnecessary hardship" means:

(a) a situation where land cannot yield a reasonable return if used only for the purpose allowed in a district or according to other restrictions of this law, where this situation is due to unique circumstances and not general conditions in the neighborhood; or

(b) a use restriction is so unreasonable as to constitute an arbitrary interference with basic rights of private property.

69.3-142. "Use" means the purpose for which land or a building thereon is designed, arranged or intended, or for which it is or may be occupied or maintained.

(a) "Accessory use" means a use subordinate to and serving the principal use of a lot or building, and located on the same lot as the principal use, and customarily incidental thereto.

(b) "Conditional use" means a planned utilization of land requiring issuance of a permit upon meeting certain specified standards.

(c) "Non-conforming use" means an existing lawful use of a structure, building, or accessory use which is not in conformity with the provisions of this law for the area which it occupies.

(d) "Principal use" means the main use of land or buildings.

69.3-143. "Utility" means a service such as light, power, or water provided by a public utility.

69.3-144. "Variance" means a departure from the terms of this law as applied to a specific building, structure or parcel of land.

69.3-145. "Vision triangle" means the area bounded by two intersecting street, railroad, or alley right-of way lines and a line joining points on such lines located twenty-five (25) feet from the point of intersection or thirty-five (35) feet from the point of intersection if one (1) of the streets is an arterial street. A "vision triangle" bounded on one (1) side by a driveway right of way line may be less than twenty-five (25) feet, if the Zoning Administrator determines that adequate justification has been provided to warrant an exception for a lesser vision triangle size when consistent with good site planning.

69.3-146. "Wall banner" means any temporary sign made of fabric or other flexible material and affixed to a wall or building.

69.3-147. Wall sign. *See Sign, Wall sign.*

69.3-148. "Waste" means anything which is discarded as having no usefulness or any material that is excreted by an organism.

69.3-149. "Water morphology" means the portion of the hydrologic cycle involving surface water. Specifically, the temporal fluctuations and characteristics of surface water flow and interaction of surface water with other components of the hydrologic cycle.

69.3-150. "Waterway" means any depression serving to give direction to a current of water which has a bed and defined banks.

69.3-151. “Wetlands” means areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support; and that, under normal circumstances, do support a prevalence of vegetation typically adapted for life in saturated soil conditions.

69.3-152. Window sign. *See Sign, Window sign.*

69.3-153. “Yard” means an open space other than a court, unobstructed from the ground to the sky, except where specifically provided by this law, on the lot on which a building is situated.

(a) “Front yard” means a yard extending across the full width of the lot, extending from the right-of-way line to the nearest line of the building, excluding steps, uncovered porches, and permitted encroachments. A corner lot shall be construed as having two (2) front yards.

(b) “Rear yard” means a yard extending across the full width of the lot and lying between the rear line of the lot and the nearest line of the building, excluding steps, unenclosed porches, and permitted encroachments.

(c) “Side yard” means a yard between the side line of a lot and the nearest line of the building excluding steps, unenclosed porches, permitted encroachments, and extending from the front lot line to the rear yard. In determining the width of a side yard, the distance of a line running from the outer most point to the building line to a property line shall be determined. This line shall be perpendicular to the property line.

69.3-154. “Zoning Administrator” means the officer charged with the administration and enforcement of this law and includes the designee or duly-authorized representative of the Zoning Administrator.

69.3-155. “Zoning map” means the map or maps created based on the provisions of this law, such as those maps that designate the zoning districts and district overlays of the Reservation.

#### **69.4. Organization**

69.4-1. *Land Commission.* The Land Commission, largely through the Zoning Administrator, shall have the duty and power to carry out the intent and purposes of this law and enforce the provisions of this law. The Land Commission shall:

(a) maintain custody of the zoning maps.

(b) adopt rules and regulations governing the conduct of business and hearings, as it deems necessary.

(c) conduct all of its meetings and hearings in accordance with Tribal law, and make all of its minutes available in accordance with Tribal law.

(d) permit the extension of a district where the boundary line of a district divides a lot held in a single ownership at the time of the passage of this law.

(e) hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by the Zoning Administrator in the enforcement or administration of this law.

(f) authorize variances from the terms of this law, the rezoning of property and amendments to district boundary lines, when appropriate.

(g) decide mapping disputes.

69.4-2. *Zoning Administrator.* There is established a Zoning Administrator who shall:

(a) advise applicants as to the provisions of this law and assist them in preparing permit applications.

(b) issue or deny permits and inspect buildings and land use for compliance with this law.

- (c) keep records of all permits issued, inspections made, work approved, and other official actions.
- (d) report non-conformance with the provisions of this law to the Land Commission.
- (e) prohibit non-conforming uses which have begun subsequent to the adoption or amendment of this law.
- (f) determine the ordinary high-water mark line, the one hundred year flood line and jurisdictional boundaries of the shoreland areas based on the best available information from any reliable source and field observations.
- (g) determine or obtain waste water quality standards.
- (h) coordinate a cross-organization team to use the Comprehensive Plan to develop technical recommendations to the Land Commission.
- (i) investigate violations of this law, give notice thereof, and recommend enforcement in cases where violations remain uncorrected
- (j) make written recommendations to the Land Commission concerning appeals from the denial of permits or concerning applications for permits.
- (k) receive, file, and forward all appeals, variance requests, and mapping disputes to the Land Commission.
- (l) enforce regulations that clarify or explain any provision of this law.
- (m) provide such clerical, technical, and professional assistance as may be required by the Land Commission in the exercise of its duties.
- (n) issue certificates of compliance.
- (o) refer applicants to the Environmental Health and Safety Division for any required environmental review process.

## **69.5. Zoning Maps**

69.5-1. The zoning district into which each parcel of land on the Reservation is placed shall be determined by reference to the zoning maps, which shall consist of one (1) or more maps adopted by and in the custody of the Land Commission.

69.5-2. The zoning maps shall show districts, district overlays, existing and proposed streets, highways, parks, playgrounds and school sites.

69.5-3. *Public Examination.* The zoning maps or exact copies thereof, shall be available for examination by any party of interest during regular business hours.

69.5-4. *Interpretation.* Unless otherwise stated, the zoning maps shall conform to the following standards:

- (a) Districts follow lot lines, and the center lines of roads, streets and/or alleys, as they existed on the date of the adoption of the zoning map.
- (b) Boundaries follow natural divisions and geographical divisions, and the shoreline of a stream, creek, or other body of water shall be construed to follow the center lines of such divisions, streams, creeks, or other bodies of water. Boundaries indicated as approximately parallel to such lines shall be construed as being parallel thereto and at such distances therefrom as indicated on the map.
- (c) If no distance is given, each dimension shall be determined by the use of the scale shown on the map.
- (d) Whenever any street, alley, or other public way is vacated, the zoning district adjoining that of such vacated street, alley or public way shall automatically be extended

to the center of such vacated area and all area included therein shall be then and hence forth subject to all of the regulations of the extended district.

(e) Any area shown on a zoning map as a park, playground, school, cemetery, water body, etc., shall be subject to the zoning regulations of the district in which it is located. In case of doubt, the zoning regulations of the most restrictive adjoining district shall govern.

(f) Where application of these rules of interpretation leaves a reasonable doubt as to the boundaries between two (2) areas, the regulations of the more restrictive area shall govern the entire area in question, unless the Land Commission determines otherwise.

69.5-5. *Mapping Disputes.* The Land Commission shall decide mapping disputes. When the location of a district boundary is established by experience, maps, and/or studies, the elevations, horizontal distances, and reference points (e.g., ordinary high-water mark) so established shall be used to determine the actual location of the district boundary on the land. If such information is not available, the Land Commission may examine any other available evidence that is relevant to determine the actual location of the district boundary on the land. In all cases, the person contesting the location of the district boundary shall be given a reasonable opportunity to present his case to the Land Commission and to submit his own technical evidence if he so desires. The Land Commission shall not allow deviations from the boundary line as mapped unless the evidence clearly and conclusively establishes that the mapped location of the line is incorrect. If possible, Land Commission members shall field investigate appeals that involve mapping disputes.

(a) The Land Commission may request all records of the Zoning Administrator which deal with the situation to aid in their decision of the request or appeal.

69.5-6. *Rezoning Property and Amending District Boundary Lines.* Any interested person may request that property be rezoned or district boundary lines be amended in accordance with 69.13. The Land Commission shall record the amendments on the zoning map within fifteen (15) days after they have been approved.

## **69.6. General Regulations**

69.6-1. The regulations, interpretations, modifications and exceptions set forth in this section shall apply to all districts, unless otherwise specified.

69.6-2. *Yards and Open Space.*

(a) For the purpose of computing front, side, and rear yard dimensions, measurements shall be taken from the nearest point of the wall of the building to the road right-of-way lines, the side lot lines, or the rear lot line, respectively.

(b) No part of a yard or other open space provided about any building for the purpose of complying with the provisions of this law shall be included as part of a yard or other open space required for another building.

(c) No lot areas shall be so reduced that the yards and open spaces are smaller than required by this law.

(d) The required front yard(s) of a corner lot shall not contain any wall, fence, or other structure, tree, shrub, or other growth which may obscure a motorist's vision of traffic.

69.6-3. *Height.*

(a) The height of a building shall be measured as the vertical distance from grade plane to the average height of the highest roof surface.

(b) Where the average slope of a lot is greater than one (1) foot rise or fall in seven (7) feet of horizontal distance from the established street elevation at the property line, one (1) story in addition to the number permitted in the district in which the lot is situated shall be permitted in the downhill side of the lot.

(c) Height limitations, as set forth in this law, shall not apply to church spires, cupolas, water towers, observation towers, flag poles, chimneys, belfries, cooling towers, elevator bulkheads, scenery loft towers, ornamental towers; broadcasting towers, masts of aerials, telephone, telegraph and power poles and lines; microwave relay structures and any necessary mechanical apparatus provided that such structures meet the height limitation requirements of the Airport District Overlay in 69.8-2. However, farm structures exceeding sixty (60) feet from ground level shall require a permit.

(d) Any structure not exempted by (b) or (c) above and more than fifty (50) feet above ground level shall require a permit.

69.6-4. *Encroachments*

(a) Eaves, sills, belt courses, cornices, gutters and ornamental features may project only three (3) feet into a required yard.

(b) Open fire escapes, fireproof outside stairways, and balconies opening upon fire towers, and the ordinary projection of chimneys and flues into a rear yard for a distance of not more than four (4) feet is permitted when they are so placed as to not obstruct light and ventilation.

69.6-5. *Non-Conforming Buildings and Uses.* Except as provided in 69.8-3(e)(4), those buildings and uses already in existence at the time of the adoption of this law or when the land becomes subject to this law shall be allowed to remain in the existing condition until such time as the structure or use is abandoned, removed, or altered. Upon alteration, such structures or uses shall first meet the requirements as set forth in this section.

(a) *Non-Conforming Buildings*

(1) *Alterations.* A non-conforming building shall not be reconstructed or structurally altered unless such building is changed to conform to this law.

(2) *Enlargement.* A non-conforming building shall not be added to or enlarged in any manner, unless such additions or enlargements are made so as to bring said building into conformity with this law.

(3) *Restoration.* A non-conforming building which is damaged to the extent of more than fifty percent (50%) of its market value shall not be restored except in conformity with this law.

(4) *Maintenance.* Normal maintenance of a building containing or related to a lawful non-conforming use is permitted, including necessary non-structural repairs and incidental alterations which do not extend or intensify the non-conforming use.

(b) *Non-Conforming Use.*

(1) *Extension.* A non-conforming use shall not be enlarged or extended to occupy a greater area of land than occupied at the time of the effective date of this law.

(2) No such non-conforming use shall be moved in whole or in part to any other portion of the lot or parcel occupied by such use at the time of the effective date of this law.

(3) If any such non-conforming use of land or building ceases for any reason for a period of more than twelve (12) months, any subsequent use of such land or building shall conform to the regulations specified by this law for the district in which such land is located.

69.6-6. *Lot Provisions.*

(a) Any lot existing upon the effective date of this law in a residential district, which does not meet the minimum requirements of this law as to area or dimensions, may be utilized for dwelling purposes, provided the area and lot dimensions are within seventy-five percent (75%) of the requirements of this law, but said lot of record shall not be more intensely developed unless combined with one (1) or more abutting lots or portions thereof, so as to create a lot meeting the requirements of this law.

(b) If in a group of continuous existing lots under single ownership, any individual lot does not meet the minimum requirements of this law, such individual lot shall not be considered as a separate parcel of land for purposes of sale or development, but must be combined with adjacent lots and/or parcels under the same ownership so that the combination of lots will equal one (1) or more parcels of land, meeting the minimum requirements of this law. No zoning permit may be issued for a lot that does not comply with this paragraph.

(c) Any lot, group of lots, or parcels of land of ten (10) acres or less, or less than three hundred (300) feet in width, created by any means after the effective date of this law shall be approved by the Zoning Administrator. A certified plat of survey shall be provided for all properties created as of the effective date of this law.

(d) Except in the case of Planned Unit Developments, every building and structure hereafter erected, converted, enlarged, or structurally altered shall be located on a lot and in no case shall there be more than one (1) principal building on one (1) lot, except that there may be two (2) or more related multi-family, hotel, motel or institutional buildings on a lot; provided, that

- (1) the required yards be maintained around the group of buildings; and
- (2) buildings that are parallel, or that are within forty-five (45) degrees of being parallel, be separated by a horizontal distance that is equal to the height of the highest building.

(e) On a corner lot, both street lines shall be front lines for applying the yard and parking requirements of this law. Corner lots shall have two (2) front yards.

69.6-7. *Home Occupations.* Any home occupation in existence at the time of the adoption of this law shall be allowed to remain in operation in its existing condition until such time as the operation is declared a public health hazard or a public nuisance or until such time as the occupation is expanded, at which time the following standards shall apply. All home occupations in all R-districts, shall conform to the following standards:

(a) Home occupations shall not include the employment of any persons not residing on the premises.

(b) There shall be no exterior indication other than a sign, as regulated under 69.11, that the premises is used for something other than a dwelling unit.

(c) Any manufacturing business, equipment or activity which produces a fire hazard, noxious matter, or perceptible noise beyond the lot line is prohibited.

(d) No article shall be offered for sale on the premises except such as is produced by such occupation.

(e) Such use shall be clearly incidental and secondary to the use of the dwelling for dwelling purposes.

(f) Clinics, convalescent homes, hospitals, automobile body shops, tea rooms and animal hospitals are examples that shall not be deemed to be home occupations.

69.6-8. *Compliance with Building Code Required.* No permit shall be issued under this law unless the applicant's building plans, including the site plan, if applicable, are compliant with the Tribe's Building Code.

69.6-9. *Fences.*

(a) Fences shall be located in such a way that the entire fence shall be on the property of the owner. Posts and framework shall be placed within the property lines of the owner and the actual fencing material, such as wire, lumber, and/or pickets, shall be placed on the side of the fence which faces the street or the adjacent property.

(b) No fence shall be:

(1) erected or substantially altered without securing a permit from the Zoning Administrator.

(2) allowed or constructed on a road right-of-way.

(3) permitted to remain in a condition that would constitute a public nuisance or dangerous condition, as determined by the Zoning Administrator.

(c) Except as provided in (d), fences and hedges less than four (4) feet high may be located on any part of a lot and fences less than six (6) feet high may be erected on those parts of a lot line that are farther back from a street than the main building.

(d) No fence or hedge more than thirty (30) percent solid or more than thirty (30) inches high may be located within a vision triangle.

(e) If the Zoning Administrator determines that a public nuisance or dangerous condition exists, he shall notify the owner(s) of the condition and their duty to raze, repair, or remove and replace said fence. Should the condition of the fence not be improved within thirty (30) days of notification, the Zoning Administrator may raze said fence, with cost of razing to be billed to the property owner.

69.6-10. *Parking and Driveways.*

(a) All parking spaces required herein shall be located on the same lot with the building or use served, except in the C and M districts and where an increase in the number of spaces is required by a change or enlargement of use or where the parking spaces are provided collectively or used jointly by two (2) or more buildings or establishments; in these cases the required parking space may be located up to three hundred (300) feet from any non-residential building served.

(1) In any case, where the required parking spaces are not located on the same lot with the building or use serviced, or where such spaces are collectively or jointly provided and used, a written agreement to assure their retention for such purposes shall be properly drawn and executed by the parties concerned and shall be filed with the application for a zoning permit.

(2) Where fractional spaces result, the parking spaces required shall be construed to be the nearest whole number.

(b) Except as otherwise provided, a required off-street parking space shall be at least nine (9) feet in width and twenty (20) feet in length, exclusive of access drives, aisles, ramps and columns. A required off-street handicapped parking space shall be at least twelve (12) feet in width and twenty (20) feet in length, exclusive of access driveways, ramps, and columns. The minimum number of required off-street handicapped parking spaces shall be based on the total number of parking spaces in the lot as follows:

Total number of spaces	Number of handicapped spaces
1 to 25	1
26 to 50	2
51 to 75	3
76 to 100	4
101 to 150	5
151 to 200	6
201 to 300	7
301 to 400	8
401 to 500	9
501 to 1000	2% of the total
1001 and over	20, plus 1 for each 100 over 1000

(c) A parking area plan with stall layout shall be submitted with the application for a zoning permit in any district, excluding an R-1 District or an R-2 District.

(1) Dust free parking surfaces shall be striped.

(2) Any off-street parking area, other than that provided for residents, shall provide a suitable fence, wall or evergreen shrub border at least five (5) feet high along all property lines abutting a residential district, except in the required front yard.

(3) Exterior lighting provided in any parking area shall be arranged and shielded so that it is deflected away from adjacent properties.

(4) Whenever a building or use constructed or established after the adoption date of this law is changed or enlarged, in floor area, number of employees, seating capacity or otherwise, to create a need for increase of ten percent (10%) or more in the number of existing parking spaces, such spaces shall be provided on the basis of the enlargement or change.

(5) In the case of mixed uses, the parking spaces required shall equal the sum of the requirements of the various uses computed separately.

(6) Parking may be allowed in designated front and side yard setback areas provided that landscaped buffer of at least ten (10) feet in width from the property line is maintained, unless the applicant can demonstrate that the buffer is impractical.

(d) No motor vehicle repair work of any kind shall be permitted in parking lots.

(e) *Required Spaces.* The following is a list of parking space requirements for specific building and land uses. For a use not specifically mentioned herein, the parking space requirements shall be the same as required for a use of a similar nature.

- (1) Automobile Service Stations: One (1) off-street parking space for each employee on the maximum working shift (minimum of two (2) spaces) plus two (2) off-street parking spaces for each service bay, plus space to accommodate all trucks and other vehicles used in connection therewith.
- (2) Boarding Houses: At least two (2) off-street parking spaces, plus one (1) off-street parking space for each three (3) persons for whom living accommodations are provided.
- (3) Bowling Alleys: At least five (5) off-street parking spaces for each alley, plus such additional spaces as may be required for affiliated uses.
- (4) Business or professional office, studio, bank, medical or dental clinic: Five (5) off-street parking spaces plus one (1) additional off-street parking space for each three hundred (300) square feet or floor area over one thousand (1,000) square feet.
- (5) Churches: At least one (1) off-street parking space for each four (4) seats in accordance with design capacity of the main auditorium.
- (6) Single-family and two-family dwellings: Two (2) off-street parking spaces for each dwelling unit.
- (7) Multiple-family dwelling: Two (2) off-street parking spaces for each dwelling unit except elderly, disabled, and/or handicapped housing project (tenants limited to persons with physical disabilities or handicapped as defined by the Social Security Administration or over fifty-five (55) years of age), one (1) off-street parking space for each dwelling unit.
- (8) Furniture, appliance or implement store, hardware store, wholesale establishments, motor vehicle sales, machinery or equipment sales and service, clothing or shoe repair or service shop: Two (2) off-street parking spaces plus one (1) off-street parking space for each person on the maximum work shift employed therein.
- (9) Hospital, sanitarium, convalescent home, or similar institutions: One (1) off-street parking space for each two (2) beds plus one (1) off-street parking space for each employee on maximum work shift.
- (10) Manufacturing or industrial establishment, research or testing laboratory, creamery, bottling plant, or similar establishment: One (1) off-street parking space for every two (2) employees on the maximum working shift plus space to accommodate all trucks and other vehicles used in connection therewith.
- (11) Motel, hotel or bed and breakfast: One (1) off-street parking space for each sleeping room or suite, plus one (1) off-street parking space for each employee on the maximum working shift.
- (12) Mortuary and funeral homes: at least fifteen (15) off-street parking spaces for each chapel or parlor, plus one (1) off-street parking space for each funeral vehicle maintained on the premises.
- (13) Private clubs and lodge: One (1) off-street parking space for every sixteen (16) square feet of assembly area or one (1) off-street parking space for every two and one half (2½) seats, whichever is greater.

(14) Restaurant, night club, café, dance hall or similar recreational or amusement establishment, or an assembly or exhibition hall without fixed seats: one (1) off-street parking space for every two (2) seats.

(15) Retail store or personal service established not otherwise specified herein: Ten thousand (10,000) square feet or less- one (1) off-street parking space every one hundred fifty (150) square feet and one (1) off-street parking space for every employee on the maximum work shift. Over ten thousand (10,000) square feet- one (1) off-street parking space for every two hundred (200) square feet, and one (1) off-street parking space for each employee on the maximum work shift.

(16) Schools: At least one (1) off-street parking space for each faculty member and other full time employees, plus adequate off-street parking for students who are permitted to drive.

(17) Supermarkets, discount houses, mail order outlets, retail stores and other stores with high customer volume: At least one (1) off-street parking space for each two hundred (200) square feet of floor area plus one (1) off-street parking space per employee on the maximum work shift.

(18) Theaters or Auditoriums: At least one (1) off-street parking space for every two (2) seats in the theater plus one (1) off-street parking space per employee on the maximum work shift.

(19) Day care: one (1) off-street parking space for every seven (7) students and one (1) off-street parking space per employee.

(20) Warehouse: One (1) off-street parking space for every three hundred (300) square feet, one (1) off-street parking space per employee, and space for trucks.

(f) All access driveways of less than fifty (50) feet, and service areas, and all off-street parking areas for more than five (5) vehicles required herein shall be graded and surfaced so as to be dust free and properly drained. All other areas of the lot shall be landscaped.

(g) *Driveways.* Access driveways shall not be placed closer than five (5) feet to any lot line:

(1) The distance between two (2) driveways on the same lot shall be a minimum of fifteen (15) feet.

(2) The maximum width of a single driveway shall not exceed twelve (12) feet at the property line and sixteen (16) feet at the curb. The maximum width of a double driveway shall not exceed twenty (20) feet at the property line and twenty-four (24) feet at the curb.

#### 69.6-11. *Off-Street Loading*

(a) All required off-street loading spaces shall be located on the same lot as the use to be served and no portion of any vehicle shall, while occupying any loading space, project into a street or alley.

(b) Any building, which is to be erected or substantially altered, and which requires the receipt or distribution of materials or merchandise by trucks or other similar vehicles, shall have off-street loading spaces, the number of which shall be sufficient for the operation of the facility, without causing traffic congestion or a traffic hazard on the public approaches to the property.

(c) A required off-street loading space shall be at least twelve (12) feet in width by fifty (50) feet in length, exclusive of aisle and maneuvering space.

- (1) All off-street loading spaces shall be graded and surfaced so as to be dust free and properly drained.
- (2) All off-street loading spaces shall be in the side or rear yards and no overhead doors shall be located in the front of the building except in M-1 and A-1 districts.
- (3) Space allocated for an off-street loading space shall not, while so allocated, be used to satisfy the parking requirement.
- (d) No off-street loading spaces shall be located within twenty-five (25) feet of the nearest point of intersection of any two (2) streets, nor shall they be located in a front yard.
- (e) No storage, motor vehicle repair work, or service of any kind shall be permitted within any required off-street loading space.
- (f) In industrial districts, off-street loading spaces for vehicles of more than two (2) ton capacity shall be located no less than one hundred fifty (150) feet from any residential district.

69.6-12. *Public Nuisances.* It is the intent of this section to prevent persons from using or maintaining their property in any manner which endangers the public's health, safety or welfare; limits the use or enjoyment of neighboring property; or causes or tends to cause diminution of the value of the property of others in the area in which such property is located.

(a) Determining Whether a Public Nuisance Exists. The Zoning Administrator shall determine whether a public nuisance exists and shall consider the following in making that determination:

- (1) the zoning district the lot is located in.
- (2) whether the lot is developed or undeveloped.
- (3) the effect of the potential nuisance on the public and the surrounding property

(b) Glare. Any lighting used to illuminate an off-street parking area, sign or other structure, shall be arranged so as to deflect light away from adjoining residential districts or from public streets.

(c) Storage of Chemicals. All commercial and industrial uses associated with the storage of oil, gasoline, liquid fertilizer or other hazardous materials, shall require a conditional use permit to ensure that fire, explosion, or water or soil contamination hazards are not present that would be detrimental to the public health, safety, and welfare. A certificate of insurance shall be required at the time of application.

(d) Outdoor Storage and Waste Disposal. All raw materials and products shall be stored indoors whenever possible. Outdoor storage facilities for fuel or other bulk materials shall be enclosed by a fence or wall adequate to conceal such facilities from adjacent property. No materials or wastes shall be deposited upon a lot in such form or manner that they may be transferred off the lot by natural causes or forces. All materials or wastes which might cause fumes or dust or which constitute a fire hazard or which may be edible by or otherwise be attractive to rodents or insects shall be stored outdoors only in closed containers. Waste shall be disposed of in a manner which complies with Tribal regulations.

(e) Noise. It shall be unlawful to make, continue or cause to be made or continued, any noise in excess of the noise levels set forth below unless such noise is reasonably necessary for the preservation of life, health, safety or property.

(1) Measurement of noise. Any activity which creates or produces sound regardless of frequency exceeding the ambient noise levels at the property line of any property by more than six (6) decibels above the ambient noise levels as designated in the table below, shall be a violation of this law.

(2) Sounds emanating from the operation of motor vehicles on public highways, aircraft, outdoor implements, such as lawnmowers, snow blowers, hedge clippers, and power saws, pile drivers or jackhammers and other construction equipment, are exempt from the provisions of this section. Sounds emanating from lawful and proper activities at school grounds, playgrounds, parks or places where athletic contests take place, are exempt from the provisions of this section.

<b>Noise Level Table</b>			
	<b>I</b>	<b>II</b>	<b>III</b>
<b>Duration of Sound</b>	7:00 a.m. – 6:00 p.m.	6:00 p.m. – 7:00 a.m.	6:00 p.m. – 7:00 a.m.
	<b>All Districts</b>		<b>Residential District</b>
Less than 10 minutes	75 db	70 db	60 db
Between 10 minutes and 2 hours	70 db	60 db	50 db
In excess of 2 hours	60 db	50 db	40 db

(f) Emission Smoke. No person owning, or in charge of, or operating any fuel burning, refuse burning, combustant, or process equipment, process device, portable boiler, stacks vents or premises, shall cause, suffer, or allow emission or discharge of smoke from any single such source into the atmosphere, the appearance, density, or shade of which is darker than number one and one-half of the Ringelmann Chart, except for one and two family dwellings.

(g) Emission of Particulate Matter, Heat and Glare. Every use shall be so operated that it does not emit heat, particulate matter, or glare in such quantities or degree as to be readily detectable on any boundary line of the lot on which the use is located.

(h) Toxic and Noxious Matter. No use shall discharge toxic, odorous or noxious matter across the boundaries of the lot where it is located in such concentrations as to be detrimental to or endanger the public health, safety, comfort, or welfare, or cause appreciable injury or damage to property or business.

(i) Radioactivity or Electrical Disturbance. Devices which radiate radio frequency energy shall be so operated as not to cause interference with any activity carried on beyond the boundary line of the property upon which the device is located. Radio frequency energy is electromagnetic energy at any frequency in the radio spectrum between ten (10) kilocycles and three (3) million megacycles.

(j) Vibration. Every use shall be so operated that the ground vibration inherently and recurrently generated is not perceptible, without instruments at any point on any boundary line of the lot on which the use is located.

(k) Storage of Vehicles. It shall be unlawful for any person to store or keep any vehicle of any type requiring a license to operate on a public highway without a current license attached, whether such vehicles be dismantled or not, outside of any enclosed building, except in junkyards.

(l) Weeds and Rank Growth. All noxious weeds and other rank growth of vegetation are a public nuisance. In addition to the requirements of (a), the Zoning Administrator shall also consider the type of weed or growth and the height of the weed or growth when determining whether noxious weeds or rank growth exist.

(m) Exterior Storage of Supplies. Exterior storage of scrap lumber, junk, trash, or other debris, including, but not limited to: discarded objects or equipment such as vehicles, furniture, appliances, farm or manufacturing equipment, building materials or litter may be declared a public nuisance.

(n) Building Exteriors. Exterior patchwork, repair or reconstruction which results in a multi-textured or multi-colored effect or appearance not consonant with the décor, architectural design or aesthetics of the rest of such building may be declared a public nuisance.

(o) Storage of Vehicles. A motor vehicle, boat, trailer, recreational vehicle or camping vehicle parked in a front, side and/or rear yard may be declared a public nuisance if:

- (1) it obscures a motorist's vision of traffic; or
- (2) it is not stored or parked on a hard surface, such as concrete, asphalt, brick or gravel.

(p) Other Public Nuisances. No liquid, nor solid wastes, or other adverse influences shall be permitted that will in any way have an objectionable effect upon adjacent or nearby property.

69.6-13. *Fees.* All fees related to the administration of this law shall be approved from time to time by the Oneida Business Committee, upon recommendation of the Land Commission and shall be on record in the office of the Tribal Secretary and the Zoning Administrator.

## **69.7. Districts**

69.7-1. For purposes of this law, the Reservation is divided into the following districts:

- (a) Single Family Residential District (R-1).
- (b) Two Family Residential District (R-2).
- (c) Low Density Multi-Family Residential District (R-3).
- (d) High Density Multi-Family Residential District (R-4).
- (e) Mobile Home Park District (R-5).
- (f) Commercial District (C-1).
- (g) Industrial District (M-1).
- (h) Institutional District (G-1).
- (i) Agricultural District (A-1).
- (j) Conservancy District (T-1).
- (k) District Overlays.
  - (1) Airport District Overlay (AP-1).
  - (2) Protected Area District Overlay (E-1).

69.7-2. *Single Family Residential District (R-1)*. The purpose of this district is to allow low density single family units to be built in designated areas where community sanitary sewer and water are available.

(a) Permitted Uses.

- (1) Single-family dwelling.
- (2) Public parks/Green space.

(b) Accessory Uses.

- (1) One (1) accessory building per lot.
- (2) One (1) private garage per lot.
- (3) Private swimming pools and tennis courts.
- (4) Signs as regulated in 69.11.

(c) Conditional Uses.

- (1) Two-family dwelling.
- (2) Bed and breakfast establishments.
- (3) Churches.
- (4) Schools.
- (5) Public buildings.
- (6) Day care centers.
- (7) Home occupations.
- (8) Group foster home.
- (9) Second accessory building.
- (10) Mobile homes: double wide anchored on a basement or with a crawl space.
- (11) Recreational areas.
- (12) Kennels.
- (13) The raising or keeping of livestock, in accordance with the Regulation of Domestic Animals Ordinance.

(d) Prohibited Uses.

- (1) Junkyards, including automobile salvage and scrap yards.
- (2) Quarries.
- (3) Landfills.
- (4) Any industrial or commercial use.

(e) Standards.

(1) Setbacks.

- (A) Front yard setback: thirty (30) feet.
- (B) Front yard setback-detached garages and accessory buildings: sixty (60) feet.
- (C) Side yard setback-principal garages and accessory buildings: ten (10) feet.
- (D) Rear yard setback: thirty (30) feet.
- (E) Rear yard setback-detached garages and accessory buildings: five (5) feet.
- (F) Conditional use setbacks: front yard- thirty (30) feet; side yard - ten (10) feet; rear yard - fifty (50) feet.
- (G) Where a garage is entered from an alley, it must be kept ten (10) feet from the alley line.

- (2) Minimum lot size, where a public sewer is available: fifteen thousand (15,000) square feet; where private sewage systems are available- one and a half (1½) acres.
- (3) Minimum frontage: one hundred (100) feet.
- (4) Minimum building area: nine hundred fifty (950) square feet. If a building plan is provided that allows for expansion of the original building, phased construction, then phase 1 or the initial building may be a minimum of seven hundred fifty (750) square feet.
- (5) Maximum building area-garage and accessory building: twelve hundred (1,200) square feet or thirty percent (30%) of the rear yard, whichever is less.
- (6) Minimum distance between buildings: ten (10) feet.
- (7) Maximum building height shall not exceed two and a half (2½) stories or thirty (30) feet, whichever is less.
- (8) Parking: Houses without an attached garage shall have at least two (2) off-street parking spaces per unit.
- (9) Home occupations.
- (10) Accessory buildings and uses.
  - (A) No accessory building shall be constructed or use developed on a lot prior to obtaining a permit.
  - (B) All accessory buildings and uses shall comply with the regulations of the zoning district in which they are located.
  - (C) No accessory building, other than a garage, shall be located within any yard other than the rear yard, except on a corner lot, where accessory buildings may also be located in a side yard.
  - (D) No accessory building shall exceed the height of the principal building.
  - (E) Setbacks for buildings relating to raising livestock shall be consistent with the setbacks located in the Regulation of Domestic Animals Ordinance.
  - (F) No access door or other opening of an accessory building shall exceed the height of twelve (12) feet.

69.7-3. *Two Family Residential District (R-2)*. The purpose of this district is to allow two-family dwelling units where community sanitary sewer and water services are available.

- (a) Permitted Uses.
  - (1) Any use permitted in the R-1 District.
  - (2) Two-family dwelling.
- (b) Accessory Uses. Any accessory use permitted in the R-1 District.
- (c) Conditional Uses.
  - (1) Any conditional uses permitted in the R-1 District, except for a two-family dwelling.
  - (2) Convalescent or nursing homes.
  - (3) Boarding houses.
  - (4) Second accessory building.
- (d) Prohibited Uses. Any use prohibited in the R-1 District.
- (e) Standards.

- (1) Setbacks.
  - (A) Front yard setback: thirty (30) feet.
  - (B) Front yard setback-detached garages and accessory buildings: sixty (60) feet.
  - (C) Side yard setback-principal, garages and accessory buildings: ten (10) feet.
  - (D) Rear yard setback: thirty (30) feet.
  - (E) Rear yard setback-garages and accessory buildings: five (5) feet.
  - (F) Conditional uses shall have the following setbacks: front yard-thirty (30) feet; side yard-ten (10) feet; rear yard-thirty (30) feet.
- (2) Minimum lot size: fifteen thousand (15,000) square feet.
- (3) Minimum frontage: one hundred (100) feet.
- (4) Minimum building area: nine hundred fifty (950) square feet for a single-family dwelling; nineteen hundred (1,900) square feet for a two-family dwelling. If a building plan is provided that allows for expansion of the original building, phased construction, then phase 1 or the initial building may be a minimum of seven hundred fifty (750) square feet.
- (5) Maximum building area-garage and accessory buildings: twelve hundred (1,200) square feet per dwelling unit, or thirty percent (30%) of the rear yard, whichever is less.
- (6) Minimum distance between buildings: ten (10) feet.
- (7) Maximum building height shall not exceed two and a half (2½) stories or thirty (30) feet, whichever is less.
- (8) No accessory building, other than a garage, shall be located within any yard other than the rear yard, except on a corner lot, where accessory buildings may also be located in a side yard.
- (9) Parking: Shall have at least two (2) off-street parking spaces per unit.

69.7-4. *Low Density Multi-Family Residential District (R-3)*. The purpose of this district is to allow townhouses and small apartment buildings in those areas most suited for development, where adequate sewer and water services are immediately available.

- (a) Permitted Uses.
  - (1) Any use permitted in the R-2 District.
  - (2) Apartment buildings containing not more than ten (10) dwelling units.
  - (3) Townhouses containing not more than six (6) dwelling units.
- (b) Accessory Uses.
  - (1) One (1) accessory building per lot.
  - (2) Private garage.
  - (3) Private swimming pools and tennis courts.
  - (4) Signs as regulated in 69.11.
  - (5) Recreational areas.
- (c) Conditional Uses.
  - (1) Any conditional use permitted in the R-2 District, except for a kennel.
  - (2) Hospitals.
  - (3) Two (2) or more accessory buildings.
  - (4) Golf courses.

(d) Prohibited Uses. Any use prohibited in the R-2 District.

(e) Standards.

(1) Setbacks.

(A) Front yard setback: thirty (30) feet.

(B) Front yard setback-garages and accessory buildings: sixty (60) feet.

(C) Side yard setback-principal and accessory buildings: twenty (20) feet.

(D) Rear yard setback, including detached garages and accessory buildings: thirty (30) feet.

(E) Conditional uses shall have the following setbacks: front yard-thirty (30) feet; side yard-ten (10) feet; rear yard-thirty (30) feet.

(2) Minimum lot size-fifteen thousand (15,000) square feet, or four thousand (4,000) square feet per unit, whichever is larger

(3) Minimum frontage: one hundred fifty (150) feet

(4) Minimum building area: Nine hundred fifty (950) square feet for a single-family dwelling; nineteen hundred (1,900) square feet for a two family dwelling; six hundred (600) square feet per unit in dwellings with three (3) or more units. In a single-family dwelling or two-family dwelling, if a building plan is provided that allows for expansion of the original building, phased construction, then phase 1 or the initial building may be a minimum of seven hundred fifty (750) square feet per unit.

(5) Maximum building area-garage and accessory buildings: thirty percent (30%) of the rear yard.

(6) Minimum distance between buildings: One and two-family dwellings-ten (10) feet; dwellings with three (3) or more units-twenty (20) feet.

(7) Maximum building height: forty-five (45) feet

(8) No accessory building shall be located within any yard other than the rear yard, except on a corner lot, where accessory buildings may also be located in a side yard.

(9) Parking: At least two (2) off-street parking spaces for each dwelling unit, except for elderly, disabled, and/or handicapped housing projects (tenants limited to persons with physical disabilities or handicapped as defined by the Social Security Administration or over fifty-five (55) years of age), which shall have at least one (1) off-street parking space per unit.

69.7-5. *High Density Multi-Family District (R-4)*. The purpose of this district is to permit large multiple dwelling development in those areas where adequate sewer and water supplies are immediately available.

(a) Permitted Uses

(1) Any use permitted in the R-3 District.

(2) Multiple-family dwellings containing eleven (11) or more units (Apartments).

(3) Townhouses containing not more than ten (10) dwelling units.

(4) Condominiums containing not more than ten (10) dwelling units.

(b) Accessory Uses. Any accessory use permitted in the R-3 District.

(c) Conditional Uses.

- (1) Any conditional use permitted in the R-3 District.
  - (2) Retail shops and restaurants situated entirely within a permitted use, and which are accessible only from the interior of the building, and have no advertising or display which is visible from the outside of the building, and which are primarily intended for use by the residents of the building.
- (d) Prohibited Uses. Any use prohibited in the R-3 District.
- (e) Standards.
- (1) Setbacks.
    - (A) Front yard setbacks—one (1) and two (2) stories: thirty (30) feet; three (3) or more stories: an additional five (5) feet for each story or fractional story over two (2).
    - (B) Front yard setback-detached garages and accessory buildings: sixty (60) feet.
    - (C) Side yard setback—one (1) and two (2) stories: twenty-five (25) feet; three (3) or more stories: an additional three (3) feet for each story or fractional story over two (2).
    - (D) Rear yard setback—one (1) and two (2) stories: twenty-five (25) feet; three (3) or more stories: an additional five (5) feet for each story or fractional story over two (2).
    - (E) Rear yard setback-detached garages and accessory buildings-less than eight hundred (800) square feet: five (5) feet; more than eight hundred (800) square feet and adjacent to a residential district: twenty-five (25) feet; all other detached garages and accessory buildings: five (5) feet.
    - (F) Conditional uses shall have the same setbacks as adjacent uses; provided that the more restrictive setbacks shall apply in cases where adjacent uses are in another district and in cases where adjacent uses vary in setback.
  - (2) Minimum lot size: fifteen thousand (15,000) square feet or four thousand (4,000) square feet per dwelling unit, whichever is greater.
  - (3) Minimum frontage: one hundred (100) feet.
  - (4) Minimum building area-one unit: nine hundred fifty (950) square feet; two (2) units: nineteen hundred (1,900) square feet; more than two (2) units: six hundred (600) square feet per unit; no unit shall have less than six hundred (600) square feet.
  - (5) Maximum building area-garage and accessory building: thirty percent (30%) of the rear yard.
  - (6) Minimum distance between buildings—one (1) and two (2) unit dwellings: ten (10) feet; dwellings with more than two (2) units: twenty-five (25) feet.
  - (7) Maximum building height: three (3) stories or forty-five (45) feet, whichever is less.
  - (8) No accessory buildings, other than a garage, may be located within any yard other than the rear yard, except on a corner lot, where accessory buildings may also be located in a side yard.
  - (9) Parking: At least two (2) off-street parking spaces for each dwelling unit, except for elderly, disabled, and/or handicapped housing projects (tenants limited

to persons with physical disabilities or handicapped as defined by the Social Security Administration or over fifty-five (55) years of age, which shall have at least one (1) off-street parking space per unit.

(10) In any building containing ten (10) or more units, garbage shall be completely enclosed by walls and roof and all garbage shall be stored in completely enclosed containers approved by the Land Commission.

(11) Accessory Buildings: Exteriors of accessory buildings for multiple dwellings having more than ten (10) dwelling units shall have the same exterior finish as the principal building.

69.7-6. *Mobile Home Park District (R-5)*. The purpose of this district is to allow mobile home parks in areas that are so located, designed, and improved as to provide a desirable environment and protection for and from adjoining uses.

(a) Permitted Uses.

(1) Class A and Class B mobile homes in developments of twenty (20) or more lots.

(2) Common recreational facilities.

(3) Community buildings.

(4) Tornado shelters.

(b) Accessory Uses.

(1) Garages.

(2) One (1) accessory building per lot.

(3) Signs as regulated in 69.11.

(4) Recreational areas.

(c) Conditional Uses.

(1) Day care centers.

(2) Home occupations.

(3) Commercial and service facilities that are intended to serve only persons within the mobile home park, provided that such facilities, including related parking areas, shall not occupy, in total, more than five percent (5%) of the area of the mobile home park.

(4) Outdoor storage areas, including those for recreational vehicles, may be located within mobile home parks, provided that they are visually separated from adjoining uses, and provided that such storage areas shall not occupy, in total, more than five percent (5%) of the area of the mobile home park.

(5) Mobile offices, no more than one (1) unit per development.

(d) Prohibited Uses.

(1) Recreational vehicles shall not be occupied as living quarters.

(2) Sales lots shall not be permitted, but dwellings may be sold on lots they occupy in residential use.

(3) The raising or keeping of livestock.

(4) Kennels.

(e) Mobile Home Park Standards.

(1) Minimum acreage: six (6) acres with three (3) exits.

(2) Minimum width of entrances and exits: sixty (60) feet.

(3) Minimum frontage: two hundred (200) feet.

- (4) Minimum number of lots or spaces completed and ready for occupancy before occupancy is permitted: twenty (20) lots.
- (5) Minimum landscaped buffer from adjacent residential zone: fifty (50) feet.
- (6) Tornado shelters shall be able to hold at least the minimum number of people residing in the park.
- (7) Common Recreational Facilities.
  - (A) No less than ten percent (10%) of the total area of any mobile home park shall be devoted to common recreational areas, such as playgrounds, swimming pools, community buildings, ways for pedestrians and cyclists away from streets, and/or other recreational areas in block interiors.
  - (B) At least one (1) principal common recreational area shall contain not less than five percent (5%) of the total area of the development.
  - (C) To be countable as common recreational area, interior block ways for pedestrians or cyclists shall be at least ten (10) feet in width and form part of a system leading to principal destinations. Such ways may also be used for installation of utilities.
  - (D) To be countable as common recreational area, inner block play or recreational areas shall be at least twenty (20) feet in least dimension and shall contain not less than one thousand (1,000) square feet.
  - (E) Common recreational areas shall not include streets or parking areas, shall be closed to automotive traffic except for maintenance and service vehicles, and shall be improved and maintained for the uses intended.

(f) Mobile Home Lot Standards.

- (1) Setbacks.
  - (A) Front yard setback-principal: ten (10) feet.
  - (B) Front yard setback-detached garages: twenty (20) feet.
  - (C) Front yard setback-accessory buildings: fifty (50) feet.
  - (D) Side yard setback-principal and accessory buildings: seven and a half (7½) feet.
  - (E) Rear yard setback-principal: ten (10) feet.
  - (F) Rear yard setback-detached garages and accessory building: five (5) feet.
  - (G) Conditional uses shall have the following setbacks: front yard-twenty-five (25) feet; side yard-twenty-five (25) feet; rear yard-twenty-five (25) feet.
- (2) Minimum mobile home lot size: seven thousand (7,000) square feet.
- (3) Minimum frontage: seventy (70) feet.
- (4) Minimum mobile home area: seven hundred twenty (720) square feet.
- (5) Maximum building area accessory building: thirty (30) square feet.
- (6) Minimum distance between buildings: five (5) feet.
- (7) Maximum height: thirty-five (35) feet.
- (8) No accessory building, other than a garage, may be located in any yard other than the rear yard.
- (9) Parking: at least two (2) off-street parking spaces; parking is not permitted in any setback areas, except in a detached garage setback.

- (10) Landscaping. Except for the mobile home pad, parking, recreational area, and sidewalks, the entire lot shall be seeded or sodded and maintained with grass.
- (11) No more than one (1) unit is permitted per mobile home lot.
- (12) Maximum mobile home coverage: A dwelling unit and its accessory building shall not occupy more than thirty-five percent (35%) of the mobile home lot area. Where a roofed area, such as a carport or outdoor recreational shelter, is open for forty percent (40%) or more of its perimeter, its lot coverage shall be computed as one-half (½) the area covered by the roof.
- (13) Outdoor living area on each mobile lot is required:
  - (A) The outdoor living area shall be no less than three hundred (300) square feet nor more than five hundred (500) square feet.
  - (B) The minimum horizontal dimension of such area shall not be less than fifteen (15) feet.
  - (C) Such outdoor living area shall be properly drained and located for convenience and optimum use.
  - (D) Within such area, a section suitably surfaced for garden furniture shall be provided, not less than one hundred (100) square feet in area nor ten (10) feet in minimum horizontal dimension. This section may be covered in whole or in part by a roof, subject to the limitations on maximum mobile home lot coverage.

69.7-7. *Commercial District (C-1)*. The purpose of this district is to provide relatively compact centers for retail sales and services offering a wide range of goods and services.

(a) Permitted Uses.

- (1) Antique sales.
- (2) Animal hospital and pet shop.
- (3) Art shop, gift shop, picture framing.
- (4) Auction establishments.
- (5) Automobile sales and service establishments.
- (6) Bakery-retail sales on premises only.
- (7) Bank or financial institution.
- (8) Barber shop and beauty parlor.
- (9) Book and stationary store.
- (10) Bowling alley, pool and billiard room, gymnasium, dancing school, dance hall, skating rink, theater.
- (11) Caterer.
- (12) Churches, public schools, parochial schools, and colleges.
- (13) Convention and exhibition hall.
- (14) Dress shop, shoe store, clothing store, dry goods store, notion store, hosiery shop, tailor shop.
- (15) Drive-in restaurants.
- (16) Drug store, pharmacy.
- (17) Florist shop.
- (18) The following retail establishments: food products, grocery store, delicatessen, meat and fish market, fruit and vegetable store, tea and coffee store, package liquor, beer depot.

- (19) Funeral home and/or mortuary.
- (20) Furniture upholstery, refinishing, repairs and sales.
- (21) Hardware and paint stores.
- (22) Hobby goods stores.
- (23) Hospital or sanitarium.
- (24) Household appliance store, plumbing, heating and electrical supplies, crockery store.
- (25) Interior decorating studios.
- (26) Lunchroom, candy store, confectionery store, ice cream store, soda fountain, soft drink stand.
- (27) Marinas and aquatic nurseries.
- (28) Microwave relay structures.
- (29) Motels and hotels.
- (30) Municipal buildings, except sewage treatment plants, garbage incinerators, storage yards, and penal or correctional institutions.
- (31) Video sales and rentals.
- (32) Music store, radio store, and television store.
- (33) Newsstand and news agency.
- (34) Nursing or convalescent home.
- (35) Photographer's studio, photographer's supplies.
- (36) Printing and engraving establishments.
- (37) Private club or lodge.
- (38) Professional offices.
- (39) Public and commercial recreational and community center buildings and grounds.
- (40) Public garage, public or commercial parking lot.
- (41) Public parks.
- (42) Radio and television broadcasting studios.
- (43) Railroad and bus passenger depots.
- (44) Public buildings, philanthropic, and charitable institutions.
- (45) Retail cleaners and dry cleaners.
- (46) Retail monument sales.
- (47) Restaurant, refreshment stand.
- (48) Telegraph and telephone office.
- (49) Television repair and appliance repair shops.
- (50) Cable television sales.

(b) Accessory Uses.

- (1) Signs as regulated under 69.11.
- (2) Accessory uses customarily incidental to the principal use, including the processing or treatment of products clearly incidental to the conduct of the business, located on the premises, provided that said processing or treatment does not occupy more than forty percent (40%) of the total floor area.

(c) Conditional Uses.

- (1) Accessory building, more than one (1) per lot.
- (2) Arcade.

- (3) Automobile body shops.
- (4) Automobile car washes.
- (5) Coin operated cleaning and washing.
- (6) Day care centers.
- (7) Farm implement sales and service.
- (8) Gambling/gaming operations.
- (9) Gas stations.
- (10) Commercial greenhouses.
- (11) Heavy equipment sales and service.
- (12) Mobile home sales and service .
- (13) Repair facilities.
- (14) Taverns.
- (15) Tobacco and pipe stores.

(d) Prohibited Uses.

- (1) Adult entertainment.
- (2) The manufacture, processing, or storage of explosives.
- (3) Exterior storage of any wrecked or untitled vehicle, farm implements, equipment, furniture, etc.
- (4) Hazardous or toxic material storage, manufacture, sales.
- (5) Junkyards.
- (6) Land fills.

(e) Standards.

- (1) Setbacks.
  - (A) Front yard setback-principal building: forty (40) feet.
  - (B) Front yard setback-accessory building: sixty (60) feet.
  - (C) Side yard setback-principal and accessory buildings: five (5) feet.
  - (D) Rear yard setback: five (5) feet, except in the cases where the lot is adjacent to a residential district; in such case the rear yard setback requirements shall be the same as the rear yard setback of the adjacent residential district.
  - (E) Conditional uses shall have the following setbacks: front yard-forty (40) feet; side yard –fifty (50) feet; rear yard –fifty (50) feet, except in cases where the lot is adjacent to a residential district, in such cases the rear yard setback requirements shall be the same on the rear yard setback of the adjacent residential district.
- (2) Minimum lot size: seven thousand two hundred (7,200) square feet.
- (3) Minimum frontage: sixty (60) feet.
- (4) Minimum building area: exclusive of temporary and seasonal facilities shall be not less than one hundred (100) square feet.
- (5) Maximum lot coverage - principal and accessory buildings combined: fifty percent (50%).
- (6) Minimum distance between buildings: ten (10) feet
- (7) Maximum building height: two and a half (2½) stories or thirty (30) feet, whichever is less.

(8) No accessory building shall be located within any yard other than the rear yard, except on a corner lot, where accessory buildings may also be located in a side yard.

(9) Parking. Parking may be provided in the front yard setback, provided that a landscaped buffer of at least ten (10) feet in width from the right-of-way line shall be maintained.

(10) Yard Storage. Wherever a business establishment stores part of its goods, supplies, merchandise, or returnable containers outside the confines of its building, it shall provide an enclosure of a solid fence or its equivalent not less than six (6) feet high around such storage area.

69.7-8. *Industrial District (M-1)*. The purpose of this district is to encourage manufacturing, warehousing, and similar and related uses.

(a) Permitted Uses.

(1) Commercial uses permitted in the C-1 District.

(2) Airports.

(3) Automobile body shop.

(4) Blacksmithing and tinsmithing, machine shop, light sheet metal products.

(5) Colleges and trade schools.

(6) Feed or seed mill.

(7) Commercial greenhouse.

(8) Knitting mills and the manufacture of products from finished fabrics.

(9) Laboratory experiments or testing.

(10) Manufacturing of articles made from previously prepared materials such as: bone, canvas, cellophane, cloth, cork, feathers, felt, fiber, fur, glass, hair, horn, leather, paper, plastics, precious or semi-precious metals or stone, shell, textiles, wax, wire, yarns and the like.

(11) Manufacture of musical instruments, toys, novelties, rubber or metal stamps, and other small, molded rubber products. Fabrication and repair of electric or neon signs or other commercial advertising structures.

(12) Manufacture of products from paper, but not manufacture of paper or pulp.

(13) Manufacture and bottling of beverages.

(14) Manufacture of products from wood, except the manufacture of paper and pulp and plastics.

(15) Manufacture of sporting goods, home and office appliances, and supplies.

(16) Manufacture of cigars, cigarettes, and smoking tobacco.

(17) Municipal buildings.

(18) Wholesale or distributing establishment or warehouse.

(19) Wholesale market.

(20) Other uses of a similar character to the above uses and no more objectionable by reason of the emission of odor, dust, smoke, gas, fumes, noise or vibration.

(b) Accessory Uses.

(1) Such accessory uses as are customary in connection with the foregoing permitted uses.

(2) Living quarters for a watchman or caretaker provided that he is employed on the same premises as the dwelling unit is located.

(3) Signs as regulated under 69.11.

(c) Conditional Uses.

(1) Two (2) or more accessory buildings on one (1) lot.

(2) Cement, brick, or clay products manufacturing.

(3) Concrete batch plant.

(4) Fuel storage (flammable or explosive).

(5) Gas Stations

(6) Metal fabrication.

(7) Planing mill.

(8) Junkyards, including automobile salvage, and scrap and salvage yards, provided that no smelting is permitted on the premises.

(9) Contractors and demolition firms.

(10) Sewage treatment plants.

(11) Garbage incinerators.

(12) Manufacture of goods from plastics.

(13) Manufacture of water heating and treatment equipment.

(14) Painting and enameling.

(15) Railroad spurs.

(16) Repair service and assembly of vehicles, including the repair and storage of automotive accessories, except the wrecking of motor-propelled vehicles.

(17) Service industry such as commercial laundries, cleaners and dry cleaners.

(18) Storage and warehousing of materials.

(19) Truck or transfer terminal, freight house or bus garage and repair shop.

(20) Fuel storage (nonflammable, non-explosive).

(21) Manufacturing, compounding, processing, packaging or treatment of the following goods, materials and products: bakery goods, candy, cosmetics, pharmaceuticals, toiletries, food products - except the following: meat products, sauerkraut, cabbage by-products, vinegar, yeast, and the rendering of fats and oils.

(d) Prohibited Uses.

(1) Any residential use, except caretakers.

(2) Blast furnaces.

(3) Correctional institutions.

(4) Forge plants.

(5) Foundries.

(6) Garbage, recycling, or transfer stations.

(7) Landfills.

(8) Primary metal industries.

(9) Quarries.

(10) Rolling mills.

(11) Schools, except colleges and trade schools.

(12) The manufacture, processing, or distribution of petroleum or coal products.

(13) The manufacture, processing, or storage of explosives.

- (14) The manufacture, processing, storage, or distribution of animals or animal by-products; rendering plants, meat packing, gelatin, glue, soap, or fertilizer manufacturing, slaughterhouse, etc.
- (15) Hazardous or toxic material storage, manufacture, sales.
- (16) Other similar uses as defined by the Zoning Administrator.

(e) Standards.

- (1) Setbacks.
  - (A) Front yard setback: twenty-five (25) feet.
  - (B) Side yard setback: ten (10) feet, except in areas adjacent to residential districts where the setback shall be fifty (50) feet.
  - (C) Rear yard setback: twenty-five (25) feet, except in areas adjacent to residential districts where the setback shall be fifty (50) feet.
  - (D) Conditional uses shall have setbacks as required by the Zoning Administrator; provided that no front nor rear yard setback shall be less than twenty-five (25) feet; and further provided that no side yard setback shall be less than ten (10) feet.
- (2) Minimum lot size: one (1) acre.
- (3) Minimum lot dimension: one hundred fifty (150) feet.
- (4) Maximum lot coverage, principal and accessory buildings: fifty percent (50%).
- (5) Minimum distance between buildings: ten (10) feet.
- (6) Maximum building height: three (3) stories or forty-five (45) feet, whichever is less.
- (7) All open areas of any lot not used for parking, driveways, or storage shall be landscaped with trees, shrubs, berms, or planted ground covers.
- (8) Appearance.
  - (A) All walls which face a public right-of-way shall be deemed front walls for purposes of this paragraph; said front walls shall be faced with decorative masonry. In cases where a building is set back two hundred (200) feet or more from the public right-of-way, said front walls may be partially faced with any material provided that the Land Commission shall give written approval of the specified material prior to issuance of the zoning permit. For the purpose of this paragraph, standard, light-weight, or cinder concrete block with conventional staggered joint design are not considered decorative masonry.
  - (B) All buildings shall be kept in good repair and appearance at all times.
- (9) Parking. Parking may be provided in the front yard setback, provided that a landscaped buffer of at least ten (10) feet in width from the right-of-way line shall be maintained.
- (10) Outdoor storage shall be permitted in side and rear yards only. Said storage shall be screened from any adjacent residential use.

69.7-9. *Institutional District (G-1)*. The purpose of this district is to allow institutional units where community sewer and water services are available.

(a) Permitted Uses.

- (1) Schools.

- (2) Government offices (public buildings).
  - (3) Public parks.
  - (4) Fire, safety, and emergency buildings.
  - (5) Nursing homes and convalescent homes.
  - (6) Assisted living units.
  - (7) Elderly housing.
- (b) Accessory Uses.
- (1) Government garages or accessory building, garages to permitted uses.
  - (2) Recreational area, including public swimming pools and tennis courts.
  - (3) Signs as regulated in section 69.11.
- (c) Conditional Uses.
- (1) Any residential use.
  - (2) Churches.
  - (3) Day care centers.
  - (4) Hospitals, sanitariums and asylums.
- (d) Prohibited Uses.
- (1) Blast furnaces.
  - (2) Correctional institutions.
  - (3) Forge plants.
  - (4) Foundries.
  - (5) Garbage, recycling, or transfer stations.
  - (6) Incinerators.
  - (7) Junkyards.
  - (8) Landfills.
  - (9) Primary metal industries.
  - (10) Quarry.
  - (11) Rolling mills.
  - (12) Sewage treatment plants.
  - (13) The manufacture, processing, or distribution of petroleum or coal products.
  - (14) The manufacture, processing, or storage of explosives.
  - (15) The manufacture, processing, storage, or distribution of animals or animal by-products; rendering plants, meat packing, gelatin, glue, soap, or fertilizer manufacturing, slaughterhouse, etc.
  - (16) Other similar uses as defined by the Zoning Administrator.
- (e) Standards.
- (1) Setbacks.
    - (A) Front yard setback: thirty-five (35) feet.
    - (B) Front yard garages and access buildings: sixty (60) feet.
    - (C) Side yard: ten (10) feet.
    - (D) Rear yard: thirty (30) feet.
  - (2) Minimum frontage: two hundred (200) feet.
  - (3) Minimum building area: one hundred fifty (150) square feet.
  - (4) Maximum building area, garage and accessory building: thirty percent (30%) of the lot.
  - (5) Minimum distance between buildings: fifteen (15) feet.

(6) Maximum building height: forty-five (45) feet or three (3) stories, whichever is less.

(7) No accessory building, other than a garage, shall be located within any yard other than the rear yard, except on a corner lot, where accessory buildings may also be located in a side yard.

69.7-10. *Agricultural District (A-1)*. The purpose of the Agricultural District is to provide a district which will permit extensive portions of the Reservation to retain their rural character and low population density; and to prevent the occurrence of premature scattered urban development which would be uneconomical in terms of providing municipal services, utilities, and schools.

(a) Permitted Uses.

- (1) Single-family or two-family dwellings.
- (2) Living quarters for persons employed on the premises of a permitted use.
- (3) Farm buildings used for growing, harvesting, preparing, and storing crop products for market, or for use on the farm; or for storing and protecting farm machinery and equipment from the elements; or for housing livestock, poultry, bees, or fur bearing animals.
- (4) The growing, harvesting and storage of crops.
- (5) The keeping, raising, or feeding of livestock, poultry, bees or fur-bearing animals.
- (6) Animal hospitals and kennels.
- (7) Riding stables.
- (8) Dairying.
- (9) Horticulture, including floriculture, landscape nurseries, and greenhouses.
- (10) Forestry and game management.
- (11) Orchards.
- (12) Pasture.
- (13) Stands for the sale of agricultural products produced on the premises.
- (14) Public parks.
- (15) Home occupations.
- (16) Buildings and storage for aquaculture, fishery.
- (17) Conservation practices.
- (18) Other uses commonly considered agricultural in nature.

(b) Accessory Uses.

- (1) Buildings accessory to a permitted use.
- (2) Private garages.
- (3) Private swimming pools, ponds, and tennis courts.
- (4) Signs as regulated under 69.11.

(c) Conditional Uses.

- (1) Churches.
- (2) Schools.
- (3) Golf courses, but not including commercial driving tees, ranges, or miniature golf courses.
- (4) Public buildings.
- (5) Cemeteries.
- (6) Commercial radio and television transmission stations.

- (7) Forest harvesting equipment, such as sawmills, maple syrup producing plants, and charcoal plants.
- (8) Airports.
- (9) Quarries.
- (10) Landfills, non-toxic.
- (11) Junkyards.
- (12) Group foster home.
- (13) Meat packing.

(d) Prohibited uses

- (1) Multiple-family dwellings.
- (2) Blast furnaces.
- (3) Correctional institutions.
- (4) Forge plants.
- (5) Foundries.
- (6) Garbage, recycling, or transfer stations.
- (7) Hospitals, sanitariums, or asylums.
- (8) Incinerators.
- (9) Primary metal industries.
- (10) Philanthropic, and charitable institutions.
- (11) Rolling mills.
- (12) Sewage treatment plants.
- (13) The manufacture, processing, or distribution of petroleum or coal products.
- (14) The manufacture, processing, or storage of explosives.
- (15) The manufacture, processing, or storage of animals or animal by-products; rendering plants, gelatin, glue, soap, or fertilizer manufacturing, slaughterhouse, etc.
- (16) Other similar uses as defined by the Zoning Administrator.

(e) Standards.

- (1) Setbacks.
  - (A) Front yard setback: fifty (50) feet.
  - (B) Side and rear yard setback adjacent to agricultural or industrial uses: fifty (50) feet.
  - (C) Side and rear yard setback adjacent to residential or commercial districts: one hundred (100) feet.
  - (D) Conditional uses shall have the same setbacks as permitted uses.
- (2) Minimum lot size: One and a half (1½) acres.
- (3) Location: The minimum lineal distance between dwellings on the same side of the street shall be five hundred (500) feet.
- (4) Minimum building area for dwellings: nine hundred fifty (950) square feet.
- (5) Maximum size for roadside stands: three hundred (300) square feet.
- (6) Minimum distance between buildings: ten (10) feet.
- (7) Maximum height of dwellings: two and a half (2½) stories or thirty (30) feet, whichever is less.
- (8) Maximum height of farm buildings: sixty (60) feet.
- (9) Maximum height of roadside stands: ten (10) feet.

(10) Parking: at least two (2) off-street parking spaces for each dwelling located on the lot, plus at least one (1) off-street parking space for each employee plus space to accommodate all vehicles used in connection with the permitted use thereon.

69.7-11. *Conservancy District (T-1)*. The purpose of the Conservancy District is to protect and preserve the health and integrity of natural systems and areas of cultural and historic importance.

(a) Permitted Uses.

(1) Harvesting wild crops, including, but not limited to, ferns, wild rice, mushrooms, berries, fruit, and seeds.

(2) Hunting, trapping and fishing.

(3) Forestry.

(4) Wildlife preserves and scientific areas.

(b) Accessory Uses. There are no accessory uses in the Conservancy District.

(c) Conditional Uses.

(1) Hiking trails, bridle trails, and bike paths.

(2) Buildings used solely in conjunction with raising waterfowl, minnows, and other similar lowland animals, fowl, or fish.

(3) Docks, boathouses, and boat landings.

(4) Bridges, fences or waterway obstructions, such as dams.

(5) Parks and swimming areas.

(6) Filling, grading, lagooning, dredging, and excavating.

(7) Parking areas.

(d) Prohibited Uses. Every use not listed above is a prohibited use, except as may be approved by the Land Commission as a conditional use.

## **69.8. District Overlays**

69.8-1. In addition to the districts outlined in 69.7, the Reservation has district overlays that restrict the permitted uses of the underlying district. All uses allowed in the underlying district, as provided in 69.7 shall continue to be permitted, provided that the use meets the restrictions of any applicable district overlay, as set forth in this section.

69.8-2. *Airport District Overlay (AP-1)*. It is the purpose of this district overlay to regulate the use of property and to regulate and restrict the height of structures and objects of natural growth in the vicinity of an airport to promote the health, safety, and general welfare of the general public, to increase safety in the use of the airport, and to protect persons and property within the Airport District Overlay. The recommendations take into account the need to protect approaches to the airport from incompatible land uses that would limit or adversely affect the airport's ability to serve the present and future air transportation needs of the Reservation and surrounding areas. The Airport District Overlay shall extend over all lands and waters within three (3) miles of the boundaries of the airport.

(a) Use Restrictions. Notwithstanding any other provisions of this law, no use may be made of land or water within the Airport District Overlay in such a manner as to create electrical or electronic interference with navigational signals or radio or radar communication between the airport and aircraft; no use or installation of flashing or illuminated advertising or business signs, billboards or other type of illuminated structure which would be hazardous for pilots because of the difficulty in distinguishing between

airport lights and others, or which result in glare in the eyes of pilots using the airport, thereby impairing visibility in the vicinity of the airport or endangering the landing, taking off, or maneuvering of aircraft; or use which would emit a discharge of smoke that would interfere with the health and safety of pilots and the public in the use of the airport, or which would otherwise be detrimental or injurious to the health, safety and general welfare of the public in the use of the airport.

(b) Exceptions. The restrictions contained in this section shall not apply to legal fences or to farm crops which are cut at least once each year.

(c) Height Limitations. No structure, tree or growth shall be erected, planted or altered, allowed to grow or be maintained to a height in excess of the applicable height limitations contained within the Tribal Airport Height Limitation Map on file in the office of the Zoning Administrator. The permitted height shall not exceed the difference between the grade elevation and the height limitation numbers shown on the Tribal Airport Height Limitation Map.

(d) Hazard Marking and Lighting. Any permit or variance granted pursuant to this law may require the owner of a structure, trees or growth to permit the owner of the airport, at its own expense, to install, operate, and maintain thereon such markers or lights as may be necessary to indicate to pilots the presence of a hazard. Prior to installation of any such markers or lights, the owner of the airport shall receive a permit from the Zoning Administrator.

(e) Removal. The Zoning Administrator shall cause any structure to be removed or any tree or growth to be pruned or removed, if he determines that such structure, tree or growth violates or is about to violate the provisions of this section. Except in cases of an emergency, the Zoning Administrator shall give the property owner a twenty four (24) hour written notice to remove the structure, tree, or growth which is in violation. Upon failure to comply with this notice, the Zoning Administrator shall remove the violating structure, tree, or growth at cost to the property owner.

(f) Creation of Districts. For the purpose of this law, the lands and waters within three (3) miles from the boundaries of the airport are divided into the following zoning districts, with requirements for each district as set forth in (1) through (3) below.

(1) District A. Noise Cone/Crash Hazard.

(A) District A shall include areas which, due to the operation of aircraft, have a noise rating of 65 ldn or greater and are within the aircraft crash hazard area.

(B) Permitted uses shall be in addition to the limitation on those permitted by the underlying district except for prohibited uses provided that they meet the height restrictions of this law.

(C) Prohibited uses include: residential (except that directly related to a farm operation that exceeds thirty-five (35) acres and includes sound proofing construction techniques that provide a minimum of twenty (20) decibels extra noise reduction over current industry standards), hospitals, churches, schools, theaters, amphitheaters, stadiums, campgrounds, any construction activity or use that would encourage the concentration of bird (avian) populations, places of public or semi-public assembly and any other structure or use which may be susceptible to being adversely

affected by loud and extensive noise or would interfere in the use or operation of the airport.

(2) District B. Overflight/Noise.

(A) District B shall include areas subject to noise levels and crash hazards resulting from frequent overflights of aircraft and to encourage land uses which, with proper construction, will not be adversely affected by such noise and are compatible with the airport's activities and operations.

(B) Permitted uses shall be those permitted by the underlying district, provided that they meet the height restrictions of this section.

(3) District C. Height/ Noise.

(A) District C shall include all areas within three (3) miles of the airport boundaries. Whenever a person within this district applies for a zoning permit, he shall be informed by the Zoning Administrator of the amount of the property located within the district. The Zoning Administrator shall inform the applicant of construction or remodeling techniques that would decrease the noise associated with the airport operation. These techniques include additional insulation and air conditioning.

(B) Permitted uses shall be all uses permitted in the underlying district, provided that the use meets the height restrictions of this section.

69.8-3. *Protected Area District Overlay (E-1)*. The purposes of the Protected Area District Overlay are to preserve ecological relationships, natural resources, and aesthetic, cultural and historical values; and to protect the health and integrity of wetlands, watersheds, natural systems, environmental corridors, capacities of floodways and drainages, and other areas of significance, such as historical and cultural sites.

Permitted uses in the Protected Area District Overlay of the Reservation shall be planned and managed in a manner to minimize, insofar as practicable, any resultant damage to the ecology, environment and capacities of natural systems; and the long term health and preservation of cultural historical resources of the Reservation.

(a) This district overlay shall extend over

(1) All navigable waters, drainage ways, shoreland areas and floodplains.

(2) Habitats of endangered or threatened species as defined by federal or state law.

(3) Historical, cultural or archeological resources, as defined by Tribal law.

(b) Permitted Uses.

(1) Any use permitted within the Conservancy District.

(c) Conditional Uses.

(1) Any activity within a shoreland area, other than a permitted use.

(2) Non-structural industrial or commercial uses such as loading areas, parking areas, and airport landing strips.

(3) Private and public uses such as: golf courses, tennis courts, driving ranges, archery ranges, game farms, fish hatcheries, shooting preserves, target, trap and skeet ranges, hiking trails, bridle trails and bike paths.

(4) Residential uses such as: lawns, gardens, parking areas, and play areas.

(5) Uses or structures accessory to open space.

- (6) Uses or structures accessory to permitted uses.
  - (7) Sewage treatment plants.
  - (8) Ponds, if in the floodplain.
  - (9) Additional uses as approved by the Land Commission
- (d) Prohibited Uses. Every use not listed above is a prohibited use, except as may be approved by the Land Commission as a conditional use.
- (e) Standards.
- (1) Setbacks.
    - (A) All structures, except structures which have a function which makes it necessary for an on or near water location (e.g., boathouses and bridges) or are otherwise regulated within this law, shall be at least seventy-five (75) feet from the ordinary high-water mark of navigable waters or a drainage way.
    - (B) On-site sewage disposal systems shall be at least fifty (50) feet from the ordinary high-water mark of navigable waters or a drainage way.
    - (C) Setbacks for pastures and agricultural uses, such as cultivating, cropping, fertilizing and applying pesticides: thirty-five (35) feet from the ordinary high-water mark.
    - (D) Setbacks for feedlots and barnyards: one hundred (100) feet from the ordinary high-water mark.
    - (E) Setbacks for waste disposal or the storage of scrap materials, by-products, raw materials, or marginal products such as fill material, pulp wood, sand and gravel: one hundred (100) feet from the ordinary high-water mark.
  - (2) All roads, bridges and railroads shall only cross navigable waters or drainage ways upon issuance of a permit. All such construction shall minimize the area affected and vegetation and environmental damage (e.g., siltation, destruction of natural vegetation, degradation of aesthetics) to navigable waters and drainage ways and the lands adjacent to them. All waterway crossings shall minimize obstruction to water flow. Roads, bridges and railroads:
    - (A) Shall have adequate flood proofing measures provided to a height at or above the flood protection elevation.
    - (B) Shall be constructed to minimize any increase in the one hundred year flood elevation. No increase in the one hundred year flood elevation shall exceed one-tenth (0.1) of a foot. Also, no increase in the one hundred year flood elevation shall be allowed unless appropriate arrangements are made with all affected parties.
  - (3) Removal of shorecover shall be conducted in accordance with any applicable Tribal law.
  - (4) The following non-conforming uses which were in existence at the time of the original adoption of this law shall conform to the provisions of this law within three (3) years following the date each case is recorded as a non-conforming use:
    - (A) Setbacks for pastures.
    - (B) Setbacks for any agricultural uses.
    - (C) Setbacks for feedlots and barnyards.

(D) Setbacks for waste disposal or the storage of other materials, as covered in 69.8-3(e)(1)(E).

(5) Floodplains. No structure, fill, deposit, obstruction, or other use may be allowed in the floodplain which, acting alone or in combination with existing or future uses, unduly affects the capacity of the floodway, unduly increases flood heights, or unduly diminishes the storage capacity of the floodplain.

(A) Structures in a floodplain:

(i) Shall not be designed for human habitation.

(ii) Shall have a low flood damage potential.

(iii) Shall be constructed and placed on the building site so as to offer minimum obstruction to the flow of flood waters. Wherever possible, structures shall be constructed with the longitudinal axis parallel to the direction of flow of flood waters and will be placed with their longitudinal axes approximately on the same line as those of adjoining structures.

(iv) Shall be firmly anchored to prevent them from being washed away by flood waters.

(v) Shall have all service facilities such as electrical and heating equipment at or above the flood protection elevation.

(B) Compliance with this law shall not be grounds for the removal of lands from the floodplain unless such lands are filled to a height of at least two (2) feet above the elevation of the one hundred year flood for the particular area and are contiguous to other lands lying outside the floodplain.

(C) Fill or deposition of materials:

(i) Shall be protected against erosion by riprap, vegetation cover, sheet piling, or a bulkhead.

(ii) Shall have some beneficial purpose and no more than is necessary to achieve that purpose shall be deposited, a plan shall be submitted by the owner showing the uses to which the filled land will be put and the final dimensions of the proposed fill.

(D) All construction and substantial improvements to utilities, sewage disposal systems and wells shall be flood proofed at or above the flood protection elevation.

(E) The type of equipment to be used in a project shall be identified in the permit.

(F) Existing Structures in the Floodplain. No modifications or additions shall be allowed to any existing structures which are not in compliance with permitted floodplain standards or uses, unless such modifications or additions meet all of the following criteria:

(i) The modifications or additions to structures shall not increase the amount of obstruction to flood flows.

(ii) Any addition to a structure shall be flood proofed, by means other than the use of fill, to at or above the flood protection elevation.

(iii) No structural repairs, modifications, or additions to a structure as long as use continues shall exceed fifty percent (50%) of the assessed value of the structure adjusted to the most current equalized value for that area, unless the work places the structure in conformance with this law.

(iv) Flood Proofing. Flood proofing measures shall be designed consistent with an elevation at or above the flood protection elevation to withstand flood velocities, forces, and other factors associated with flooding. All flood proofing shall provide anchorage to resist flotation and lateral movement.

### **69.9. Planned Unit Developments (PUDs)**

69.9-1. Planned Unit Developments (PUDs) provide for a greater variety and choice of design for urban living, gain efficiencies, coordinate design development efforts, conserve and make available open space, utilize new technologies for urban land development and gain flexibilities over conventional land control regulations. A PUD shall not be used as a device for circumventing the Tribe's development regulations, but shall be employed in instances where there is truly some benefit to be derived from its use for the community and for the developer. A PUD allows for flexibility not available under normal zoning district requirements and may include a combination of land uses.

69.9-2. Application for a PUD may be made for land located in any zoning district pursuant to conditional uses, and this section.

(a) The requirements for setback, lot width and percentage of lot coverage stated in individual zoning classifications shall not apply to PUDs. In specific cases, the requirements for off-street parking and minimum area as stated in individual zoning classifications may be reduced. These requirements shall be controlled by the criteria and standards of this section and as shown on the approved PUD plan.

(b) Requirements of this section shall apply to all PUDs. All actions of the Land Commission relative to a PUD shall be made after recommendations by the Zoning Administrator.

69.9-3. *Types of PUDs.* The following types of PUDs may be established by approval on any existing zoning district or districts as noted below. The area included in each approved PUD shall be indicated on the zoning map. The options for use are as follows:

(a) PUD-R: Planned Residential Districts in R-2, R-3, R-4 and R-5. It is the intent of this section that any residential property which is under single ownership and contains three (3) or more acres may be developed as a PUD-R. Within the PUD-R District the following uses and densities may be permitted subject to the approval of the Land Commission.

(1) Uses allowed in the residential district or permitted as a conditional use in the residential district or districts noted above.

(2) Commercial centers may be permitted in a PUD-R if the PUD contains fifty (50) or more dwelling units. Such commercial centers shall be subject to the following requirements:

(A) Such centers, including parking, shall be included as an integral part of the PUD and shall not occupy more than five percent (5%) of the total

area of the PUD. Commercial uses in any development shall not be open for use prior to issuance of the certificates of occupancy for fifty percent (50%) of the dwelling units.

(B) All restrictions applicable to the C-1 District are applicable in a commercial center in a PUD-R District.

(C) Such establishments shall be located, designed, and operated primarily to serve the needs of the persons within the PUD. These buildings shall be architecturally compatible using similar materials, geometry, topographic relationships, color and lighting to minimize its effects on the environment of existing or future residential uses adjacent to it.

(3) The total number of dwellings permitted in the PUD-R shall be determined by dividing the total project acreage (not including public rights-of-way) by the area required per unit in that zoning district.

(4) If common open space is remaining and is acceptable to the Land Commission as is offered to the Tribe, such dedication shall not be considered as partial or total fulfillment of park and open space dedication.

(5) Upon review of a PUD-R proposal, if special circumstances exist in regard to land usability, topographical characteristic, or natural assets of the site to be preserved, the Land Commission may authorize up to a twenty percent (20%) increase in density over the district requirement if the following criteria are met:

(A) The architecture utilizes existing topography, recognizing the character of the area and reflecting it in the materials and layout.

(B) Unique natural features are preserved, pedestrian and vehicular circulation is separated, and open space is integrated.

(C) Design-unified cohesive development, focal points (cluster of seating, art forms, water feature) for orientation and interaction, variety of scale.

(D) Compatibility with natural landscape, separation of individual units of privacy.

(E) Convenient, well defined access.

(F) Compatibility with ultimate plans for school service area and size of buildings, park systems, police and fire protection standards and other facilities public or private.

(6) Provision for low and moderate income housing and government subsidized housing is permitted in any PUD-R. If required, the number of low and moderate income units shall be determined by the Tribe in accordance with current Tribal policies and ability to properly service public needs.

(b) PUD-C: Planned Commercial District in C-1. The PUD-C district is created to provide for the development of planned business and shopping centers and mixtures thereof. It is intended to promote the grouping of professional offices and retail commercial uses and to provide areas of sufficient size to establish harmonious relationships between structures, people, and vehicles through the use of well-planned parking access, pedestrian walkways, courtyards, walls, and other open spaces. This district should offer a wide variety of goods and services. Any commercially zoned area

three (3) acres or more in size may be developed as a PUD-C district. Uses permitted in the commercial zoning districts are permitted in the PUD-C district.

(c) PUD-M: Planned Industrial District in M-1. The PUD-M district is created to provide for the development of planned industrial areas. It is intended to promote the grouping of industrial uses and to group these uses in such a manner that they provide well-planned parking and access, landscaped open areas, and harmonious relationships between structures. Any industrial area over five (5) acres not included in existing industrial parks may be developed as a PUD-M. Uses permitted in industrial zoning districts are permitted in the PUD-M district.

69.9-4. *General Standards.* The following provisions apply to all PUD districts:

(a) The setback, lot width and lot coverage requirements as stated in individual zoning districts shall not apply to PUDs, rather PUDs shall be governed by individual site limitations as approved by the Land Commission.

(b) The number of off-street parking spaces in each PUD shall not be less than the requirements as stated except that the Land Commission may increase or decrease the required number of off-street parking spaces in consideration of the following factors:

(1) Probable number of cars owned by occupants of dwellings in the PUD.

(2) Parking needs of any non-dwelling uses.

(3) Varying time periods of use, and whatever joint use of common parking areas is proposed. Whenever the number of off-street parking spaces is reduced because of the nature of the occupancy, the Tribe shall obtain assurance that the nature of the occupancy will not change.

(c) In any PUD involving residential uses that receives a density bonus and has lot sizes that are reduced below the minimum required within the residential district, an amount of land equal to that created through the reduction in required lot sizes shall be reserved, to be held for the mutual use of the residents of the PUD. This shall be accomplished by holding, developing and/or maintaining the land as common open space, which shall be administered through a homeowner's association; or dedicating the land for public use, with the Tribe's acceptance. Land amassed as open space through the reduction of lot sizes shall not be considered as part of any land dedication requirement of the Tribe.

(d) Signs shall be regulated pursuant to 69.11.

69.9-5. *PUD Application Procedure.* All applications for a PUD shall comply with the procedures set forth below and in accordance with any conditional uses.

(a) Pre-Application Conferences. Prior to submitting an application, the applicant shall confer with the Tribe's Planning Department in order to:

(1) become acquainted with the PUD procedures and related Tribal requirements;

(2) verify consistency with established Area Development Plans and/or the Comprehensive Plan;

(3) obtain a written list of what the application shall include; and

(4) obtain copies of any guidelines or law interpretations.

(b) Submission and Review of the Application

(1) An applicant shall make application for the approval of the PUD to the Zoning Administrator. The applicant shall present his application along with a preliminary development plan, an application for any required permits, a filing

fee, and a deposit, if any, for the estimated cost of all landscaping improvements required by the preliminary development plan. The filing fee and deposit schedule for PUD applications shall be recommended by the Land Commission and approved by the Oneida Business Committee.

(2) The preliminary development plan shall include both the development plan map and a written statement of procedures. The preliminary development plan shall indicate sufficient areas surrounding the proposed PUD to demonstrate the relationship of the PUD to adjoining existing and proposed uses.

(3) The development plan map shall be drawn at a maximum scale of one inch (1") equals one hundred (100) feet for PUDs under one hundred (100) acres. PUDs greater than one hundred (100) acres shall be drawn at a scale determined as mutually acceptable by the developer and the Zoning Administrator.

(4) The development plan map shall contain the following information:

(A) The existing topographic characteristics of the land at a contour interval of two (2) feet or less.

(B) The existing and proposed land uses.

(C) The location and proposed use of all proposed buildings.

(D) The type and character of proposed development to include general architectural design floor plans and elevations, types of building materials to be used and, when appropriate, the proposed number of dwelling units per net acre.

(E) The proposed location of all streets, driveways and parking areas.

(F) The proposed location and size of public uses including schools, parks, playgrounds, swimming pools, and other open spaces.

(G) Floodplain and surface drainage plan, including but not limited to grades at two (2) foot contour levels, location of ponds, ditches, soil types, and water table.

(H) A generalized landscaping and tree planting plan for open spaces, screening and parking development areas, etc.

(I) Location of all easements, and their width and purpose.

(5) The written statement of procedures in the preliminary development plan shall contain the following information:

(A) A brief description of unique project design needs that make the planned unit approach advantageous to the Tribe and developer.

(B) A statement of the present ownership and legal description of all the land included within the PUD.

(C) A list of the owners of abutting properties and properties located within one thousand two hundred (1,200) feet of property lines of the land included in the PUD complete with their addresses from available Tribal, town and/or county records.

(D) An anticipated schedule of development.

(E) Proposed agreements, provisions or covenants which govern the use, maintenance and continued protection of the PUD and any of its common areas.

(6) The development plan map and written statement of procedures shall be in sufficient copies to distribute among reviewing agencies as determined by the Land Commission.

(7) The Land Commission or Zoning Administrator may request the applicant submit any other information or exhibits deemed pertinent in evaluating the proposed PUD.

69.9-6. *Approval of Application.*

(a) Within forty-five (45) days after the application is filed, the Land Commission shall disapprove, approve or approve with modifications the application and give reasons for its decision.

(b) The Land Commission shall notify the applicant of its decision in writing.

(c) A permit shall be granted on the same date as the approval of the application.

(d) Approval of the application shall be valid for one (1) year. An extension of one (1) year approval time may be granted by the Land Commission if requested in writing not less than one (1) month before the expiration date.

(e) Requests for an extension of a permit shall be made simultaneously with the request for an extension of the application.

69.9-7. *Final Development Plan*

(a) No changes shall be made to the approved development plan during the construction of the PUD, except upon application to the appropriate agency under the procedures provided below:

(1) Minor changes in the location siting and height of buildings and structures may be authorized by the Zoning Administrator, if unforeseen problems and implementation of the project should occur. No change authorized by this section may increase or decrease the dimensions of any building or structure by more than ten percent (10%).

(2) Major changes which are inconsistent with the approved development plan may be approved by the Land Commission. Such changes may be made only for the following reasons:

(A) Changes in conditions that have occurred since the preliminary development plan was approved.

(B) Change in the development policy of the Tribe.

(C) Unforeseen conditions.

(3) "Major changes" means:

(A) Change in use;

(B) Increase in density;

(C) Rearrangement of lots, blocks or buildings;

(D) Change in architectural design or style;

(E) Change in type of ownership;

(F) Change of more than ten percent (10%) in total floor area;

(G) Major modification to the landscape plan;

(H) Reduction in proposed open space;

(I) Change in development schedule;

(J) Change in the road location or standards; and/or

(K) Any changes determined to be major by the Land Commission.

(b) From time to time the Zoning Administrator shall compare the actual development accomplished in the PUD with the approved development schedule. If the owner or owners of property in the PUD have failed to meet the approved development schedule without cause, the Zoning Administrator may recommend and the Land Commission may initiate legal proceedings. Upon recommendation of the Zoning Administrator and for good cause shown by the property owner, the Land Commission may extend the limits of the development schedule.

(c) The final development plan, which may reflect the entire preliminary development plan or any logical part thereof, shall be submitted within one (1) year following the approval of the preliminary development plan, unless written request is made for an extension, for up to one (1) year, and approved by the Land Commission.

(d) The final development plan, with supplemental information in report form, shall be prepared at a scale of not less than one (1) inch equals one hundred (100) feet; submitted in sufficient detail to evaluate the building design, and other features of the PUD. Submittal of the final development plan shall include the following minimum information:

- (1) The existing and proposed topographic characteristics of the land;
- (2) Proposed land uses;
- (3) The location and size of all existing and proposed structures and improvements;
- (4) The maximum height of all buildings;
- (5) The density and type of buildings;
- (6) Internal traffic and circulation systems, off-street parking areas, service areas, loading areas, and major points of access to public rights-of-way;
- (7) The location, height, and size of proposed signs, lighting, and advertising devices;
- (8) Areas which are to be conveyed, dedicated or reserved as common park areas, including public parks and recreational areas and as sites for schools and other public buildings;
- (9) A detailed landscaping plan, showing the spacing, size and specific types of landscaping materials; existing vegetation and trees; and existing vegetation and trees to be removed.
- (10) Proposed development schedule as required in the preliminary development plan.
- (11) Location of all necessary utility easements.
- (12) A final grading and drainage plan which shall contain, at a minimum:
  - (A) Provisions to carry runoff;
  - (B) Location of ponds as well as depth and area;
  - (C) Soil locations and type;
  - (D) Water table identification;
  - (E) Location of flood hazard areas;
  - (F) Flood plans and flood elevation; and
  - (G) Building elevations.
- (13) Copies of any special agreements, conveyances, deed restrictions, or covenants, which will govern the use, maintenance and continued protection of

the PUD and any of its common park areas shall accompany the final development plan.

(14) The applicant may submit any other information or exhibits he deems pertinent in evaluating the proposed PUD.

69.9-8. *Approval of Final Development Plan.*

(a) The Zoning Administrator shall review the final development plan within thirty (30) days of receiving said final plan and shall forward it to the Land Commission for final action.

(b) The Land Commission shall approve the final development plan within thirty (30) days of the Zoning Administrator action, if the plan is in substantial compliance with the preliminary development plan.

(c) Failure of the Land Commission to act within thirty (30) days shall be construed as approval.

69.9-9. *Control of PUD After Final Development Plan Approval.*

(a) After approval of the final development plan has been granted, the use of the land and the construction, modification or alteration of any buildings or structures within the PUD shall be governed by the approved final development plan rather than by any other provisions of this law.

(b) After final approval, no changes may be made in the final development plan, except upon application to the appropriate agency under the procedures provided below:

(1) Any minor extension, alteration, or modification of existing buildings or structures may be authorized by the Zoning Administrator if they are consistent with the purposes and intent of the final development plan. No change authorized by this section may decrease or increase the dimension of any building or structure by more than ten percent (10%).

(2) Any uses not authorized by the final development plan, but permitted in the PUD as a principal, accessory, or other use under the provisions of the underlying zoning district in which the planned development is located may be added to the final development plan under the procedures provided by this law or the approval of the use.

(3) A building or structure that is totally or substantially destroyed may be reconstructed only in compliance with the final development plan or amendments thereof approved under (1) and (2) above.

(4) Changes in the use of common open space may be authorized by an amendment to the final development plan under (1) and (2) above.

(5) All other changes in the final development plan shall be made by the Land Commission under the procedures authorized by this law. No changes shall be made in the final development plan unless said changes are found to be required:

(A) For continued successful functioning of the PUD; or

(B) By change in conditions that have occurred since the final development plan was approved; or

(C) By changes in the development policy of the Tribe.

(c) No changes in the final development plan which are approved under this section are to be considered as a waiver of the provisions limiting the land use, buildings, structures,

and improvements within an area of the PUD, and all rights to enforce these provisions against any changes permitted in this section are expressly reserved.

## **69.10. Permits**

69.10-1. *Land Use Permit.* The purpose of a land use permit is to ensure that the proposed disturbance of the land is compliant with applicable law.

(a) A land use permit is required before:

- (1) Any structure, other than a building, is erected, moved, or structurally altered.
- (2) A restoration project is initiated. This includes wetland restoration and stream bank enhancement.
- (3) Best management practices are implemented.
- (4) Any land is disturbed. This does not include:
  - (A) Cropping or planting trees or vegetation.
  - (B) Habitat enhancement activities, such as invasive species control and wildlife plantings.
  - (C) Maintenance of a structure or land use that has been approved pursuant to a previously issued land use permit.

(b) Standards Attached to Permits. In granting a land use permit for filling, grading, lagooning, dredging, or excavating, the following considerations shall be addressed and standards shall be attached to the permit where applicable.

- (1) The smallest amount of disturbed or bare ground shall be exposed for the shortest time feasible.
- (2) Temporary vegetation or mulching shall be applied as necessary and permanent cover shall be established as soon as possible.
- (3) Diversions, silting basins, terraces, or other methods of reducing erosion and retarding sedimentation shall be constructed.
- (4) Fill material shall be stabilized according to accepted engineering standards.
- (5) Fill materials shall not restrict floodway or appreciably reduce the storage capacity of the floodplain.
- (6) Sides of a channel or artificial waterway shall be stabilized to prevent slumping.
- (7) Sides of a channel or artificial waterway shall be constructed with horizontal to vertical side slopes of 3:1 or flatter in sand or gravel, 1:1 or flatter in organic soils, and 2:1 or flatter in other soils, unless bulkheads or riprapping are provided.

(c) An application for a land use permit shall be made to the Zoning Administrator upon standard forms which will be provided by the Administrator and shall include, for the purpose of proper enforcement of this law, the following data, if applicable:

- (1) Name and address of the applicant and property owner.
- (2) Legal description of the property and type of proposed use.
- (3) A sketch showing the dimensions of the lot and location of buildings from the lot lines, center line of abutting highways and the ordinary high-water mark of any abutting watercourse, and water mark at the day of the sketch.

(d) Upon review of the application, the Zoning Administrator shall do one (1) of the following within fifteen (15) days after the application is submitted:

- (1) Approve the application and issue the permit; or
  - (2) Deny the application; or
  - (3) Request more information before approving or denying the application.
- (e) Denial of an Application. In cases where the Zoning Administrator determines that the proposed action does not meet the provisions of this law, the Zoning Administrator shall deny the application and, in writing, shall:
- (1) Advise the applicant of the reasons for denial;
  - (2) Advise the applicant of his right to appeal the denial to the Land Commission;
- (f) In cases where the Zoning Administrator determines that additional information is needed before a permit can be issued, he or she shall request such information from the applicant in writing.
- (g) Permit applications that have not been acted on within fifteen (15) days after submission shall be deemed approved and the Zoning Administrator shall issue a permit based on the application.
- (h) Validity of Permits. All land use permits shall be valid for a period of two (2) years from the date of issue, and the work permitted shall be completed prior to the expiration date. Extension for an additional period of six (6) months may be granted by the Zoning Administrator or the Land Commission subject to the following conditions.
- (1) Extension requests shall be made in writing to the Zoning Administrator at least ninety (90) days prior to the permit expiration date.
  - (2) Permits shall be reviewed by the Zoning Administrator for compliance with current requirements. If not in compliance, the extension request shall be denied.
- (i) Permit Transfer. Issued permits express the consent of the Tribe for a person to conduct work within the Reservation and protect the rights and interests of the public. Although issued to a specific person, this consent is not limited to execution of the work by the person, and the permit may be availed of by the assignees or purchasers of the property affected, provided the terms of the permit are strictly complied with. Notification of the transfer and the agreement of the new owner to comply with the permit requirements shall be furnished to the Zoning Administrator in writing at the time the permit is transferred.
- (j) Maintenance. Work performed under a land use permit shall be maintained in good condition and no further authorization is required for routine maintenance.
- (k) In instances of genuine emergency, individuals or parties may act in contrast to the above regulations where immediate and decisive measures are required to protect against loss of life, injury, or extreme property loss. Any person who exercises emergency measures shall demonstrate to the Zoning Administrator and/or the Land Commission that the time required to secure approval would have been detrimental, and that reasonable or non-excessive means were used to deal with the situation. No hearing or permit fees shall be charged in situations involving emergency action.
- 69.10-2. *Conditional Use Permits.* Applications for a conditional use permit shall be made to the Zoning Administrator, who shall forward the application to the Land Commission for consideration.
- (a) Application. The application shall contain the following:

- (1) Letter of intent indicating proposed use of the property and requested classification.
- (2) A boundary line survey and plot plan.
- (3) Names and addresses of all owners of property located within one thousand two hundred (1,200) feet of the outer boundaries of the property.
- (4) A filing fee, as determined by the Oneida Business Committee.
- (5) Other information as may be required by the Land Commission.

(b) Procedure.

- (1) The petitioner shall meet with the Zoning Administrator to discuss the proposal, who shall forward the application to the Land Commission.
- (2) The Land Commission shall approve, conditionally approve, or deny the permit within thirty (30) days after the petitioner and Zoning Administrator meet to discuss the proposal.
- (3) The Land Commission shall notify the petitioner of its decision in writing.
- (4) No application for a permit allowing a conditional use shall be considered by the Land Commission within a one (1) year period following a denial of such request; except that the Land Commission may permit a new application, if, in the opinion of the Land Commission, new evidence, or a change of circumstances warrant it.

(c) Revocation of Permits

- (1) Where a permit allowing a conditional use has been issued pursuant to provisions of this law, such permit shall become null and void without further action by the Land Commission unless construction commences within six (6) months of the date of granting such permit.
- (2) A permit allowing a conditional use shall be deemed to authorize only one (1) particular use and shall expire if that use shall cease for more than six (6) consecutive months.
- (3) In the event that the applicant violates any of the conditions set forth in the permit, the Land Commission shall have the authority to revoke the permit.

(d) Criteria for Granting a Conditional Use Permit. In granting a conditional use permit, the Land Commission shall consider the effect of the proposed use on the Comprehensive Plan and upon the health, safety, morals, and general welfare of occupants of surrounding lands. Among other things, the Land Commission shall consider the following findings where applicable.

- (1) The use shall not create an excessive burden on existing parks, schools, streets, and other public facilities and utilities which serve or are proposed to serve the area.
- (2) The use shall be compatible with adjacent land uses so that existing uses will not be depreciated in value and there will be no deterrence to development of vacant land.
- (3) The use shall have an appearance that will not have an adverse effect upon adjacent properties.
- (4) The use shall be reasonably related to the overall needs of the Tribe and to the existing land use.

- (5) The use shall be consistent with the purposes of this law and purposes of the zoning district in which the applicant intends to locate the proposed use.
- (6) The use shall not be in conflict with the Comprehensive Plan.
- (7) The use shall not cause a traffic hazard or congestion.
- (8) The use shall have adequate utilities, access roads, drainage, and necessary facilities.
- (9) All conditional uses, other than residential, shall require an environmental review. Negative environmental reviews shall be considered sufficient grounds for permit denial. Negative environmental reviews shall be considered in the appeals process.

(e) A conditional use permit shall be issued to the applicant only, unless otherwise specified by the Land Commission. The permit may not be transferred or assigned without prior Land Commission approval.

(f) Additional conditions. In permitting a conditional use or the alteration of an existing conditional use, the Land Commission may impose, in addition to these standards and requirements expressly specified by this law, additional conditions which the Land Commission considers necessary to protect the best interest of the surrounding area or community as a whole. These conditions may include, but are not limited to, the following:

- (1) Increasing the required lot size or yard dimension.
- (2) Limiting the height, size, or location of buildings.
- (3) Controlling the location and number of vehicle access points.
- (4) Increasing the street width.
- (5) Increasing the number of required off-street parking spaces.
- (6) Prohibiting expansion without prior Land Commission approval.
- (7) Limiting the number, size, location, or lighting of signs.
- (8) Requiring additional fencing, screening, landscaping, or other facilities to protect adjacent or nearby property.
- (9) Designating sites for open space.

(g) Records. The Zoning Administrator shall maintain a record of all permits issued for conditional uses, including information on the use, location, and conditions imposed by the Land Commission such as time limits, review dates, and other information as may be appropriate.

69.10-3. *Variances.* In the event a person's zoning permit application does not meet the provisions of this law but the Land Commission has the authority to issue a variance which would result in the permit being issued, the Zoning Administrator shall, in writing, advise the applicant how to file for a variance if he or she is so inclined. A variance from the terms of this law may be issued by the Land Commission for a specific structure or land use in cases where there are practical difficulties or unnecessary hardships in the way of strict application of this law.

(a) Application.

(1) The applicant shall present a statement and adequate evidence, in such form as the Land Commission may require, showing that:

- (A) There are special circumstances or conditions applying to the land, building, or use referred to in the application; and that due to these special

circumstances or conditions, a literal enforcement of the law will result in practical difficulty or unnecessary hardship.

(B) The granting of the variance is necessary for the preservation and enjoyment of substantial property rights.

(C) The granting of the variance will not materially affect adversely the health or safety of persons residing or working in the neighborhood of the proposed use and will not be materially detrimental to the public welfare or injurious to property or improvements in the neighborhood.

(2) The Land Commission may require that the applicant submit additional materials, including any effects of the proposed use upon a Protected Area Overlay District.

(b) A variance may only be issued subsequent to notification to neighbors located within one thousand two hundred (1,200) feet of the outer boundaries of the property and the approval of the Land Commission. The notification shall be mailed to all applicable neighbors and shall include the time, place and date when the Land Commission will determine whether to approve the variance.

(c) A variance shall be applicable solely to the project described or the issue in question and shall not amend this law nor establish precedence for lesser restrictions. Where a variance does not continue in conformity with the conditions of the original approval, the variance shall be terminated by the Land Commission.

(d) Approval of variances from the terms of this law shall not be in conflict with the public interest.

(e) The Land Commission may attach conditions to variances to further the purposes of this law. These conditions would be in addition to those required elsewhere in this law. Non-conformance with any of these conditions shall be deemed a non-conformance with the provisions of this law.

(f) The determination of the Land Commission on each variance shall be based on the effect of the proposed project with respect to the spirit of this law. The Commission shall state in writing the grounds for refusing a variance. In every case where a variance from the regulations of this law has been granted by the Commission, the minutes of the Commission shall affirmatively show that an unnecessary hardship exists, and the records of the Commission shall clearly show in what particular and specific respects an unnecessary hardship is created. In addition, the record shall show any recommendations made by parties of interest. Variances shall only be granted when strict conformity with the regulations of this law are unnecessarily burdensome or unreasonable in light of the special circumstances of a specific location or use, and of the purposes and intent of this law.

(g) Separate variances shall not be required for the same project if such a project involves two (2) or more elements which require variances. However, before a variance may be granted, all elements for which variances are requested shall be addressed. If a variance(s) and a permit(s) are required for the same project, only the variance need be issued. However, all elements for each request shall be addressed.

(h) In all cases in which variances are granted under the provisions of this section, the Land Commission shall require such evidence and guarantee as it may deem to be

necessary that the conditions designated in connection therewith, are being and will be complied with.

(i) The Land Commission shall not have the power to:

(1) Approve the establishment of a non-conforming use according to the district regulations.

(2) Alter the applicable requirements for the height, setback, yard, frontage, lot area, and floor area standards by more than ten (10) percent of the distance or area specified elsewhere in this law, except upon a showing by the applicant that:

(A) it is necessary to alter the requirements by more than ten (10) percent due to the special circumstances or conditions that apply to the situation; and

(B) the alteration is of a specific nature; and

(C) the other requirements of 69.10-3, *Variances*, have been met.

(3) Grant an application that will materially affect adversely the health or safety of persons residing or working in the neighborhood of the proposed use and will be materially detrimental to the public welfare or injurious to property or improvements in the neighborhood.

69.10-4. *Certificate of Compliance.* A certificate of compliance is issued by the Zoning Administrator for any agricultural, commercial, residential or other land use if such use complies with the requirements of this law. No land shall be occupied or used, and no building hereafter erected, moved or altered shall be occupied until a certificate of compliance is issued. A certificate of compliance shall be issued within fifteen (15) days after an inspection which results in a verdict of project compliance. Land uses permitted under this law shall be issued a certificate of compliance as the present land use is made to come into compliance with this law.

69.10-5. *Fees.* Any person, upon filing an application for a permit or receiving a certificate of compliance shall pay a fee to the Zoning Administrator according to the schedule approved by the Oneida Business Committee.

69.10-6. *Emergencies.* In instances of genuine emergency, a person may act in contravention to this law where immediate and decisive measures are required to protect against loss of life, injury, or extreme property loss. Any person who exercises emergency measures shall demonstrate to the Zoning Administrator and/or the Land Commission that the time required to secure approval would have been detrimental, and that reasonable or non-excessive means were used to deal with the situation. No permit fees shall be required in situations involving emergency action.

## **69.11. Regulation of Signs**

69.11-1. *Purpose.* The following section creates the legal framework for sign regulations that are intended to facilitate an agreeable communication between people. It recognizes the need for well maintained and attractive appearances and the protection of safety and welfare, balanced with the need for business identification, advertising, and communication.

69.11-2. *Permits.* It shall be unlawful for any person to erect, construct, enlarge, move or structurally modify any sign, or cause the same to be done, without first obtaining a permit from the Zoning Administrator.

(a) *Permits Not Required.* Permits shall not be required for a change of copy on any sign, nor for the repainting, cleaning and other normal maintenance or repair of a sign or

sign structure which currently has permits and which conforms with the requirements of this law on the date of adoption.

(b) Term of Permit. Every permit for a sign shall become null and void if construction is not commenced within six (6) months from the date of issuance of such permit and completed within forty-five (45) days after construction is commenced.

(c) Appeals. Appeals shall follow regulations detailed in 69.15.

69.11-3. *Construction Specifications.* All new signs shall comply with the appropriate provisions of the Tribe's Building Code and any additional construction standards set forth in this law.

(a) All sign structures or poles shall be self-supporting and permanently attached to sufficient foundations.

(b) When glass is used for sign letters or transparent panels, safety or tempered glass shall be used.

(c) Supports or braces may be of any material adequate to meet wind loading, wherein they shall be noncombustible. Supports and braces shall be an integral part of sign design. Angle irons, chains, or wire used for supports or braces shall be hidden from public view to the extent technically feasible.

(d) All signs, except those attached flat against the wall of a building shall be constructed to withstand wind loads to the specifications of the Building Code.

(e) No spotlights, strobe lights, and/or rotating beacons shall be permitted.

69.11-4. *Design Standards.*

(a) Similarity to Traffic Signals. Signs that by reason of position, shape or color would interfere with the proper function of a traffic sign or signal are hereby prohibited.

(b) Electronic Message Centers. The minimum time per change of message shall be two (2) seconds.

(c) Signs or sign structures that obstruct any window, door, fire escape, stairway, or opening intended to provide ingress or egress for any building are prohibited.

(d) All sign dimensions shall be calculated from the exterior edge of the gross sign design.

(e) Signs that identify a Tribal entity shall be consistent with any standards developed by the Tribe's Planning Department.

69.11-5. *Maintenance, Removal and Disposition of Sign.*

(a) Maintenance and Repair. Every sign shall be maintained in a safe, presentable, and good structural material condition at all times, including the replacement of defective parts, painting except where a weathered or natural surface is intended, repainting, cleaning, and other acts required for the maintenance of said sign.

(b) Abandoned Signs. All sign messages shall be removed or covered by the owner or lessee of the premises upon which the sign is located when the sign no longer correctly directs any person or advertises a bonafide business, lessor, owner, product, activity, conductor, or product available on the premises where the sign is displayed; or when a business which it advertises is no longer conducted; (excluding bonafide seasonable occupations) or when rental or compensation is no longer provided. If the property owner or lessee fails to remove or cover the sign, the Zoning Administrator shall give the sign owner thirty (30) days written notice to remove or cover it.

(c) **Dangerous or Defective Signs.** The Zoning Administrator shall cause to be removed any sign that endangers the public safety, such as materially, electrically, or structurally defective signs. Except in cases of emergency, the Zoning Administrator shall give the sign owner a thirty (30) day written notice to repair or remove the dangerous or defective sign. Upon failure to comply with this notice, the Zoning Administrator shall remove the sign at cost to the sign owner.

(d) **Disposal of Signs, Fees.** Any sign removed by the Zoning Administrator pursuant to this law shall become the property of the Tribe and may be disposed of in any manner deemed appropriate by the Tribe. Removal of the sign by the Tribe shall be considered a debt owed to the Tribe by the sign owner, and may be recovered by the Tribe through legal proceedings. The cost of the removal shall include any and all incidental expenses incurred by the Tribe in connection with the sign's removal, including costs of the legal proceedings.

69.11-6. *Prohibited Signs.* Flashing signs, projecting signs, roof signs, revolving signs and strings of pennants are prohibited in all districts.

69.11-7. *Permitted Signs – No Permit Required.* The following signs shall not require a permit. However, no more than one (1) sign shall be allowed on any residentially zoned site and all signs shall comply with the following restrictions.

(a) Temporary political signs may be erected upon private property under the following conditions: The person responsible for the erection or distribution of any such signs or the owners of the property upon which the signs are located shall cause removal thereof within five (5) business days after the election. No such sign shall exceed sixteen (16) square feet in area. A maximum of seven (7) such signs may be placed on a building or on a lot.

(b) Real estate signs shall not exceed twelve (12) square feet in area in the Single Family Residential District (R-1) and Two Family Residential District (R-2), and thirty-two (32) square feet in all remaining districts which advertise the sale, rental or lease of the premises upon which said signs are placed. Such signs shall be removed within thirty (30) days of the sale, rental, or lease of the premises. Signs advertising the sale of new subdivision lots or rental of new apartment units shall not exceed one hundred (100) square feet in area. Not more than one (1) such sign shall be located at each major approach to the subdivision or apartment complex. The display of such signs shall be limited to a period of one (1) year from the date of first occupancy of the development.

(c) Entrance and/or exit signs for parking lots located in commercial and industrial districts or for uses allowed by special permit that require the provision of off-street parking spaces may be located up to but not extending over the road right-of-way line. Such signs shall not exceed three (3) feet in height nor eight (8) square feet in area.

(d) Flags, badges, and/or insignia of a government or government agency, or of a civic, religious, fraternal or similar organization shall not exceed five hundred (500) square feet in area.

(e) Identification signs for single-family and two-family dwellings are allowed provided that the signs are less than two (2) square feet in area and include only the name and address of the occupant.

(f) Signs denoting the architect, engineer, contractor, or owner of a worksite, when placed upon the worksite, which do not exceed an aggregate of forty eight (48) square

feet in area. Such signs shall be removed within ten (10) days after completion of construction.

69.11-8. *Permitted Signs – Permit Required.*

(a) Residential Districts.

- (1) All signs shall be confined to the immediate property being solely advertised or displayed.
- (2) No sign shall project higher than one (1) story or ten (10) feet above the finished ground level, whichever is lower.
- (3) Non-residential building use in a residential district shall have no sign larger than eight (8) square feet in area and may display only the name and address of the building and identification of any services provided.
- (4) No sign shall project beyond the property line into the public right of way.
- (5) Signs shall have a ten (10) foot front, rear, and side yard setback.
- (6) No sign shall be permitted in the vision triangle.
- (7) No lighting shall be allowed for any free standing sign in a residential district.
- (8) Permits for new signs to be constructed on any site where a nonconforming sign is in existence shall not be issued until the removal of the nonconforming sign is achieved.

(b) Commercial, Industrial, Institutional and Agricultural Districts.

- (1) All signs advertising or displaying business places shall be constructed on said business premises only, except as permitted pursuant to 69.11-9.
- (2) Size and Location.
  - (A) No premises shall have more than one (1) wall sign on any building face.
  - (B) No premises shall have more than two (2) wall signs.
  - (C) No premises shall have more than one (1) ground sign, billboard or message center, unless the premises has frontage on Wisconsin highways 29, 32, 41, 54, or 172, for which a variance would then be required.
  - (D) No premises shall have more than three hundred fifty (350) square feet of gross sign area, except in cases where a billboard advertising said business is located upon the premises. In cases where a billboard is located upon the premises, no more than one (1) wall sign, which shall not exceed fifty (50) square feet in area, is permitted. Prior to issuing a permit for a wall sign, the Zoning Administrator shall certify that the billboard located on the premises complies with the provisions of this law. One (1) sign may be excluded from the calculation of gross sign area. Total available sign square footage for each premise shall be based upon ten (10) percent of the total gross square footage of the primary building occupying the site. In no case shall the gross square footage of all signs exceed one thousand (1,000) square feet.
  - (E) No sign shall be less than ten (10) feet above the ground level of a walkway or less than fifteen (15) feet above the ground level of a driveway. For every foot of height over fifteen (15) feet, the sign shall be an additional two (2) feet back from the property's right-of-way line.

- (F) No sign shall be permitted within fifty (50) feet of any residentially zoned property.
  - (G) No sign shall extend into the public right-of-way.
  - (H) No sign shall be located in the vision triangle.
  - (I) Real estate and construction signs shall be calculated as part of the total allowable square footage of signage on each site.
  - (J) Permits for new signs to be constructed in any site where a nonconforming sign is in existence shall not be issued until the removal of the nonconforming sign is achieved.
- (3) Wall Banners.
    - (A) Shall be permitted only in commercial, institutional and industrial districts
    - (B) Shall not exceed forty-eight (48) square feet in area.
    - (C) The combined areas of wall banners and existing ground and wall signs shall not exceed five hundred (500) square feet per premise.
    - (D) Shall not be located on any one (1) premise for more than ninety (90) days in any calendar year.
  - (4) Free Standing Signs.
    - (A) Shall not obstruct any street, sidewalk, driveway, exit, or pedestrian way.
    - (B) Shall be limited to one (1) per premise.
    - (C) Shall not exceed ten (10) square feet per side, no more than two (2) sides permitted per sign.
  - (5) Electronic Message Center.
    - (A) Messages shall be incidental to and customary in conjunction with the principal use of property.
    - (B) Shall not exceed one hundred fifty (150) square feet on one (1) side, only two (2) sides are permitted per premise.
    - (C) Messages shall change at intervals of no less than two (2) seconds.
  - (6) Ground Signs.
    - (A) Shall not exceed fifty (50) feet in height above the ground level.
    - (B) Shall not exceed two hundred fifty (250) square feet in area on one (1) side, only two (2) sides are permitted per premise.
  - (7) Mobile Mounted Signs.
    - (A) Shall be permitted only in the commercial and industrial districts.
    - (B) Shall not exceed eight (8) feet in height nor forty-eight (48) square feet in total area.
    - (C) The combined areas of mobile signs and existing ground and wall signs shall not exceed five hundred (500) square feet for any one (1) premise.
    - (D) Shall not be located on any one (1) premise for more than ninety (90) days in any calendar year.
    - (E) No flashing lights are permitted on mobile mounted signs.
    - (F) May not project into the public right of way.
  - (8) Seasonal Business Signs.

- (A) May be either freestanding or building-mounted.
- (B) The total area of all such signs shall not exceed thirty-two (32) square feet.
- (C) If freestanding, such signs shall not exceed eight (8) feet in height or be located closer than ten (10) feet to any lot line.
- (D) Shall not be posted for a period that exceeds thirty (30) days, unless the Zoning Administrator grants a thirty (30) day extension.

(9) Wall Signs.

- (A) Shall not project more than eighteen (18) inches from the wall surface.
- (B) Shall not exceed fifty (50) square feet in area for any one (1) sign, except for billboards which must meet additional requirements pursuant to 69.11-9.
- (C) Shall not exceed thirty (30) feet in height above the ground level.

(10) Window signs shall be placed only on the inside of the building and shall not exceed twenty-five (25) percent of the glass area of the pane upon which the sign is displayed.

69.11-9. *Billboards.* Billboards may be located only on lots fronting Wisconsin highways 29, 32, 41, 54, or 172 in the agricultural, commercial and/or industrial districts.

(a) Size.

- (1) The maximum size per facing of a billboard shall be three hundred (300) square feet. The size of sign facing may be increased to seven hundred (700) square feet by issuance of a permit. Two (2) facings per structure shall be the maximum permitted, and double faced signs shall be attached back to back.
- (2) Billboards affixed to a wall shall not extend beyond the perimeter of the wall to which it is affixed.
- (3) A maximum height of thirty-six (36) feet above the lot grade, or adjacent road way, is permitted. In no case shall the height of a billboard exceed seventy (70) feet above the lot grade the billboard is located on. If the property on which the billboard is located is above a highway, the height may be computed above the center line elevation of the traveled highway. In no case shall the vertical distance between the bottom of the billboard and the ground be reduced to less than ten (10) feet.

(b) Location.

- (1) The minimum lineal distance between billboards on the same side of the street or highway shall be five hundred (500) feet.
- (2) Billboards shall meet the setback requirements of the district in which they are located except that the minimum setback from road right-of-way lines shall be thirty (30) feet.
- (3) The minimum setback at the intersection of two (2) streets shall be thirty (30) feet behind the building setback line on the major street, and fifty (50) feet from the right-of-way of the minor street.
- (4) No billboard shall be located within three hundred (300) feet of a residential district, park, playground, school or building used for religious purposes.
- (5) No premises may be zoned for exclusive billboard use.

(c) Specifications. The structure of the billboard shall be metal, which shall be either painted or treated in such a manner as to prevent deterioration. Billboard facing and border may be constructed of finished wood.

(d) Other Regulations. The Zoning Administrator shall order the removal of any billboard or billboard structure erected or maintained in violation of the law as it exists prior to the effective date of this law. Other billboard structures or billboards existing on the effective date of this law and not conforming to the provisions of this law shall be regarded as non-conforming buildings.

69.11-10. *Building Numbers.*

(a) Except as provided in (b), every occupant of a premises, including an existing premises, shall, within thirty (30) days after notification, display and maintain in a conspicuous place near the main entrance to the principal building or immediately above the garage door of an attached garage, the appropriate building number which shall be:

- (1) visible from the roadway named in the address;
- (2) displayed in Arabic numeral form;
- (3) no less than three (3) inches high; and
- (4) a contrasting color from the background.

(b) An occupant shall place the building number on a post, gatepost, tree, fence or mailbox so it is easily discernible at all times from the road if the premises is not visible from the road or the premises is more than fifty (50) feet from the road. If the building number is placed on a mailbox, the mailbox shall:

- (1) be the only mailbox present so as to prevent confusion;
- (2) be on the same side of the road as the premises being addressed;
- (3) be directly beside the driveway leading to the premises being addressed; and
- (4) have the building number, three (3) inches in height, applied to both sides so that it can be identified from both directions.

(c) An occupant shall not display any incorrect building number or road name which might be mistaken for, or confused with, the appropriate building number or road name.

(d) Where a common driveway is used by two (2) or more principal buildings or dwelling units, each occupant shall post his or her building number at the road right of way within ten (10) feet of the common driveway entrance and where each private driveway branches off of a common driveway.

(e) Building numbers shall be displayed on temporary signage during construction. Prior to issuing any occupancy permits, the Zoning Administrator shall verify the building number as posted.

(f) "Occupant" as used in this section means the occupant of the building, except in the case of those occupying a premises in a non-ownership capacity. In such cases, the owner shall be responsible for complying with the requirements of this section.

**69.12. Non-Point Source Pollution, Reclamation, and Bonding**

69.12-1. *Non-Point Source Pollution.* Erosion, sedimentation, or any non-point source pollution during and after any land disturbance shall not exceed that which would occur if the land was left in its undisturbed state and/or was controlled in accordance with the practices established in this section.

(a) Practices to control non-point source pollution are expressed in terms of performance and include the following:

- (1) The smallest practical area of land shall be exposed at any given time during development or use.
- (2) Such minimum area exposure shall be kept to as short a duration of time as is practicable.
- (3) If at all practicable, temporary vegetation, mulching or other cover shall be used to protect areas exposed during development or use.
- (4) Provisions shall be made to effectively accommodate the increased runoff caused by changed soil and surface conditions during and after development or use.
- (5) Permanent, final plant covering or structures shall be installed as soon as possible, but no later than the next available seeding season.
- (6) The plan of development or use shall relate to the topography and soils of the site so that the lowest potential for erosion is created.
- (7) Natural plant covering shall be retained and protected and shall be deemed a dominating factor in developing or using a site.
- (8) Appropriate structural soil erosion control measures shall be used (e.g., diversions, terraces, sediment basins)
- (9) Surface water drainage shall be redirected away from critical areas to reduce runoff velocity.
- (10) Encourage on-site infiltration to the degree possible and practicable.

(b) The Zoning Administrator shall not issue any permits nor shall the Land Commission approve any variance or special use for any land disturbing activities unless the applicant satisfies that there will be adequate provisions to prevent non-point source pollution to waterways. To substantiate adequate provisions to protect against unnecessary non-point pollution will be taken, the Zoning Administrator and/or the Land Commission shall require a statement or plan for non-point pollution control. The following may be included in this statement or plan:

- (1) The existing site conditions, including topography.
- (2) A proposed work plan.
- (3) The proposed resulting topography and site conditions.
- (4) Soil types.
- (5) Existing and proposed vegetation cover.
- (6) Estimates of surface runoffs and discharges.
- (7) Design assumptions and estimated costs.

(c) The plan or statement shall indicate how non-point source pollution will be controlled, referring to what practices listed in this law shall be employed. The person that is attempting to secure work approval shall be responsible for all costs associated with non-point source pollution control. Where appropriate, storm water management to control non-point source pollution shall be addressed.

(d) An approved non-point source pollution control statement or plan becomes binding upon the person and all work shall comply with such. Non-conformance with any part of the non-point source pollution control statement or plan shall be deemed a non-conformance with this law. Minor plan revisions, without additional fee payment, may

be made upon mutual agreement of the applicant and the Zoning Administrator or the Land Commission.

69.12-2. *Bonding and Reclamation.* Upon receiving an application for a permit, the Zoning Administrator may recommend to the Land Commission that the applicant be bonded. Bonding shall be for the purpose of insuring the completion of conditions placed on such projects to safeguard the integrity of the environment or to reclaim damaged land. "Environment," for the purpose of this section, shall mean the natural environment where human influenced change is minimal and compatible with the natural surroundings. A cash deposit or an irrevocable letter of credit may be held by the Land Commission in lieu of a bond.

(a) Any land use which causes significant environment alteration shall be reclaimed upon discontinuation of such use so as to restore the land to a desirable condition. A desirable condition shall mean a state in which natural conditions predominate. Reclamation may include, but is not limited to: sloping, grading, filling, planting, placing of top soil, removal of debris, mulching, diversions, sediment basins, terracing, and water retention areas.

(b) The Zoning Administrator shall determine whether land reclamation is adequate. The Zoning Administrator shall inspect the project site prior to project commencement and record existing conditions. The final condition of the land shall be such that erosion is not greater than prior to project commencement. Vegetation shall be re-established where removed. Foreign debris and materials not common at the site prior to project commencement shall not remain at the site post completion. An even or balanced slope shall be retained.

(c) In the case where a project has been completed but the site has not been reclaimed, the Zoning Administrator shall contact the contractor and inform him/her of the type of reclamation work that is required. If reclamation has not begun within fifteen (15) days, or arrangements for reclamation have not been made within fifteen (15) days, the Zoning Administrator shall use the bond money to conduct the reclamation. If the contractor is doing the reclamation work, bond money shall not be returned until the project has been deemed satisfactorily completed by the Zoning Administrator. The Land Commission shall release such monies, when appropriate. If for any reason there is no bond money held, the Zoning Administrator, after fifteen (15) days following his/her contacting the project contractor without satisfactory results, shall seek legal means for reclamation of the site.

(d) Bonding requirements shall be set by the Land Commission based upon the recommendation of the Zoning Administrator. The recommendation of the Zoning Administrator shall be based on the scope of the project.

### **69.13. Rezoning Property and Amending District Boundary Lines**

69.13-1. The Land Commission may, from time to time, in the manner hereafter set forth, rezone property or amend district boundary lines, provided that due allowance shall be made for the intent and purposes of said changes.

(a) Amendments may be proposed by any party of interest by filing an application with the Land Commission in such form and accompanied by such information as required by the Commission.

69.13-2. *Public Hearing.* The Land Commission shall hold a public hearing on each application to rezone property or for an amendment to the district boundary lines.

(a) The Zoning Administrator shall set a date for the public hearing and meet the notice requirements of the public hearing as soon as possible after the filing of the application is complete.

(b) Notice. Not less than ten (10) days and not more than thirty (30) days prior to the public hearing, notice, including the time, place and purpose of the public hearing, shall be:

(1) published in the Tribal newspaper; and

(2) mailed to all owners of property located within one thousand two hundred (1,200) feet of the outer boundaries of the property that is the subject of the public hearing.

(c) Any party may appear in person, or be represented by an agent, advocate or attorney at the public hearing.

(d) The Land Commission shall issue a decision or recommendation regarding the rezoning of property or amending of a district boundary line within seven (7) days after the public hearing is held.

69.13-3. The Land Commission together with the Zoning Administrator shall, after holding a public hearing and reviewing any comments received, make written findings of fact and determine whether to rezone the property or amend the district boundary lines.

(a) Where the purpose of the public hearing is to rezone property, the Land Commission shall make findings based upon the evidence presented to it with respect to the following matters:

(1) Existing uses of land and building within the general area of the property in question.

(2) Zoning classification of property within the general area of the property in question.

(3) Suitability of the property in question to the uses permitted under the existing zoning classifications.

(4) Trend of development, if any, in the general area of the property in question, including changes, if any, which have taken place in its present zoning classification.

(b) The Land Commission may rezone the property in question to a less restrictive district than that requested by the applicant.

(c) The Land Commission shall not rezone property or amend the district boundary lines unless it finds that rezoning the property or adopting such amendment is in the public interest and is not solely for the interest of the applicant.

69.13-4. The Land Commission may grant or deny any application to rezone property or amend a district boundary line, provided however, that in the event of a written protest against any application having been duly signed and acknowledged by the lessees, assignees and owners of twenty percent (20%) or more of either of the acres of land included in such proposed change, or by the lessees, assignees and owners of twenty percent (20%) or more of the land immediately adjacent, extending in a radius of twelve hundred (1,200) feet therefrom, such changes of amendments shall not become effective except by a two-thirds (2/3) vote of the Land Commission.

69.13-5. *Fees.* Any application to rezone property or amend a district boundary line shall be accompanied by a fee in accordance with the fee schedule recommended by the Land Commission and approved by the Oneida Business Committee.

#### **69.14. Enforcement and Penalties**

69.14-1. An individual may inform the Zoning Administrator, either verbally or in writing, of any non-conformance with the provisions of this law. The individual shall provide an explanation of the purported divergence from law. Upon receipt of notice of non-conformance, the Zoning Administrator shall establish whether or not a non-conformance exists.

(a) If it is determined that a non-conformance does exist, the Zoning Administrator shall seek appropriate means as established in 69.14-2 and 69.14-3 to resolve the situation.

(b) If the situation is determined to be in conformity with this law, no further action shall be taken.

69.14-2. *Compliance.* If the Zoning Administrator determines that a violation of this law exists, written notice shall be given to the foreman on the site and/or to the owner ordering compliance within not less than four (4) hours nor more than forty-eight (48) hours. If compliance has not been accomplished upon expiration of this order, the Tribe may undertake to correct the violation, with all costs being deducted from any cash deposit posted by the owner.

69.14-3. *Administrative Remedies.* Prior to the initiation of any legal proceedings, the Zoning Administrator shall seek to resolve any non-conformance through administrative remedies, in accordance with procedures approved by the Land Commission. “Administrative remedies” include, but are not limited to, non-issuance of a permit, a stop work order, non-issuance of occupancy permit or certificate of completion, denial of occupancy permit based on life safety violations.

69.14-4. Where it is determined by the Zoning Administrator that immediate action is necessary to protect the public health and safety, the Zoning Administrator may enjoin a development or land use. Any non-conformance with the provisions of this law after the Zoning Administrator seeks to remedy any non-conformance, or any obstruction of the Zoning Administrator in the reasonable and proper performance of his/her duties, by a party shall be forwarded by the Zoning Administrator to the Land Commission for inquiry and action.

69.14-5. *Violations, Penalties, and Revocation of Leases.*

(a) Any person who violates any provision of this law, or who shall take any action on or with respect to any land or structure which is not in compliance with this law, shall be guilty of a civil infraction, and shall be issued a fine in accordance with the schedule adopted by the Oneida Business Committee, upon recommendation of the Land Commission.

(b) Each day a violation exists or continues shall constitute a separate offense.

(c) Any person who is a lessee of the Tribe who violates any provision of this law, or who takes any action on or with respect to any land or structure not in compliance with this law shall have said lease reviewed by the Land Commission. The lessee, or his agent, will be permitted to testify on behalf of the lessee. Upon testimony by the lessee and the Zoning Administrator, the Land Commission shall take one of the following actions:

(1) Terminate said lease.

- (2) Permit said lease to continue, with or without additional conditions and such guarantees as the Land Commission may see fit to ensure that said conditions are met.

### **69.15. Appeals**

69.15-1. *Appeals from Zoning Administrator Decision.* A person may file a written appeal with the Land Commission within ten (10) business days after the Zoning Administrator denies a permit, revokes a permit, or decides any question involving the interpretation of a provision of this law, including the location of a district boundary if there is uncertainty with respect thereto.

(a) In cases where an appeal is filed, the Zoning Administrator shall submit a written statement to the Land Commission which:

- (1) Outlines the facts involved;
- (2) Describes the relationship of the facts to this law, including planning, land use, and administrative practices; and
- (3) Suggests a course of action which the Land Commission may take, including conditions to be met by the applicant prior to the issuance of the zoning permit.

(b) The Land Commission may review, revise, or reverse the decision of the Zoning Administrator

(c) The Land Commission shall state the specific facts which are the basis for the Land Commission's determination and shall either affirm or dismiss the appeal in whole or in part. The final disposition shall be posted and published, including sending the disposition and justification thereof to the applicant and parties of interest

69.15-2. *Contesting the Issuance of a Fine.* Any person issued a fine under this law may contest the fine by attending a hearing before the Land Commission.

(a) The fine shall specify the date, time and place of the hearing. The hearing shall take place at least five (5) days after the fine is issued.

(b) If the person does not wish to contest the fine, he or she shall pay the fine by the hearing date specified on the fine.

(c) After the hearing, the Land Commission shall determine whether the person is responsible for the fine, as was issued by the Zoning Administrator and may set a new date for when the fine shall be paid.

69.15-3. *Appeals from the Land Commission Decision.* Any party of interest may appeal a decision of the Land Commission to the Oneida Appeals Commission. Upon appeal, the Oneida Appeals Commission may decide any question involving the interpretation of a provision of this law, including the location of a district boundary if there is uncertainty with respect thereto.

*End.*

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Adopted by Resolution on August 1, 1966

Adopted by motion at June 5, 1990 BC meeting

Amended BC-03-01-06-D (Land Commission elected provisions)

Emergency Amendments BC-4-11-07-D (Permitting municipal buildings in Industrial Districts)

Emergency Amendment extension BC-10-10-07-B (Permitting municipal buildings in Industrial Districts)

Amended BC-04-02-08-F (Permitting municipal buildings in Industrial Districts)

Emergency Amendments BC-06-23-10-G (Numbering of Buildings)

Amended BC-04-13-11-E

Amended BC-07-13-11-E (Nuisance provisions)