

Oneida Tribe of Indians of Wisconsin

BUSINESS COMMITTEE



Oneidas bringing several hundred bags of corn to Washington's starving army at Valley Forge, after the colonists had consistently refused to aid them.



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UGWA DEMOLUM YATEHE
Because of the help of this Oneida Chief in cementing a friendship between the six nations and the colony of Pennsylvania, a new nation, the United States was made possible.

BC RESOLUTION # 3-01-06-D

Oneida Land Commission as Elected Positions

- WHEREAS,** the Oneida Tribe of Indians of Wisconsin is a federally recognized Indian government and a treaty tribe recognized by the laws of the United States of America; and
- WHEREAS,** the Oneida General Tribal Council is the governing body of the Oneida Tribe of Indians of Wisconsin; and
- WHEREAS,** the Oneida Business Committee has been delegated the authority of Article IV of the Oneida Tribal Constitution by the General Tribal Council; and
- WHEREAS,** the Oneida Land Commission was established for the purpose of managing the Tribe's land resources; and
- WHEREAS,** under current laws, the Land Commissioners are appointed by a majority vote of the Oneida Business Committee; and
- WHEREAS,** on May 14, 2005 the General Tribal Council approved a motion that directed that the Oneida Land Commission be elected positions and that an election take place as timely as possible to fill the board with elected seats after going through the APA process; and
- WHEREAS,** in accordance with the GTC's directive to have the Land Commission positions be elected positions, amendments to both the Real Property Law and the Zoning and Shoreland Protection Ordinance are necessary; and
- WHEREAS,** a public hearing was held on January 10, 2006 on the amendments to the Real Property Law and the Zoning and Shoreland Protection Ordinance in accordance with the Administrative Procedures Act (APA).

NOW THEREFORE BE IT RESOLVED, that the attached amendments to the Real Property Law and the Zoning and Shoreland Protection Ordinance are hereby adopted.

Resolution 3-01-06-D

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BE IT FINALLY RESOLVED, that from the date of the passage of this resolution there will be a Transition Period that shall end when the new Land Commission takes the oath of office. During this Transition Period, the following shall occur:

1. The initial election for the seven (7) Land Commissioners shall be held no later than July, 2006, and thereafter, in July of each year beginning in the year 2007.
2. The new Land Commissioners shall be sworn in and assume their duties as outlined in the Real Property Law.
3. Immediately after the new Land Commissioners are sworn in, the outgoing Land Commissioners shall be separated from their positions with the Oneida Land Commission and the Transition Period shall expire.

Certification

I, the undersigned, as Secretary of the Oneida Business Committee, hereby certify that the Oneida Business Committee is composed of 9 members of whom 5 members constitute a quorum. 7 members were present at a meeting duly called, noticed and held on the 1st day of March, 2006; that the foregoing resolution was duly adopted at such meeting by a vote of 6 members for; 0 members against; and 0 members not voting; and that said resolution has not been rescinded or amended in any way.



Patricia Hoeft, Tribal Secretary
Oneida Business Committee

Chapter 67
REAL PROPERTY LAW

Tokáske Kayanláhsla Tsi? Ni'yohuntsya'té
The real/certain laws of the territory of the nation

67.1.	Authority, Purpose, Policy	67.9.	Disposition Of Estates Of Deceased Tribal Members
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67.1. Authority, Purpose, Policy.

67.1-1. *Authority.* The Oneida Tribe of Indians of Wisconsin, acting in its sovereign capacity, does enact this Real Property Law as authorized in Article IV, section 1 (f), of the Constitution of the Oneida Tribe.

67.1-2. *Purpose*

(a) The purpose of this Law is to provide regulations and procedures for the transfer, control and management of the territory within the exterior boundaries of the Reservation of The Oneida Tribe of Indians of Wisconsin and such other lands as may be added within or without said boundary line; and to integrate these regulations and procedures with the present real property laws and practices of other federal and state sovereigns which may hold applicable jurisdiction within the reservation.

(b) In addition, this Law establishes a training and licensing mechanism for any person who lists, sells, buys, exchanges, leases, rents, or deals in any way with real property coming under the scope of this Law.

(c) Nothing in this Law shall be construed as a waiver of the sovereign immunity of the Oneida Tribe of Indians of Wisconsin.

67.1-3. *Policy*

(a) 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 Oneida members, all heirship lands and waters and all individual and tribal trust lands and waters, all within the exterior boundaries of the Oneida Tribe of Indians of Wisconsin Reservation; and to such other lands as may be hereafter added, both within and without the exterior boundaries of the Oneida Reservation, under any law of the United States, except as otherwise provided by law.

(b) The licensing provisions of this Law shall extend to any person who lists, sells, buys, exchanges, leases, rents or deals in any way with real property coming under 1-3a, of this Law, including employees of the tribe.

(c) Any transaction which would add property to the tribal land base shall be administered through the Division of Land Management under the provisions of this Law.

(d) The sale of tribal land is specifically prohibited under this Law, except for the purposes of consolidation or partition of property.

(e) It is not intended by this Law to repeal, abrogate, annul, impair or interfere with any rules, regulations, or permits previously adopted or issued pursuant to tribal or federal laws. Further, it is intended that Wisconsin law be considered as an integral part of real property transfer occurring within or without the Reservation, insofar as the transaction is between a

non-Oneida person(s) who hold fee simple title to land within the Reservation and the Tribe or a tribal member.

(f) Expenses and Fees. The Land Commission shall establish an equitable fee schedule for each activity or service provided in this Law. All fees collected will be used for the maintenance of services and management of lands which come under the authority of this Law.¹

67.2. Adoption, Amendment, Repeal.

67.2-1. This Law is adopted by the Oneida Business Committee and effective ten (10) business days after adoption.

67.2-2. This Law may be amended by the Oneida Business Committee, or the Oneida General Tribal Council, at any time pursuant to the Oneida Administrative Procedures Act.

67.2-3. Separability:

(a) If any court of competent jurisdiction shall adjudge any provisions of this Law to be invalid, such judgement shall not effect any other provisions of this Law not specifically included in said judgement.

(b) If any court of competent jurisdiction shall adjudge invalid the application of this Law to a particular piece of property, such judgement shall not affect its application to any other property.

67.3. Rules Of Statutory Construction.

67.3-1. General words are understood to be restricted in their meaning by more specific words which came before.

67.3-2. If the meaning of a general word cannot be reconciled with the meaning of a specific word in this Law the specific word will control.

67.3-3. When a series of words of general meaning is followed by words of limitation, the limitation will apply only to the last word in the list, unless otherwise stated.

67.3-4. The word "shall" is mandatory and the word "may" is permissive.

67.3-5. The Law should be read as a whole. The words are not meant to be isolated, and their meaning must be found in reference to the statement as a whole.

67.3-6. If a later enacted Law or statute cannot be read in agreement with an earlier enactment, the later enactment will control when interpreting the meaning from context.

67.3-7. "Land" is used to mean the earth's surface extending downward to the center of the earth and upward to infinity, including things permanently attached by nature, such as tree and water.

67.3-8. "Real Estate" is used to mean the earth's surface extending downward to the center of the earth and upward to infinity, including all things permanently attached to it, whether natural or permanent man-made additions.

67.3-9. "Real Property" or "Property" is used to mean the earth's surface extending downward to the

¹ Other laws that are relevant to the purpose and implementation of this Law include:

Oneida Shoreland Protection Ordinance

Oneida Zoning Ordinance

Oneida Administrative Procedures Act

25 CFR 150-179 (Land and Water)

25 CFR 15 (Probate)

25 CFR 261-265 (Heritage Preservation)

Wisconsin Statutes and Administrative Code relating to the practice of Real Estate

State and Federal Laws specifically cited in Ordinance

center of the earth and upward to infinity, including all things permanently attached to it, whether natural or permanent man-made additions, plus the bundle of legal rights which include control, exclusion, possession, disposition and enjoyment.

67.3-10. The word "Person" when used in this Law includes individuals, corporations or partnerships.

67.4. Definitions.

67.4-1. Accounting. The responsibility of a broker to report the status of all funds received from or on behalf of the principal.

67.4-2. Agency. Any tribal entity, board, commission, committee, department or officer authorized by the Oneida Tribe to propose Law/rules for adoption by the Oneida Business Committee. The term "Agency" shall not include the Oneida Business Committee or a tribal appeals body.

67.4-3. Appraisal. A process of estimating a property's value.

67.4-4. Attorney. A person trained and licensed to represent another person in court, to prepare documents defining or transferring rights in property and to give advice or counsel on matters of law.

67.4-5. Broker. A person who acts as an agent and negotiates the sale, purchase or rental of property on behalf of others for a fee, and must be licensed under this Law under certain circumstances.

67.4-6. Bundle of Rights. The "rights" of ownership include the right of possession, the right to control the property within the framework of the law, the right of enjoyment, the right of exclusion and the right of disposition.

67.4-7. Buyer. The person who hires a broker to find a parcel of real estate that has certain characteristics or is usable for specific purposes; or the person who buys a piece of real estate from a seller broker or salesperson.

67.4-8. Care. The broker must exercise a reasonable degree of care and skill while transacting the business of the principal.

67.4-9. Certified Survey Map. A map officially filed and approved by the County, Tribal or municipal governments, which provides the legal description of any land in question.

67.4-10. Contested Cases. A proceeding before an Agency in which an opportunity for a hearing before the Agency is required by law prior or subsequent to the determination of the Agency of the legal rights, duties, or privileges of specific parties unless otherwise provided for by tribal law. This includes the revocation, suspension or modification of a license or permit when a grant of such application is contested by a person directly affected by said licensing or permitting. See Oneida Administrative Procedures Act.

67.4-11. Counseling. Providing clients with competent independent advice based on sound judgment, on such things as alternative courses of action regarding the purchase, use and investment of property.

67.4-12. Development. The construction of improvements on land.

67.4-13. Disclosure. The broker's duty to keep the principal fully informed at all times of all facts or information the broker obtains that could affect the transaction.

67.4-14. Dual Agency. When a broker receives compensation from both buyer and seller in a transaction.

67.4-15. Education. The provision of information to both the real estate practitioner and the consumer.

67.4-16. Fiduciary. One who is placed in a position of trust and confidence and normally is responsible for the money and/or property of another. A broker and a salesperson are both fiduciaries.

67.4-17. Financing. Financing is the business of providing funds by means of a mortgage loan.

67.4-18. Fixtures. Articles that were once personal property but has been so affixed to land or a building that the law construes it to be part of the real estate.

67.4-19. Fraud. The intentional misrepresentation of a material fact in such a way as to harm or take advantage of another person. In addition to false statements about a property, the concept of fraud covers intentional concealment or nondisclosure of important facts.

67.4-20. Individual Tribal Property. Real property owned by an Oneida Tribal member in fee or held in trust for that member by the United State of America.

67.4-21. Intestate. One who dies without having made a will; or property not disposed of by will.

67.4-22. Law of Agency. The body of law that governs the rights and duties of principal, agent and third persons.

67.4-23. Mobile Home. A building which, when originally constructed, was prefabricated and on wheels to allow movement from one location to another with minimal modifications necessary to attach utilities. It is considered to be personal unless it is permanently affixed to the land, at which point it is considered real property.

67.4-24. Personal property or Personalty. All property that does not fit the definition of real property, and usually the characteristic of being "movable."

67.4-25. Plat Map. Map of a piece of property that may be a part of a larger parcel of real estate or may be composed of several smaller ones which the surveyor resurveys. This new map is called a Plat map, and it creates a new legal description which must be tied to the description on a Certified Survey Map(s), to be considered acceptable for transfer of property.

67.4-26. Probate. An official authentication of a will, and/or official administration of an estate of a deceased person.

67.4-27. Reservation. That area within the exterior boundaries as set out in the 1838 Treaty with the Oneida 7 Stat. 566, and that land purchased and held by the United States of America in trust for the Oneida Tribe of Indians of Wisconsin outside those exterior boundaries

67.4-28. Salesperson. A person who receives a fee or commission to work on behalf of the broker, and must be licensed under this Law under certain circumstances.

67.4-29. Subsurface Rights. The rights to natural resources lying below the earth's surface.

67.4-30. Sun Rights. A solar energy owner's right to access to the sun.

67.4-31. Surface Rights. The rights to use the surface of the earth within boundaries defined in a transfer of real property.

67.4-32. Tribal Property. Real property owned by the Oneida Tribe in fee or held for the Tribe by United States of America.

67.4-33. Tribe. Oneida Tribe of Indians of Wisconsin. Also known as the Sovereign Oneida Nation in Wisconsin, and ONAYOTA.AG^.

67.5. Interests In Real Estate: Individual Or Tribal.

67.5-1. Fee Simple Absolute. The greatest interest of ownership or distribution in a parcel of land that it is possible to own i.e. no conditions. Sometimes simply designated as fee. Tribal individuals, non-tribal individuals and tribal government may hold fee interest in land within the Oneida Reservation.

67.5-2. Leasehold. The interest in fee or trust property that is qualified by some future determinant such as time, age, or an act/incident.

67.5-3. Fee or Trust subject to a Condition. An interest which includes a proviso in the deed or will that upon the happening or failure to happen of a certain event, the title of the purchaser or devisee will be limited, enlarged, changed or terminated.

67.5-4. Life Lease. A lease of the right of use and occupancy of Tribal Fee or Trust Lands for the

life of an individual either Oneida tribal or non-tribal.

67.5-5. Trust. Land held by the United States of America in trust for the Oneida Tribe of Indians of Wisconsin, or for a member of this tribe.

67.5-6. Life Use, or Estate. A claim or interest in individual trust property by a non-tribal spouse, not amounting to ownership, and limited by a term of life of the person in whom the right is vested.

67.6. Holding Of Ownership.

67.6-1. Joint tenancy with right of survivorship: Each owner has a percentage interest in the property. As an owner dies, their share is divided among the remaining owners, so the last living owner owns the entire property. Unless specifically stated otherwise in a will or beneficiary document, it is presumed that co-owners, not married, of trust property are joint tenants with rights of survivorship.

67.6-2. Tenancy in Common. Each owner has a percentage interest in the property. As an owner dies, their interest is divided among their children, or if no children, other heirs according to 67.9-9 of this Law. This holding is recognized by the Oneida Tribe when designated in a written agreement between all parties, with signatures certified by a Notary Public.

67.6-3. Marital Property is property owned in fee by spouses in the State of Wisconsin. By accepting a loan, a non-tribal person married to a tribal person must reclassify the subject property to conform with the Real Property Law of the Oneida Nation. The subject property will then be presumed to be held as joint tenants with rights of survivorship, with the added stipulation that the Oneida Nation has the first right to purchase the property at fair market value, if offered for sale or for any other type of real estate transfer to someone other than an enrolled tribal member. The agreement to reclassify property will be done through a Warranty Deed, or a Marital Property Agreement which conforms to the following:

- (a) The agreement must be written and signed by both spouses.
- (b) Each spouse must disclose her or his assets and obligations or each spouse must declare knowledge of the other spouse's assets and obligations.
- (c) A Marital Property Agreement cannot be unconscionable when made.
- (d) Both parties must enter into the Marital Property Agreement voluntarily.
- (e) A Marital Property Agreement may not alter any child support obligation.
- (f) Modification of spousal support or maintenance by a Marital Property Agreement cannot result in a spouse having less than necessary and adequate support.

67.6-4. In the event that a tribal member and a non-tribal spouse jointly own fee property acquired through a Tribal Loan Program, upon the death of the tribal member, the non-tribal surviving spouse may elect to:

- (a) Pay off the Loan. If the land is held in fee, the property will revert to sole ownership of the surviving spouse as soon as the lien is satisfied.
- (b) Offer to sell the property to the Oneida Tribe. A request for a life lease or estate to retain the homestead property for the life of the non-tribal spouse may be approved as a contingency of the purchase agreement.
- (c) Offer to sell or otherwise transfer the property to an enrolled tribal member.
- (d) Request a life estate for the purpose of retaining the property for enrolled children, who may or may not be minors. These tribal enrolled children of the non-tribal spouse must be designated as heirs in the Loan. Life estate will survive even if the Loan is paid off. Life estate cannot be changed or superseded by a later will, unless specifically agreed to by the Division of Land Management, and the non-tribal surviving spouse in writing.

67.6-5. Individual Fee or trust land.

67.6-6. Tribal Fee land held by the Oneida Tribe of Indians of Wisconsin, or by The United States of America in Trust for the Oneida Tribe.

67.6-7. Divorce/Dissolution. In the event of a divorce or the dissolution of a joint tenancy between a non-tribal member and an enrolled tribal member on fee land, the Division of Land Management's policies are developed to ensure that a tribal lien is retained under the authority and jurisdiction of the tribe, and that the goal and mission of the Loan Program is fulfilled. A non-tribal member and tribal member, both of whom are responsible on a loan shall not negotiate a divorce decree which releases the tribal member from their right to retain the subject real property and their responsibility for the loan. Any change in the Loan Agreement must be approved by the Division of Land Management before terms are put into a divorce decree.

67.7. Legal Descriptions.

67.7-1. The legal description for any land transferred under this Law will be derived from a Certified Survey Map (CSM) or Plat of Survey completed by a registered Land Surveyor according to currently accepted minimum standards for property surveys. If the Plat of Survey changes the legal description of the CSM for the same piece of property, the CSM legal description will be used on transfer documents along with the Plat of Survey description designated "**Also Known as ...**" Section, Township, Range and Fourth Principal Meridian must be within all tribal legal descriptions.

67.7-2. Every land survey shall be made in accordance with the records of the County Register of Deeds for fee land, and in accordance with the records of the Oneida Division of Land Management for all trust lands. The surveyor shall acquire data necessary to retrace record title boundaries such as deeds, maps, certificates of title, Title Status Reports from the Bureau of Indian Affairs, Tribal Leases, Tribal Home Purchase Agreements, center line and other boundary line locations.

67.7-3. Legal description defining land boundaries shall be complete providing unequivocal identification of line or boundaries.

67.7-4. In addition to Survey Map requirements outlined in Wisconsin Administrative Code, Chapter A-E7, all surveys prepared for the Oneida Tribe should indicate setbacks, building locations and encroachments.

67.7-5. Legal descriptions will be used on transfer documents formalizing a purchase, real estate sale, lease, foreclosure, probate transfer to beneficiaries or trust acquisition and tribal resolutions indicating legislative approval.

67.7-6. When real estate is listed for sale or lease to tribal members, the address is considered an adequate legal description of the property.

67.8. Title Transfer.

67.8-1. General. It is presumed that the intentions of parties to any real property transfer are to act in good faith. For this reason, this shall be liberally construed when faced with conflict or ambiguity in order to effectuate the intentions of the parties.

67.8-2. The Division of Land Management shall use only those title companies duly registered with the Department of Interior and approved by the Division of Land Management to update abstracts or provide Title Insurance on real property scheduled for trust acquisition.

(a) Title Companies must follow general guidelines provided by federal government in terms of form, content, period of search, destroyed or lost records and Abstractor's Certificate.

(b) When researching Land title within the reservation which is being considered for trust acquisition, the Title Company will be requested to search the title back to the original allottee, to assure that patents or Indian Deeds were legally issued.

(c) Any valid liens or encumbrances shown by the Commitment for Title Insurance must be

eliminated before the Title is transferred into Trust.

(d) After land is in trust, title search of County records is no longer acceptable. Title Status Reports from Oneida Division of Land Management or the Bureau of Indian Affairs shall be used to verify all valid encumbrances, if any, on the title. A valid encumbrance is one that has been preapproved, in writing, by the Division of Land Management.

67.8-3. The Warranty Deed is the formal document used by the Division of Land Management to transfer title from one party to another. It shall not be considered valid unless it is in writing and:

- (a) Identifies the grantor and grantee;
- (b) Provides the legal description of the land;
- (c) Identifies the interest conveyed, as well as any conditions, reservations, exceptions, or rights of way attached to the interest.
- (d) Is signed by or on behalf of each of the grantors;
- (e) Is signed by or on behalf of each spouse, and
- (f) Is delivered.

67.8-4. A Warranty Deed prepared for Trust Acquisition shall, in addition to that listed in 8-3, include the following:

- (a) The federal authority for Trust Acquisition;
- (b) Any exceptions or exclusions from State fees or other transfer requirements;
- (c) The approximate acreage of the real property being transferred to Trust; and
- (d) The authority and signature of the appropriate Department of Interior official who accepts the real property into Trust.

67.8-5. A Warranty Deed transferring fee simple title shall be recorded in the appropriate Register of Deeds office. Once the real property is in trust, the Title shall be recorded with the Oneida Division of Land Management and the Aberdeen Title Plant for the United States Department of the Interior.

67.8-6. An involuntary Transfer of title may occur in the following ways:

(a) Tribal Eminent Domain is the right of the Tribal Government to acquire private land for public uses without the consent of private owners. Public uses include, but are not limited to, environmental protection, streets, highways, sanitary sewers, public utility/sites, waste treatment facilities and public housing. Attempts must first be made to negotiate an agreeable taking by the Tribal Government; thence provide an offer to purchase based on a tribal appraisal of the property; and provide compensation for the taking. Provision for required hearing on the taking and appeals to the Oneida Appeals Commission can be found in the Oneida Administrative Procedures Act.

(b) Foreclosures may occur whenever a tribal member ceases payment on a mortgage for leasehold improvements, a tribal home purchase agreement, or home improvement loan. If the loan is through a public lending institution the Tribe may choose to pursue its option to purchase the loan and finalize the foreclosure through the Division of Land Management. A decision to foreclose shall be handled as a Contested Case according to the Oneida Nation Administrative Procedures Act, Section 10. Contested Cases and 11. Appellate Review. Also see 14-5 of this Law.

(c) The Indian Land Consolidation Act was passed by Congress and became effective January 12, 1983 (Pub.L. No. 97-459, 96 Stat. 2515, and amended on October 30, 1984 by Pub.L. No. 98-608, 98 Stat. 3171). Section 207 of said Act is incorporated into this Law, which provides that if it is determined that the decedent's ownership in a given parcel of land is 2 percent or less of the total acreage, and that interest is incapable of earning \$100.00 in any one of the five (5) years from the date of the decedent's death, thence that ownership interest shall escheat,

or pass, to the Tribe having jurisdiction over said land, for just compensation, unless the heirs can prove by substantial evidence that the above determination was wrong. This determination will be made through Probate proceedings in 67.9 of this Law.

(d) Upon the Tribe receiving majority consent from heirs, the Land Commission may approve an Order Transferring Inherited Interests under the authority of Section 205 of the Indian Land Consolidation Act provided that none of the Indians owning an undivided interest is willing to purchase or match the tribes offer.

(e) An Involuntary Transfer of Title cannot occur without a hearing in front of the Land Commission, or its designated subcommittee, under procedures of the Oneida Nation Administrative Procedures Act, Section 9. Declaratory Ruling, or Section 10. Contested Cases.

(f) Easements for Landlocked Properties. A procedure for handling a request for an easement will be developed and approved by the Land Commission.

67.8-7. Records. All documents pertaining to trust property within the Oneida Reservation shall be recorded in the United States of America Aberdeen Title Plant as well as the Division of Land Management. See also Section 12.

67.8-8. All Individual and Tribal lands purchased in fee shall be transferred to Trust held by the United States of America through procedures promulgated by the Division of Land Management, and supported by waivers approved by the Secretary of Interior or designate.

67.9. Disposition Of Estates Of Deceased Tribal Members.

67.9-1. The purpose of this section is to formalize laws to handle the disposition of deceased tribal members' trust property, with or without a will. The intent of this section is to provide procedures which make it possible for equitable and fair decisions to be made for the surviving family, as well as promoting ongoing peace and harmony within the community.

(a) Tribal members holding fee land within the reservation may use the laws and procedures of the State of Wisconsin or those of this Law.

(b) Tribal members holding trust land within the reservation shall use the laws and procedures of this Section.

67.9-2. Non-members of The Oneida Tribe and non-citizens of the United States cannot acquire Trust land through inheritance. Where interests are specifically devised to individuals ineligible to inherit the following options are provided:

(a) Sale of interest to the Oneida Tribe or an eligible heir for its fair market value;

(b) Acquire a life estate in the property if an ineligible spouse and/or minor child.

67.9-3. Interests of Heirs who cannot be found will be sold to the Oneida Tribe at fair market value, or to an eligible heir, and the money returned to the estate for distribution.

67.9-4. In the absence of any heir or devisee, interests will escheat to the Oneida Tribe of Indians of Wisconsin.

67.9-5. Personal property which does not come under the guidelines of this Law, and may be distributed at the traditional ten day meal by family members, include:

(a) Clothing, furnishings, jewelry, and personal effects of the deceased not valued at more than \$100 per item.

(b) Ceremonial clothing or artifacts, including eagle feathers, beadwork, dance sticks, flutes, drums, rattles, blankets, baskets, pottery, medicines, and animal skins.

67.9-6. The Land Commission, or its designated sub-committee, shall make a declaratory ruling by authority of the Administrative Procedures Act, Section 9, in any case brought before them by any person claiming to be an heir of the deceased and requesting any of the following determinations:

- (a) Heirs of Oneida members who die without a will (intestate) and possessed of fee or trust property coming under the authority of the Oneida Tribe of Indians of Wisconsin;
- (b) Approve or disapprove wills of deceased Oneida members disposing of trust property;
- (c) Accept or reject full or partial renunciations of interest;
- (d) Allow or disallow creditors' claims against estates of deceased Oneida members;
- (e) Decree the distribution of all assets of a deceased Oneida member.

67.9-7. The Staff Attorney for the Division of Land Management will prepare a file for each probate hearing within 30 days of receipt of a Request for Probate Hearing from anyone claiming to be an heir of the deceased. Extensions to this 30 day requirement shall be requested from the Land Commission when proven necessary to complete the file. Relatives and agencies will be asked to cooperate in developing a complete probate file containing:

- (a) Family history information,
- (b) Death certificate,
- (c) Personal and Real Property Inventory,
- (d) BIA-IIM Account Report,
- (e) Creditor Claims,
- (f) Original will, if any,
- (g) Names, addresses and phone numbers of all parties-in-interest.

67.9-8. Definitions As Used In This Section

- (a) Children And Issue: Includes adopted children and children of unwed parents where paternity has been acknowledged, or established by court decree. This does not include non-adopted step-children.
- (b) Parties-in-interest: This includes:
 - (1) Heirs of the decedent
 - (2) A beneficiary named in any document offered for probate, such as the will of the decedent, land lease or sale agreement for real estate.
 - (3) A person named as administrator or personal representative in any document offered for probate.
 - (4) Additional persons as the Land Commission may by order include who may be affected by the actions of the Land Commission, or its designated sub-committee, whether by receipt of or denial of any property which is a part of the action.
- (c) Heirs: Any person who is entitled under Tribal law to an interest in the property of a decedent.

67.9-9. *Parties-in-interest*. The net estate of a decedent, not disposed of by will, passes to his/her surviving heirs or Parties-in-interest as follows:

- (a) To the spouse:
 - (1) All Real Property.
 - (2) All other than Real Property if there are no surviving children of the decedent.
 - (3) ½ of other than Real Property of the decedent's estate if there are surviving children of the decedent, or children of any deceased child of the decedent (grandchildren) who take by right of representation.
- (b) To Surviving Children and children of any deceased child of the decedent by rights of representation;
 - (1) All of the estate if there is no surviving spouse, divided equally to all in the same degree of kinship to the decedent. Surviving children of a deceased child of the decedent will divide their parent's share.
- (c) All of the estate to the parents, equally divided, if no surviving spouse, children or

children taking by right of representation.

(d) All of the estate to the brothers and sisters and children of deceased brothers or sisters by representation, divided equally, If no surviving spouse, children, or parents.

(e) All of the estate to the grandparents of the deceased divided equally, if no surviving spouse, children parents or brothers and sisters.

(f) All of the estate divided equally to lineal descendants of the grandparents of the deceased in the same order as (b) thru (e) if no surviving spouse, children, parents brothers/sisters, or grandparents of the decedent.

(g) Diagram of Intestate Succession as outlined in (a) thru (f) in Figure 1.

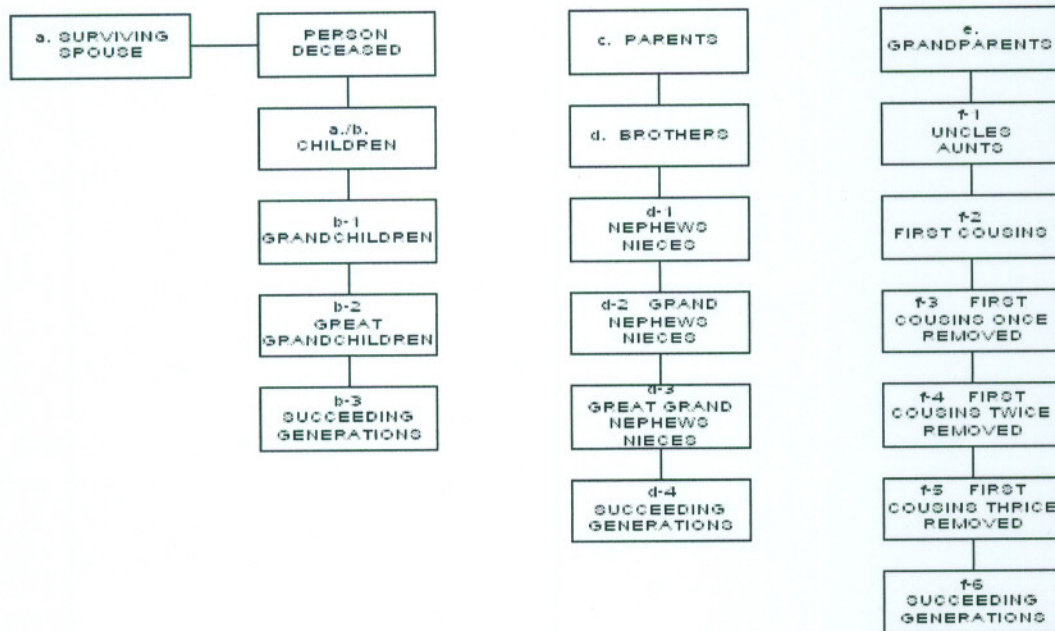


Figure 1

(h) Any 2% interests, or less, in land, as defined in 8-6(c) of this Law.

67.9-10. When the Probate File is complete, it will be placed on the agenda for review by the Land Commission, who will first review it for sufficiency. If the Land Commission determines the file is incomplete, it is sent back to the Staff Attorney with further instructions. If the probate file is determined to be complete, a hearing shall be scheduled at a time when most, if not all, parties can attend.

(a) *Notice:* All parties-in-interest will be sent a certified personal notice of the hearing to their current or last known address. The hearing notice will also be posted at NORBERT HILL CENTER, LITTLE BEAR DEVELOPMENT CENTER and other public places within the reservation, and published in at least two issues of the Kalihwisaks, the Milwaukee Sentinel/Journal, a Green Bay Paper and an Appleton paper. The notice will include time and place for hearing, agenda, approximate length of hearing and contact person. This notice will be provided at least 10 days before the hearing takes place.

(b) The hearing will generally adhere to the following format:

- (1) Rules for an open, nonjudgmental discussion shall be presented and accepted.
- (2) Probate file is reviewed and data added or corrected based on consensus of those present.
- (3) Ample time is provided for full discussion of the process, presentation of

additional data for the file, and defining of problems or disputes to be entered into the record.

(4) All problems or disputes shall be settled in this hearing, with all parties-in-interest present and assisting in this resolution. This includes recommendations for clear partition of any real property held in undivided interest, and full discussion of creditor claims. This hearing shall be continued to another date only if unpredicted circumstances or unavailable information impedes the progress of resolution.

(5) When all problems, disputes and legal issues of the case have been resolved to the satisfaction of all parties-in-interest, the hearing body will issue its Final or Declaratory Ruling to the Director of Land Management, who will notify the Land Commission and all parties involved in the hearing. This Final Ruling takes effect 60 days after mailings.

67.9-11. A party to a probate hearing may seek a rehearing of any of the above determinations listed in 9-3 upon provision of a written request to the Director of the Division of Land Management within 60 days after the Declaratory Ruling is issued. It is the responsibility of the aggrieved party to make certain that adequate documentation necessitating a rehearing is attached to the request.

(a) This request must include affidavits, witness list, summary of testimony and other support documents which would provide a justifiable reason why any new information was not available at the original hearing.

(b) If basis for rehearing is alleged procedural irregularities, the request shall include complete documentation of these irregularities.

(c) If basis for rehearing is the constitutionality of the Law or its procedures, a legal brief shall be attached to the request which clearly establishes the legal rationale for this claim.

(d) If basis for rehearing is that the determination is clearly erroneous, arbitrary and/or capricious, a clear statement or legal brief summarizing the party's rationale for believing this to be true shall be attached to the request.

67.9-12. The Director of Land Management will place the petition for rehearing on the first agenda of the Land Commission following the receipt of the written request.

(a) The Land Commission may deny a rehearing if there is insufficient grounds for the petition, or if the petition is not filed in a timely fashion.

(b) The Land Commission may order a rehearing based on the merit of the petition. The petition and supporting papers are then sent to all participants of the first hearing along with the date for the rehearing.

(c) If a rehearing is ordered, the Land Commission will adhere to the same notice requirements as in the first hearing. In addition, the hearing body should be composed of the same individuals responsible for the first hearing. Based on the information presented at the rehearing, the hearing body may adhere to the former Ruling, modify or vacate it, or make such further determinations that are warranted.

67.9-13. Any Declaratory Ruling given under this Section may be appealed to the Oneida Nation Appeals Commission within 30 days from the date of the Ruling. The Ruling is sent to the Parties-in-interest with same documentation outlined in 9-6.

67.9-14. A party may petition the Oneida Appeals Commission to reopen the case within three years after the Declaratory Ruling has been mailed out if they can prove all of the following:

(a) They were not a participant in the first hearing;

(b) They were completely unaware that the first probate hearing occurred and they have proof that they were not duly noticed; and

(c) They have rights which were erroneously left out of the first probate hearing.

67.9-15. After looking at the record of the first hearing, the Appeals Commission may rule that the Petition To Reopen is not sufficient, or it may send an order to the Land Commission to provide a second hearing based on the evidence provided in the Petition.

67.9-16. All probate Declaratory Rulings of the Land Commission or Judgments of the Appeals Commission shall be recorded in the Division of Land Management.

- (a) If fee land is part of the Ruling, it shall also be recorded at the County Register of Deeds.
- (b) If trust land is part of the Ruling, it shall also be recorded at the Department of Interior Aberdeen Title Plant.

67.10. Real Estate Trust Accounts.

67.10-1. A property trust account or escrow account shall be established by the Division of Land Management to deposit money or property being held for the following purposes:

- (a) To ensure receipt of mortgage satisfaction from seller;
- (b) Tax, insurance and utility payments held in escrow;
- (c) Security deposits on rental property;
- (d) Administrative fee;
- (e) Earnest money;
- (f) Any other receipts pertaining to real property transfer.

67.10-2. Division of Land Management Staff shall deposit all funds received within 48 hours.

67.10-3. The name Real Estate Trust Account and the Division of Land Management's name shall appear on all checks, share drafts or drafts from this account.

67.10-4. Within 10 days of opening or closing the account, the Division of Land Management shall notify the tribe's Internal Auditor of the name and number of the account, person(s) authorized to sign trust account checks and the name of the depository institution.

67.10-5. Receipt of earnest money shall be written on the relevant document pertaining to the transaction.

67.11. Leasing Of Real Property.

67.11-1. All leasing of tribal land shall be processed through the Division of Land Management.

67.11-2. Commercial, Agricultural and Residential Leases of tribal trust land are available, with preference given to Oneida tribal citizens and programs.

67.11-3. All leases shall include the responsibility of the lessee and lessor regarding the following principles:

- (a) Possession of Leased Premises;
- (b) Improvements,
- (c) Maintenance of Premises,
- (d) Assignment and Subleasing,
- (e) Options to Renew,
- (f) Destruction of Premises,
- (g) Termination of Lease,
- (h) Breach of Lease,
- (i) Use of Premises,
- (j) Term of Lease,
- (k) Security Deposit.

67.11-4. Assignment of leasehold interest for the purpose of financing shall be processed and recorded at the appropriate office by the Division of Land Management. No assignment or related encumbrance to the leasehold interest shall be valid without approval and recordation through

procedures established by the Division of Land Management.

67.11-5. In the event of default by the Lessee of the terms of an approved encumbrance, and the Lessee's assignment reaches the point of sale or foreclosure, the Division of Land Management shall have the right to correct the default. If the default is corrected under these circumstances the Lessee will be subject to further proceedings under the Oneida Administrative Procedures Act, Section 10 Contested Cases, which may lead to termination of Lessee's lease, loss of improvements, revised payment schedule and/or Garnishment of Lessee's wages in order to pay the remainder of the default.

67.12. Records.

67.12-1. *Purpose.* The purpose of recording is to provide evidence of activities that effect land title; preserve a record of the title document; and give constructive notice of changes to the title.

67.12-2. *Types Of Record.* The Division of Land Management shall develop a system for timely recording of Oneida Reservation title documents, including the following:

- (a) Deeds
- (b) Probate orders
- (c) Mortgages and other valid liens
- (d) Easements, covenants, restrictions
- (e) Certified Survey Maps and Plats of survey
- (f) Patents
- (g) Declarations of Involuntary Transfer or Taking
- (h) Satisfactions
- (i) Leases
- (j) Contracts
- (k) Home Purchase Agreements
- (l) Correction of Title defects

67.12-3. *Recordable Documents.* The original, a signed duplicate, or certified copy of the title document listed above shall be submitted for recording.

67.12-4. *Accessibility.* It is the policy of the Division of Land Management to allow access to land records and title documents unless such access would violate the Privacy Act (5 U.S.C. 552a).

67.12-5. *Certification.* Upon request, the Legal Services office will conduct a title examination of a tract of land by a qualified title examiner and provide a title status report to those persons authorized by law to receive such information, along with certification of these findings by the staff attorney.

67.12-6. *Tribal Seal.* The Land Commission is empowered to have made and provided to the Division of Land Management the seal of the Oneida Tribe to be used to authenticate documents which are certified by the staff attorney.

67.13. Real Estate Licensing.

67.13-1. *General.* Any person engaged in the business of buying, selling, advertising, listing or leasing tribal property shall be required to hold a Tribal Property License. A license requirement is established in order to protect the tribe and its members from fraud, dishonesty or incompetence in the negotiation and transfer of real property.

67.13-2. *Who Must Be Licensed.*

(a) *Tribal Property Brokers.* A Tribal Property Broker is defined as any person who has training in all aspects of real property, and acts for another person or the tribe to perform any of the following real property duties:

- (1) selling;
- (2) listing;

- (3) buying;
- (4) leasing;
- (5) renting;
- (6) exchanging;
- (7) negotiating any of above activities.

(b) *Salespersons.* A Tribal Property Salesperson is defined as any person who assists a Broker in accomplishing any of the above real property duties, and has been certified to have received the level of training outlined in this Law.

(c) *Apprentices.* Any person desiring to act as an tribal property salesperson shall file with the Division of Land Management an application for a license. A GED, HSED or high school diploma is required, except for those who write and pass a preliminary examination covering general knowledge including reading, writing, arithmetic and general real estate terminology.

67.13-3. *Exceptions.* This Section does not apply to the following:

- (a) persons who perform real property duties on their own property;
- (b) receivers, trustees, administrators, executors, guardians or persons appointed by or acting under the judgement or order of any judicial system;
- (c) tribal public officers while performing their official duties;
- (d) banks, savings and loan associations and other designated financial institutions when transacting business within the scope of their corporate powers as provided by law;
- (e) any licensed attorney who, incidental to the general practice of law, negotiates loans secured by real estate mortgages or encumbrances or transfers of real estate;
- (f) employees, such as janitors, custodians or other employed by the tribe who show property or accept lease applications as an incidental part of their duties.
- (g) persons who list, sell, or transfer real property for a cemetery association of a church, tribal program or other nonprofit organization.

67.13-4. *Licensing Procedure*

(a) *Education Requirements.* Conference seminars, courses at accredited institutions, and Oneida Career Center classes will be accepted as proof of the hours of education received by an applicant.

(1) Each applicant for a salesperson's license must submit to the Division of Land Management, proof of attendance at 45 classroom hours of educational programs dealing with State, Federal and Tribal transfer of Real Property. At least 25 classroom hours shall cover Tribal and Federal real property law.

(2) Each applicant for a broker's license must submit to the Division of Land Management, proof of attendance at 90 classroom hours of education programs addressing State, Federal and Tribal transfer of Real Property.

(b) *Experience Requirements.* Each applicant for a tribal broker's license must submit to the Division of Land Management, proof of at least one year of experience as a real property salesperson, or as a broker in another jurisdiction.

(c) *Examination.* The Licensing Examination for tribal brokers and salespeople shall be administered through the Oneida Career Center.

(1) Land Commission will create a test which will contain the following materials:

- (A) 50% Tribal Law
- (B) 30% Federal Law
- (C) 20% Wisconsin Law

(2) A score of 75% or better on each portion of the examination is required to pass. If an applicant fails any of the three portions of the exam, that applicant will have six

opportunities to retake the failed portion within the following six months. If that applicant cannot pass the failed portion within the following six months, he or she must retake the entire exam to qualify for a license.

(d) *Fees.* The following fees are applicable to tribal licensees. The Land Commission will establish an equitable fee schedule for the following:

- (1) issuance of a tribal salesperson or broker license
- (2) annual renewal fee for a tribal salesperson or broker license
- (3) late penalty for filing within 30 days of expiration
- (4) late penalty for filing within year of expiration
- (5) Test fee

(e) *Licensing.* An applicant who has passed the appropriate license examination and has complied with the necessary requirements will be granted a license by the Oneida Land Commission. The license authorizes the licensee to engage in the activities of a tribal real property broker or salesperson as described in this Law. All licenses shall show the name and business address of the licensee.

67.13-5. *Rules Of Responsibility*

(a) The intent of this section is to establish minimum standards of conduct for real property licensees and to define that conduct which may result in Land Commission action to limit, suspend or revoke the license of a real property broker, salesperson or apprentice, or impose a fine.

(b) Violations of rules in this section may demonstrate that the licensee is incompetent, or has engaged in improper, fraudulent or dishonest dealings.

- (1) A licensee has an obligation to treat all parties to a transaction fairly.
- (2) In order to comply with Federal and Tribal law, licensees shall not discriminate against, nor deny equal services to, nor be a party to any plan or agreement to discriminate against a person because of sex, race, color, handicap, religion, national origin, sex or marital status of the person maintaining a household, lawful source of income, sexual orientation, age or ancestry.
- (3) Licensees shall not provide services which the licensee is not competent to provide unless the licensee engages the assistance of one who is competent.
- (4) Licensees shall be knowledgeable regarding laws, public policies and current market conditions on real estate matters and assist, guide and advise the buying and selling public based upon these factors.
- (5) Licensees shall not advertise in a matter which is false, deceptive, or misleading.
- (6) Licensees shall not personally accept any commission, rebate, or profit from any of their real property dealings.
- (7) Licensees shall not engage in activities that constitute the unauthorized practice of law.
- (8) Licensees shall not discourage any person from retaining an attorney.
- (9) Licensees shall not exaggerate, misrepresent or conceal material facts in the practice of real estate.
- (10) Licensees shall not knowingly transmit false information.
- (11) No licensee shall draft or use any document which the licensee knows falsely portrays an interest in real estate.
- (12) Licensee shall not disclose any of the terms of one prospective buyer's offer to purchase to any other prospective buyer.
- (13) Licensee shall not issue checks upon trust accounts which contain insufficient

funds.

(14) Licensees shall notify the Division of Land Management if they are convicted of a crime, except motor vehicle offenses, so that a determination can be made whether the circumstances of the crime are substantially related to the practice of a tribal real property broker or salesperson.

(15) Licensees shall not render services while the ability of the licensee to competently perform duties is impaired by mental or emotional disorder, drugs or alcohol.

(16) Licensee shall not enter into overlapping agreements that could be construed as dual agency.

67.13-6. Penalties For Violation Of This Law

(a) Fines for minor infractions may be imposed by the Land Commission for any amount up to \$50.00. Minor infractions may include the first three infractions of the above listed offenses, or others as defined by the Land Commission.

(b) The Land Commission shall provide a fair hearing, as per Oneida Nation Administrative Procedure Act, Section 10. Contested Cases, for any person alleged to have violated this section, before a penalty is ordered.

(c) Major infractions of this section may lead to an action to limit, suspend or revoke the license of the defendant; disposition of a fine for any amount up to \$500; and/or penalties and judgements authorized by the Oneida Administrative Procedures Act Section 10(e).

67.13-7. Licensing Fee For Non-tribal Brokers. The Division of Land Management is empowered to develop a licensing fee schedule and collection procedures for all brokers who enter a consensual agreement to sell property to the Oneida tribe and are not licensed by this Law. These fees will be used for maintenance of services and management of Real Property within the authority of this Law.

67.14. Real Estate Financing.

67.14-1. The goal of tribal loan programs is to maintain and improve the standard of living for tribal members, while protecting and expanding the Tribal Land base.

67.14-2. Consistent with available funds, the Division of Land Management shall provide loan programs for the following purposes:

- (a) Financing the purchase or down payment of existing homes and lands,
- (b) Construction of new homes,
- (c) Repair and improvement to existing homes,
- (d) Refinancing existing mortgages,
- (e) Purchasing or refinancing mobile homes,
- (f) Consolidation of Loans, and
- (g) Real Estate Tax Arrearage.

67.14-3. **Eligibility Requirements For All Loans:**

- (a) All applicants must be 21 years of age.
- (b) Applicant(s) must be an enrolled member of the Oneida Tribe.
- (c) Financed property must be located within the boundaries of the Oneida Reservation.
- (d) Applicants must have an acceptable credit rating.

67.14-4. All loan programs are provided only to tribal members in order to respond to the Oneida Tribe's legislative purpose of expanding and maintaining tribal jurisdiction over all land within the boundaries of the Oneida Reservation, while fulfilling basic membership needs for adequate housing.

- (a) The applicant for any loan must list one to three Oneida Tribal members who will inherit any interest in Real Property mortgaged by a Tribal loan program, upon death of the applicant.

(b) If the spouse of an applicant is a non-tribal member, he/she may continue to pay off the loan, as long as he/she agrees to list three tribal beneficiaries in case of death. Once the loan is satisfied, the designation of beneficiaries to the mortgaged interest in fee property will lapse.

(c) If the applicant and non-tribal spouse commence divorce proceedings, the Division of Land Management may

(1) refinance the enrolled member's loan balance so he/she may secure the entire property,

(2) provide an offer to purchase the entire property and pay off liens,

(3) consider some other financial agreement that would assist the tribal applicant in retaining property within the boundaries of the reservation.

(d) A non-tribal spouse shall sign an affidavit at the time that a tribal loan is accepted indicating he/she is informed of this regulation and consent to the tribal spouse receiving a mortgage against homestead property, held in fee, with this condition attached.

67.14-5. *Foreclosures*

(a) *Default.* Any Tribal Loan that is in default for three consecutive months is subject to foreclosure proceedings, provided that a Notice of Arrears, showing the increasing amounts payable to cure the default, has been sent to the loan holder(s) each month by the Loan Officer.

(b) *Decision To Foreclose.*

(1) After three notices, the Loan Officer will provide the Director of Land Management, and the Loan Committee, all documents and information necessary to determine whether or not foreclosure proceedings should be started.

(2) Any recommendation to foreclose will be put on the next Land Commission agenda for concurrence, scheduling of a hearing, and designation of a three-person hearing body.

(3) Each member of the three-person hearing body will receive \$150 for being present at the scheduled hearing, reviewing all information presented, and providing a final decision, opinion, order or report based on their deliberations, except for employees of the Oneida Tribe who have permission to be a part of the hearing body as part of their job.

(4) The Director of Land Management will make provisions for necessary clerical support for the three-person hearing body.

67.15. **Tribal Real Estate Taxes.**

67.15-1. Regulations for the promulgation of a Real Estate Tax Code will be developed by the Division of Land Management by October 1, 1996, in order to provide for increasing costs for services provided to occupants of tribal land, such as environmental services, public roads, fire protection, recycling, garbage pick-up, water and sewer, transportation, traffic control, loans, and management of real property.

67.16. **Organization.**

67.16-1. General

(a) The Division of Land Management shall administer all transactions that come under this Law.

(b) All tribal agencies will process any type of real property acquisition, including donations, through the Division of Land Management.

67.16-2. Land Commission

(a) *Number of Commissioners.* The Commission shall be comprised of seven (7) elected Tribal members.

(b) *Term of Office.* The terms of office for the Commissioners shall be three (3) years. Terms shall be staggered with expiring positions elected every year. The first elected Land Commissioners shall serve according to the following formula, and staggering of terms shall begin thereafter:

(1) The three (3) candidates receiving the three highest number votes shall serve an initial term of three (3) years.

(2) The two (2) candidates receiving the next two highest number votes shall serve an initial term of two (2) years.

(3) The two (2) candidates receiving the next two highest number of votes shall serve an initial term of one (1) year.

(4) In the event of a tie vote in the first election, a coin toss shall determine which candidate shall serve the longer term.

(c) *Powers and Duties.* The Land Commission shall have the following powers and duties:

(1) The Land Commission shall set standards of professional competence and conduct for the professions detailed in this Law, review the examination grades of prospective new practitioners, grant licenses, investigate complaints of alleged unprofessional conduct, and perform other functions assigned to it by law.

(2) Hear and decide, as the original hearing body, contested cases that may arise from this Law.

(3) Implement and interpret the provisions of this Law.

67.16-3. Administration

(a) *Director of Division of Land Management.* The Director shall have the following powers and duties:

(1) Hire, train, and establish operational and objective commitments for support staff needed to implement this Law.

(2) Supervise staff in accordance with Tribal Personnel Policies and Procedures.

(3) Provide Declaratory Ruling per procedures in this Law and the Oneida Nation Administrative Procedures Act.

(4) Implement all aspects of this Law through the Oneida Tribal Planning and Budgeting Process.

End.

Adopted - BC-5-29-96-A
Amended-BC-3-01-06-D

Chapter 69
ZONING AND SHORELAND PROTECTION LAW
Twa?nikuhlálake Atsya?ktate Olihwá·ke O?khale
Ni?yohuntsya·té

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

SUBCHAPTER 1
 ZONING

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69.2-1	Authority, Purpose, Scope and Separability	69.11-1	Administration and Enforcement
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69.27-1	Filling, Grading, Lagooning, Dredging, and Excavating	69.37-1	Enforcement and Penalties
69.28-1	Non-Conforming Users		

SUBCHAPTER 1

ZONING

A LAW ESTABLISHING A ZONING PLAN FOR TRIBAL LANDS HELD IN TRUST AND FEE, HEIRSHIP LANDS AND INDIVIDUAL TRUST AND FEE LANDS WITHIN THE ONEIDA RESERVATION BY DIVIDING THE RESERVATION INTO DISTRICTS AND THEREIN REGULATING THE USE OF LAND AND BUILDINGS ON LOTS, AND THE DENSITY OF THE POPULATION, AND PROVIDING FOR THE ADMINISTRATION AND ENFORCEMENT OF THIS LAW .

69.1-1. Title: This Law shall be known and cited as the “ZONING LAW OF THE ONEIDA RESERVATION.”

69.2. Authority, Purpose, Scope and Separability

69.2-1. Authority. The Oneida Tribe of Indians of Wisconsin, does ordain this zoning law as authorised in Article IV, Section 1 (f), of the Constitution of the Oneida Tribe, for the promotion and

protection of the public health, safety, peace, prosperity, comfort, and general welfare of residents of the Oneida Reservation.

69.2-2. Purpose. Said Law shall also assist in guiding the future development of the Reservation in accordance with a Comprehensive Plan, a Land Use Plan, and to protect the character and stability of residential, commercial, industrial, agricultural, and other areas within the Reservation, and to assure the orderly and beneficial development of such areas. 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 Oneida members, all heirship lands and waters and all individual trust lands and waters within the present confines of the Oneida Reservation and to such other lands as may be hereafter added thereto under any law of the United States, except as otherwise provided by the law.

69.2-3. Scope.

(a) It is not intended by this Law to repeal, abrogate, annul, impair or interfere with any existing easements, covenants, or agreements between parties or with any rules, regulations, or permits previously adopted or issued pursuant to laws; provided, however, that where this Law imposes a greater restriction upon the use of buildings or premises, or upon the height of buildings or premises, or requires larger open spaces than are required by other rules, regulations or permits, or by easements, covenants, or agreements, the provisions of this Law shall govern.

(b) Where the conditions imposed by any provision of this Law are either more restrictive or less restrictive than comparable conditions imposed by any other Tribal or federal law, law, statute, resolution, or regulation of any kind, the regulations which are more restrictive or which impose higher standards or requirements shall prevail.

(c) 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, within the zoned areas on the Reservation shall be in conformity with the provisions of this Law. Any existing building or structure and any existing use or properties not in conformity with the regulations herein prescribed, shall be regarded as non-conforming, but may be continued, extended or changed, subject to the special regulations herein provided with respect to non-conforming properties or uses.

(d) Separability. It is hereby declared to be the intention that the provisions of this Law are separably in accordance with the following:

(1) If any court of competent jurisdiction shall adjudge any provisions of this Law to be invalid, such judgement shall not affect any other provisions of this Law not specifically included in said statement.

(2) 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 judgement shall not affect other property, buildings or structures.

69.3. Rules.

69.3-1. The language set forth in the text of this Law shall be interpreted in accordance with the following rules of construction:

- (a) Any use not herein expressly permitted is hereby expressly prohibited.
- (b) The singular number includes the plural and plural the singular.
- (c) The present tense includes the past and future tense and the future, the present.
- (d) The word "shall" is mandatory and the word "may" is permissive.
- (e) The masculine gender indicates the feminine and neuter genders.
- (f) 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.
- (g) All measured distances are expressed in feet shall be rounded to the nearest foot.
- (h) All measured distances, unless otherwise specified, shall be measured horizontally.
- (i) The word "building" shall include the word "structure".
- (j) The word "person" shall include any firm, association, organization, partnership, trust, company, or corporation, family, separate household, as well as an individual.
- (k) The phrase "used for" shall include the phrases "arranged for", "designed for", "intended for", "maintained for", and "occupied for".

69.4. General Regulations.

69.4-1. The regulations, interpretations, modifications and exceptions set forth in this section shall apply to all tribally zoned districts, unless otherwise specified.

(a) Yards and Open Space.

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

(2) 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.

(3) No lot areas shall be so reduced that the yards and open spaces shall be smaller than is required by this Law.

(4) The required front yard of a corner lot shall not contain any wall, fence, or other structure, tree, shrub, or other growth which may cause damage to traffic on a street or public road by obscuring the view.

(b) Height. 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 Zone in which the lot is situated shall be permitted in the downhill side of any lot.

(c) Non-Conforming Structures, Uses. The lawful use of any land or building existing at the time of the adoption of this Law may be continued even if such does not conform to the regulations of this Law, except as provided below:

(1) Non-conforming buildings

(A) Alterations. A non-conforming building or structure shall not be reconstructed or structurally altered unless such building or structure is changed to conform with the regulations of this Law.

(B) Enlargement. A non-conforming building or structure shall not be added to or enlarged to or enlarged in any manner unless such additions or

enlargements are made so as to bring said building or structure into conformity with the regulations of this Law.

(C) Restoration. A non-conforming building or structure which is damaged by fire or other causes to the extent of more than fifty (50) percent of its market value, at the time of adoption of this Law, shall not be restored except in conformity with the regulations of this Law.

(D) Abandonment. A non-conforming use of a building which has been discontinued for a period of twelve (12) months shall not be re-established, and any future use shall be in conformity with the regulations of this Law.

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

69.4-2. Non-Conforming Use of Building or Land.

(a) Extension. No such non-conforming use shall be enlarged to increased, nor extended to occupy a greater area of land than occupied at the time of the effective date of this Law.

(b) 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.

(c) 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 shall conform to the regulations specified by this Law for the district in which such land is located.

(d) Density. The density of population shall not be increased in any manner except in conformity with the area regulations hereby established for the district in which a building or premises is located.

(e) Lot Provisions.

(1) Any lot of record 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 residential 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.

(2) 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 cannot 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 will be issued for a lot that does not comply with this paragraph.

(3) 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 must be approved by the Zoning Administrator. A certified plat of survey must be provided for all properties created as of the effective date of this Law.

(4) 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) principle 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 a) the required yards be maintained around the group of buildings, and b) 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.

(5) On a corner lot, both street lines shall be front lines for applying the yard and parking requirements of this Law.

69.5. Definitions.

69.5-1. Agricultural Use. The use of land for agricultural purposes, including soil tillage for the production of crops, dairying, pasturage, agriculture, horticulture, floriculture, viticulture, animal and poultry husbandry, and the necessary accessory uses for forestry, treating, or storing and produce; provided that the operation of any such accessory uses shall be secondary to that of the primary agriculture activities occurring thereon.

69.5-2. Agricultural Zone. Area where land use is predominantly for farming purposes.

69.5-3. Airport or Heliport. Any area of land, water or structure which is used or intended for use for the landing and taking off of aircraft, and any appurtenant land or structures which are used or intended for use for airport buildings or other airport facilities or rights of way, including all necessary taxiways, aircraft storage and tie-down areas, hangars, and other necessary buildings and open spaces. For purposes of Article XV, airport shall mean Austin Straubel Field.

69.5-4. Airport Hazard. Any structure, object, whether man-made or natural, or use of land which obstructs the air space required for flight of aircraft in landing or taking off at the airport or is otherwise hazardous to such landing or taking off.

69.5-5. Alley. A thoroughfare less than thirty feet in width and for the purpose of providing secondary access to the rear of the buildings.

69.5-6. Accessory Building. See Building; Accessory.

69.5-7. Automobile Body Shop. Any land structure or premises used for the construction, reconstruction, painting or repair of fenders or bodies of automobiles, trucks or other vehicles.

69.5-8. Automobile. Any land, building, structure or premises used for the sale at retail of motor vehicle fuels, oils, or accessories and for servicing or lubricating motor vehicles or installing or repairing parts and accessories; or any land, building, structure or premises used for the sale at retail of motor vehicle fuels, oils or accessories. Neither automobile body shops nor automobile sales lots shall be construed as being a filling or service station.

69.5-9. Basement. That portion of any structure located partly underground and having more than one-half ($\frac{1}{2}$) of its height below the finished lot grade and the front of the building.

69.5-10. Bed & Breakfast. Any place of lodging that provides four or fewer rooms for rent for more than 10 nights in a 12 month period, is the owners 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 guest shall not exceed 14 days per stay.

69.5-11. Block. A parcel of land bounded on at least one side by a street and on the other sides by

a natural or man-made barrier.

69.5-12. Boarding House. A building, other than a hotel or apartment where, for compensation and by prearrangement for definite periods, lodging, meals, or lodging and meals are provided for three (3) or more persons, not members of the family, but not exceeding twenty (20) persons.

69.5-13. Buffer Zone. A green belt, non-development area which protects the central Reservation from urban development and encroachment.

69.5-14. Building. Any structure intended for the support, shelter or enclosure of any person, chattel, or property of any kind. For the purpose of this Law, the word "building" shall include the word "structure".

69.5-15. Building, Accessory. An uninhabited subordinate building, not attached to the main building, the use of which is incidental to and customary in conjunction with the principal building or use, and which is located in the rear yard with such principal building or use. 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.

69.5-16. Building, Principal. A building in which is conducted the principal use of the lot on which it is situated. In any residential district, any dwelling shall be deemed to be a main (principal) building on the lot on which it is situated.

69.5-17. Canopy (Marquee). Roof-like structure projecting from and attached to a building. Also a roof-like free standing structure supported by upright braces, poles or footings supported by the ground.

69.5-18. Carport. An automobile shelter having one or more sides open and being attached to the principal building.

69.5-19. Conservancy. An area set aside for the preservation of mutual resources where development is prohibited. Sites designated as environmentally, culturally, and historically significant or sacred shall be considered as part of the Conservation Zone or Conservancy.

69.5-20. Conservation Zone. See Conservancy.

69.5-21. Court. An open space within one (1) lot, more than one-half ($\frac{1}{2}$) of its perimeter being surrounded by buildings.

69.5-22. District. A section of the Reservation within which the zoning regulations are uniform.

69.5-23. Duck Creek Conservancy. A zone extending a minimum of 1,250 feet, 625 from either shore for the full length of Duck Creek. Between Overland Road and King Lane the zone is a 600 foot variable band which would include the Creek bed and Shoreland Protection Area, but fluctuates depending on the land use on adjacent shores.

69.5-24. Dwelling. A building or portion thereof designed or used exclusively for residential occupancy, but not including hotels, motels, boarding and lodging houses, tourists courts or tourist homes.

69.5-25. Dwelling, Single-family. A detached building designed for, and occupied exclusively by, one family.

69.5-26. Dwelling, Two-family. A semi-detached building designed for, and occupied exclusively by, two families living independently of each other.

69.5-27. Dwelling, Multiple-family. A building or portion thereof used or designed for use as a residence for three or more families living independently of each other, and doing their own cooking in said building, including apartment houses, apartment hotels, and condominiums.

- 69.5-28. Dwelling Unit. A room or a suite of rooms used as a single-family dwelling, including bath and culinary accommodations.
- 69.5-29. Encroachment. Certain man-made features which intrude into the required setbacks and which may be permitted pursuant to Article XIII of this Law.
- 69.5-30. Family. An individual, or two or more persons related by blood or marriage, adoption, foster care arrangement, or a group of not more than five (5) persons, excluding servants, who are not related by blood or marriage, living together as a single-housekeeping unit.
- 69.5-31. Farm. Any parcel of land which is used for gain in the raising of agricultural products, livestock, poultry, and dairy products.
- 69.5-32. Fences. Any artificially constructed barrier of any material or combination of materials erected to enclose or screen areas of land and which may be permitted pursuant to Article XIII of this Law.
- 69.5-33. Frontage. That boundary of a lot which abuts an existing or dedicated public street.
- 69.5-34. Garage, Private. Any accessory building or portion of a main building used for the storage of motor vehicles of the occupants of the premises.
- 69.5-35. Garage, Public. 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. The term repairing shall not include an automobile body shop nor the rebuilding, dismantling or storage of wrecked or junked or unlicensed vehicles.
- 69.5-36. Garage, Storage. Any premises, except those herein defined as a private garage, used exclusively for the storage of motor vehicles and where no vehicle equipment, part, fuel or oil are sold and where no vehicles are serviced, repaired, hired, or sold.
- 69.5-37. Garage Sale. Any display of used goods and/or salesmen's samples for sale of said goods on a property customarily used as a residence, provided that the person conducting the sale resides on the premises; the sale lasts no more than three days; and sales are conducted no more than four times within a calendar year. Any more intensive use of this nature shall be construed as a retail enterprise.
- 69.5-38. Group Foster Home. A home in which a sponsoring family or house parent couple accepts not more than eight (8) non-related persons for personalized living and supervision. Such a home shall be of a non-profit nature and primarily designed for the rehabilitation of the residents. It may be used for short term or respite care, or for long term care.
- 69.5-39. Growth. Any object of natural growth, including trees, shrubs or foliage, except farm crops which are cut at least once a year.
- 69.5-40. Habitable Area. That portion of a dwelling unit which is suitable for human habitation, which shall not include the basement, garage or unheated and unfinished portion of the unit.
- 69.5-41. Hedge. A dense barrier comprised of planted vegetation designed to enclose or screen areas of land and which may be permitted pursuant to Section 13 of this Law.
- 69.5-42. Height. The overall height of the top of a structure, including any appurtenance installed thereon, or the top of any object of natural growth.
- 69.5-43. Height of Building. The vertical distance from the average finished grade along the front of a building to the highest point of a flat roof; to the deckline of a mansard roof; and to the average height between the eaves and the ridge of a gable, hip, or gambrel roof.
- 69.5-44. Home Occupation. Any gainful occupation conducted by members of a family only, entirely

within their residence, provided that no person not a resident on the premises is employed; no substantial amount of stock in trade or commodities is sold; no article is offered for sale on the premises except such as is produced by such occupation; there is no exterior indication other than a sign pursuant to paragraph X (H), (1), (c), that the premises is used for other than a dwelling unit and that no mechanical equipment is used other than such as is permissible for purely domestic purposes. Such use must be clearly incidental and secondary to the use of the dwelling for dwelling purposes. Clinics, convalescent homes, hospitals, automobile body shops, tea rooms, and animal hospitals are examples that shall not be deemed to be home occupations.

69.5-45. Hotel. Any building or portion thereof, which provides or which is intended to provide meals or lodging or both, to guests for compensation, either directly or indirectly, and containing five or more sleeping rooms for such guests, with no provisions for cooking in any such guest room, and in which ingress and egress to and from all rooms is made through a central supervised lobby.

69.5-46. Junkyard. Land or buildings where waste, discarded or salvaged materials are brought, sold, exchanged, stored, baled, cleaned, packed, disassembled, or handled, including, but not limited to motor vehicle scrap metal, rags, paper, rubber products, plastics, glass products, lumber products and products resulting from wrecking or salvage of automobiles or other vehicles, outdoor storage of two or more unregistered vehicles, except as otherwise authorized. Such use shall not include sanitary land fill, organic waste or material.

69.5-47. Kennel-Commercial. Any structure or premises on which three (3) or more domestic pets, of one type, over four (4) months of age are kept, owned, boarded, groomed, sheltered, protected, bred, or offered for sale or any other merchandising.

69.5-48. Kennel -Private. Any structure or premises on which three (3) or less domestic pets, over four (4) months of age are kept for private enjoyment and not for monetary gain.

69.5-49. Landfill. A system of trash, waste, refuse, debris, salvaged material, or garbage disposal, in which the waste is buried between layers of soil.

69.5-50. LDN. Level day/night average of noise measurement in decibels. The U.S. Department of Housing and Urban Development (HUD) has determined that exposure to noise levels of 65 ldn or greater is generally incompatible with normal residential activities.

69.5-51. Lodging or Rooming House. Boarding house.

69.5-52. Lot. Land occupied or to be occupied by a building and its accessory buildings, together with such open spaces and parking as are required under this Law and having frontage on a street.

69.5-53. Lot, Corner. A lot abutting on two or more streets at their intersection.

69.5-54. Lot, Interior. A lot other than a corner lot.

69.5-55. Lot, Through. A lot other than a corner lot having frontage on two streets.

69.5-56. Lot Division. The term lot division means the division of a parcel of land into two lots or parcels, any one of which is less than one and one-half (1 ½) acres in and for the purpose of transfer of ownership or building development.

69.5-57. Lot Line. A lot line is the property line bounding a lot, except that where any portion of a lot extends into a public right-of-way or a proposed right-of-way, the line of such public right-of-way shall be the lot line.

69.5-58. Mobile Home. Any vehicle or structure which is, or was as originally constructed, designed to be transported by any motor vehicle upon a public highway and designed, equipped, used, or intended to be used primarily for human habitation, including any additions, attachments, annexes,

foundations, and appurtenances thereto. Excluded under this provision are doublewide, and prefabricated homes and those trailers which are designed as recreational (camping) vehicles or motorhomes.

69.5-59. Mobile Home -Class A. A new mobile home which has never been used for human habitation.

69.5-60. Mobile Home -Class B. 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 the Inspector who shall be designated by the Land Commission.

69.5-61. Mobile Home Lot. A parcel of land for the placement of a single mobile home for the exclusive use of the occupants of said mobile home.

69.5-62. Mobile Home Park. Any site, parcel, or tract of land designed, maintained, intended, or developed with facilities for locating two or more mobile homes. Mobile home parks shall include any buildings, structures, vehicles, or enclosures intended for use as part of the equipment of such mobile home park, but shall not include a sales lot on which unoccupied units are parked for sale or inspection.

69.5-63. Mobile Office. Any vehicle or structure which is, or was as originally constructed, designed to be transported by a motor vehicle upon a public highway 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. Temporary offices located on a construction site for 18 months or less shall not be considered a mobile office, but shall be required to obtain a permit prior to placement in a lot.

69.5-64. Motel. A building or group of detached, semi-detached, or attached buildings containing guest rooms or dwellings, with 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.

69.5-65. Motor Vehicle. Any passenger vehicle, truck, trailer, or semi-trailer propelled or drawn by mechanical power.

69.5-66. Nation Forest Zone. Area reserved for the development of a sustained yield nation forest.

69.5-67. Non-Conforming Structure or Use. A structure or portion thereof, or a lawful use which does not conform to the regulations of the district in which it is located.

69.5-68. Official Map. Is that map which may be adopted by the Tribe which shows existing and proposed streets, highways, parkways, parks and playgrounds, and school sites.

69.5-69. Oneida Residential Zone. Denotes areas of higher residential use lying within the central Reservation area.

69.5-70. Parking Space. A gravel or other all-weather surfaced area whether covered or uncovered, and located on a lot, and having minimum dimensions of not less than 9 feet by 20 feet (180 square feet), exclusive of driveways, 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, and may be regulated pursuant to Article XIII of this Law.

69.5-71. Permit -Special Use. A permit to be obtained from the Zoning Administrator when food preparation is to take place in a home occupation.

69.5-72. Permit -Vendors. A permit to be obtained from the Environmental Department when food is prepared in the home for provision to the general public.

69.5-73. Planned Unit Development (PUD). A development, having two (2) or more principal uses or structures on a single tract or tracts of land, developed according to a plan approved by the Tribe, under single ownership or unified control. A Planned Unit Development allows for flexibility not available under normal zoning district requirements. A planned unit development may include a combination of land uses.

69.5-74. Plan, Development. A report in text and map form with the map drawn to scale, depicting the general location and relationship of structures, streets, driveways, recreation areas, parking areas, utilities, buffering, etc., as related to a proposed development. Preliminary and Final Development Plans are required for Planned Unit Developments and are further identified in Paragraphs XVI (E) (F).

69.5-75. Prefabricated Home. 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. Modular.

69.5-76. Principal Structure or Use. One which determines the predominant use as contrasted to accessory use or structure.

69.5-77. Premises. A lot together with all buildings and structures thereon.

69.5-78. Professional Office. The office of a doctor, practitioner, dentist, clergyman, architect, landscape architect, professional engineer, lawyer, author, musician, or other recognized profession.

69.5-79. Public Hearing. For purposes of this Law, a public hearing is a meeting that is convened to discuss one or more issues and which may be attended by any enrolled Oneida, subject to procedural exception whereby other persons may be admitted upon majority vote of the Business Committee after recommendation by the Land Commission.

69.5-80. Roadside Stand. An accessory structure 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.

69.5-81. Runway. A portion of the airport having a surface specially developed and maintained for the landing or taking off of airplanes.

69.5-82. Setback. The minimum distance between the street line and the outside perimeter of a building, excluding steps, uncovered porches, and permitted encroachments; also, the minimum distance between the lot line and the outside perimeter of a building, excluding steps, uncovered porches and other permitted encroachments.

69.5-83. Sign. A name, identification, display, illustration or statuary, which is affixed to or represented directly or indirectly in a building, structure, or land and which directs attention to an object, product, place, activity, person, organization or business. Types of signs for purposes of this Law:

(a) Abandoned Sign. Any sign which no longer correctly directs or exhorts any person, advertises a bonafide business (any business currently in operation), lessor, owner, product, or activity conductor or product available on the premises, where such sign is displayed, or when a rental or compensation is no longer provided.

(b) Banner, Street. Any temporary sign made of fabric or other flexible material and hung across a right-of-way.

(c) Banner, Wall. Any temporary sign made of fabric or other flexible material and affixed to a wall or building.

- (d) **Billboard.** 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.
- (e) **Curb Sign.** Any two-sided, non-illuminated temporary sign which sits upon the ground, which does not exceed 10 square feet per side, which customarily advertises one product such as cigarettes, oil or gasoline and is customarily located near the curb or right-of-way.
- (f) **Ground Sign.** A sign supported by uprights, braces, poles, pylons, or footings placed in the ground and not attached to any part of any building and is located on the premises being advertised.
- (g) **Electric Sign.** A sign containing electric wiring. This does not include signs illuminated by an exterior floodlight source.
- (h) **Electronic Message Center.** Any electronic (electric) advertising medium utilizing moving or intermittent messages with the use of direct illumination for its primary readability to display said messages; including public service and time and temperature displays.
- (i) **Flashing Sign.** 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 purpose of this Law.
- (j) **Identification Sign.** An on-premise sign limited to identification or the name and address of occupants thereon, except that of registered trademarks and corporate logos.
- (k) **Illuminated Signs.**
 - (1) **Directly Illuminated Sign.** Any sign which emanates light either by means of exposed tubing or lamps on its surface, or by means of illumination transmitted through the sign faces.
 - (2) **Indirectly Illuminated Sign.** Any sign illuminated with a light so shielded that no direct rays from it are visible elsewhere than on the lot where illumination occurs.
- (l) **Mobile Mounted Sign.** A temporary sign which is mounted or designed for mounting on wheels or a mobile platform.
- (m) **Public Service Information Sign.** Any sign intended primarily to promote items of general interest to the community.
- (n) **Projecting Sign.** Any sign extending more than eighteen (18) inches from the face or wall of a building.
- (o) **Roof Sign.** Any sign erected upon a roof or above the parapet wall of a building, and which is wholly or partially supported by said building.
- (p) **Rotating or Revolving Sign.** Any sign or portion of a sign which moves in a revolving 360 degree motion.
- (q) **Wall Sign.** Any sign attached to, erected or painted on the wall of a building or structure which is parallel to the wall and projects not more than eighteen (18) inches from such wall.
- (r) **Window Sign.** Any sign affixed to or visible through an exterior window or an enclosed building.

69.5-84. **Sign, Gross Area.** Shall be the entire area within a single continuous perimeter enclosing the extreme limits of such sign. However, such perimeter 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.

69.5-85. Sign Structure. Supports, uprights braces or framework of the sign.

69.5-86. Story. That portion of a building included between the surface of any floor and the surface of the next floor above it, or if there is no floor above it, then the space between the floor and the ceiling next above it. A basement shall be counted as a story if its ceiling is over five feet above the level from which the height of the building is measured, and it is used for business purposes.

69.5-87. Story, Half. A story with at least two opposite exterior sides meeting a sloping roof not more than three feet above the floor of such story.

69.5-88. Street. A public right of way, thirty 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.

69.5-89. Street, Right-of-Way. A parcel of land dedicated to or reserved by a governmental unit for street or sidewalk or similar public purposes.

69.5-90. Structural Alterations. 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.

69.5-91. Structure. Anything constructed, the use of which requires permanent location on the ground, or attached to something having a permanent location on the ground.

69.5-92. Suburban Zone. Less densely settled area existing on the Western border of the City of Green Bay, lying within the boundaries of the Village of Ashwaubenon and the Town of Hobart.

69.5-93. Tribal Public. Enrolled Oneidas as a community at large.

69.5-94. Townhouse. A single family building attached by party walls with other single family buildings and orientated so that all exits open to the outside with private entries maintained to each individual unit.

69.5-95. Tribe. The Oneida Tribe of Indians of Wisconsin.

69.5-96. Urban Zone. Area lying predominantly within the boundaries of the City of Green Bay. All land use is high density.

69.5-97. Use. 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.

69.5-98. Use, Accessory. 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.

69.5-99. Use, Non-Conforming. Use of a building or of land that does not conform to the regulations for the district in which it is situated.

69.5-100. Use, Principal. The main use of land or buildings, as distinguished from a subordinate or accessory use.

69.5-101. Vision Triangle. An open triangular space providing an unobstructed view at the intersection of two or more streets. In the case of 90 degree intersecting streets, the vision triangle shall be described as the area within a triangle formed by connecting the following three points:

The point of intersection of the curb lines of the intersecting streets, a point 25 feet from said point of intersection along one curb line, and a point 25 feet from said point of intersection along the other curb line. In the case of all other intersecting streets, the intersection sight distance triangle shall be defined by the Zoning Administrator. (Reference diagram in appendix section.)

69.5-102. Yard. An open space other than a court, open and unobstructed from the ground upward, except by trees, plantings, laundry poles, bird houses, and other similar fixtures customarily found in a yard and permitted encroachments.

69.5-103. Yard, Front. 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.

69.5-104. Yard, Rear. 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.

69.5-105. Yard, Side. A yard extending between the side line of the lot and the nearest line of the building, excluding steps, unenclosed porches, permitted encroachments, and extending from the front yard to the rear yard.

69.5-106. Zoning Administrator. The officer charged with the administration and enforcement of this Law.

69.5-107. Zoning Amendment. A change of the zoning map or zoning text authorized by the Business Committee, pursuant to Article XI of this Law.

69.5-108. Zoning District. An area or areas within the limits of the Reservation for which the regulation and requirements governing use are uniform.

69.5-109. Zoning Map. The map or maps incorporated into this Law as a part thereof, designating the Zoning Districts.

69.6-1. Organization

(a) Land Commission

(1) Powers and Duties: The Land Commission shall have the following powers and duties:

(A) Have custody of the Official Tribal Zoning Map;

(B) Have the power to hear and decide appeals from the denial of Land Use Permits, in accordance with section twelve of this Law.

(C) Have the power by majority vote to adopt such rules and regulations governing and conduct of hearings before the Land Commission as it deems necessary; provided however that all meetings and votes of the Land Commission and all hearings it conducts, shall be open to the Tribal public; and further provide that written minutes of all such meetings and hearings shall be prepared and shall be available to the Tribal public.

(D) Have the power to 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 Chapter.

(E) Have the power to interpret the provisions of this Chapter in such a way as to carry out the intent and purpose of the plan, as shown upon the map fixing the several districts accompanying and made a part of this Chapter where the street layout on the ground varies from the street layout as shown on the aforesaid map.

(b) Zoning Administrator.

(1) Appointment. There is established within the Oneida Tribal Government the position of Zoning Administrator. The Administrator shall have the powers and duties prescribed in Section 6 (B) (2) of this Law.

(2) Powers and Duties. The Zoning Administrator shall have the following powers and duties:

(A) The Zoning Administrator shall consult and cooperate with the Land Commission during its study of the Reservation's land use needs and Zoning Map preparation.

(B) Investigate violations, give notice thereof, and recommend prosecution in cases where violations remain uncorrected, under the provisions of Section 14 of this Law.

(C) The Zoning Administrator shall issue or deny Land Use Permits pursuant to the provisions of this Law. All such permits shall be posted on the premises in question.

(D) The Zoning Administrator may make recommendations to the Land Commission or the Business Committee concerning appeals from the denial of Land Use Permits or concerning applications for Conditional Use Permits.

(E) Conduct inspections of buildings and use of land to determine compliance with the terms of this Law.

(F) Maintain permanent and current records of this Law, including, but not limited to, all maps, amendments, and conditional uses, variances, appeals and applications.

(G) Receive, file, and forward all applications for appeals, variances, special uses or other matters to the Land Commission

(H) Establish and enforce necessary or desirable regulations in writing, clarifying or explaining any provision of this Law.

(I) Provide such clerical, technical, and professional assistance as may be required by the Land Commission in the exercise of its duties.

(J) The Zoning Administrator may require the applicant to furnish such additional information as may be necessary to properly perform his duties.

69.7-1. TRIBAL ZONING MAP

(a) Map. The Land Use Zone into which each parcel of land in the Reservation is placed shall be determined by reference to an Official Tribal Zoning Map, which shall consist of one or more maps adopted by the Oneida Business Committee and repositied in the custody of the Land Commission. Said map and all notations, references, dates, and other information shown thereon are hereby made a part of this Law as if the same were fully setforth herein.

(b) Districts. For purposes of this Law, the Oneida Reservation is divided into the following districts which are regulated pursuant to Section 7 Article VIII:

- (1) Single-Family Residential (R-1)
- (2) Two Family Residential (R-2)
- (3) Low Density Multifamily Residential (R-3)
- (4) High Density Multifamily Residential (R-4)

- (5) Mobile Home Parks (R-5)
- (6) Commercial (C-1)
- (7) Agricultural (A-1)
- (8) Industrial (M-1)
- (9) Institutional (G-1)

(c) Public Examination. The Official Tribal Zoning Map, or an exact copy thereof, held in the custody of the Land Commission shall be available for examination by any member of the Tribal public during regular working hours.

(d) Interpretation. Unless otherwise stated, all Land Use Districts shown on the Official Tribal Zoning Map are intended:

- (1) To follow lot lines, road center lines, and the center lines of streets or alleys, as they existed on the date of the adoption of the map.
- (2) Boundaries following the shoreline of a stream, creek, or other body of water shall be construed to follow the centerlines of such 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 is indicated on the Map.
- (3) If no distance is given, each dimension shall be determined by the use of the scale shown on the map.
- (4) 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.
- (5) Any area shown on the Zoning Map as 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 restricted adjoining district shall govern.

(e) Doubt as to Interpretation. Where application of the rules of interpretation established in the preceding subsection leaves a reasonable doubt as to the boundaries between two Land Use Zones, the regulations of the more restrictive Zone shall govern the entire area in question.

(f) Amendments

- (1) Authority. The Oneida Business Committee may, from time to time, in the manner set forth in Section 11 C of this Law, amend the regulations imposed in the districts or amend district boundary lines, provided that such amendments shall not be contrary to the Intent and Purposes of this Law.
- (2) Timing. Amendments to the zoning map shall be recorded on said map within fifteen (15) days after adoption by the Business Committee. The copy of the official zoning map shall be open to public inspection during regular working hours.

69.8. Districts.

69.8-1. Those structures and uses already in existence at the time of the adoption of this Law shall be allowed to remain in the existing condition until such time as the building or structure is altered. Upon alteration, such structures or uses shall first meet the requirements as set forth in this Section.

(a) Single Family Residential District (R-1)

(1) Purpose. The purpose of this district is to allow low density single family units in developing portions of the zoned areas within the Reservation where community sanitary sewer and water are available; or in those areas where services may be installed as provided for in the Oneida On Site Waste Disposal Ordinance, provided that the minimum services may be installed as provided for in the Law; or in those areas where individual water and sewer systems are available, provided that the minimum lot size is one (1½) acres (65,000 sq. ft.) for each unit having an individual water and sewer system.

(2) Permitted Uses

- (A) Single family detached dwelling
- (B) Public parks

(3) Accessory Uses

- (A) One accessory building per lot
- (B) Private garages
- (C) Private swimming pools and tennis courts
- (D) Signs as regulated in Section 10
- (E) Parks and recreational areas owned and operated by the Oneida Tribe and recreational areas operated by residential neighborhood associations.
- (F) Private kennels

(4) Conditional Uses

- (A) Boarding houses
- (B) Bed and Breakfast Establishments
- (C) Churches
- (D) Duplexes
- (E) Schools
- (F) Golf Courses
- (G) Public buildings
- (H) Day Care Centers
- (I) Home occupations
- (J) Group foster home
- (K) 2nd Accessory Building
- (L) Mobile homes

(5) Prohibited Uses

- (A) The raising or keeping of livestock other than those animals generally accepted as domestic pets.
- (B) Junkyards, including automobile salvage and scrap and salvage yards.

(6) Standards

- (A) Front yard setback: 30 feet
- (B) Front yard setback-detached garages and accessory buildings: 60 feet
- (C) Side yard setback-principle garages and accessory buildings: 10 feet
- (D) Rear yard setback: 30 feet
- (E) Rear yard setback-detached garages and accessory building: 5 feet.

- (F) Uses by Conditional Use Permit shall have the following setbacks: front-30 feet; side yard-10 feet; rear yard-50 feet
- (G) Minimum lot size, where municipal water and sanitary sewer are available:15,000 square feet; where individual water and sanitary sewer systems are available-one (1 1/2) acres.
- (H) Minimum frontage: 100 feet
- (I) Minimum building area: 950 square feet of habitable area. If a building plan is provided, that allows for expansion of the original building (phased construction, then Phase 1 or the initial building must be a minimum of 750 sq. feet of habitable area.
- (J) Maximum building area-garage and accessory building: 1,200 square feet or 30% of the rear yard, whichever is less.
- (K) Minimum distance between buildings: 10 feet.
- (L) Maximum building height shall not exceed 2½ stories or 30 feet, whichever is less.
- (M) No accessory building, other than a garage, shall be located within any yard other than the rear yard.
- (N) Parking: two off street spaces
- (O) Driveways shall not be constructed closer than five (5) feet from the lot line;
 - (i) Distance between two drives on same lot, 15 feet
 - (ii) Width-Single-Maximum at property line 12 feet at curb 16 feet. Double-Maximum at property line 20 feet, at curb 24 feet.
- (P) All mobile homes shall be classified as Class A or B as defined by the Oneida Zoning Law. A foundation is required under each structure. In no case shall any mobile home older than ten years from the date of application be installed.

(b) Two-family Residential District (R-2)

- (1) Intent. The purpose of this district is to allow two-family dwelling units in the developing portions of the zoned areas within the Reservation where community sanitary sewer and water services are available.
- (2) Permitted Uses
 - (A) Any use permitted in the R-1 District
 - (B) Single family detached dwellings
- (3) Accessory Uses
 - (A) Any accessory use permitted in the R-1 District
- (4) Conditional Uses
 - (A) Any conditions uses permitted in the R-1 District
 - (B) Convalescent or nursing homes
- (5) Prohibited Uses
 - (A) Any as prohibited use prohibited in the R-1 District
- (6) Standards
 - (A) Front yard setback: 30 feet

- (B) Front yard setback-detached garages and accessory buildings: 60 feet.
- (C) Side yard setback-principal, garages and accessory buildings: 10 feet.
- (D) Rear yard setback: 30 feet.
- (E) Rear yard setback-garages and accessory buildings: 5 feet
- (F) Uses by Conditional Use Permit shall have the following setbacks: front yard-30 feet; side yard-10 feet; rear yard-30 feet.
- (G) Minimum lot size-15,000 square feet
- (H) Minimum frontage: 100 feet
- (I) Minimum building area: 950 habitable square feet for one-family dwellings; 1,900 habitable square feet for a two family dwelling. No individual unit shall be less than 950 habitable square feet, except for square footage as provided under 7(A)(6)(i) may be allowed.
- (J) Maximum building area-garage and accessory buildings: 1,200 square feet per unit, or 30 percent of the rear yard, whichever is less.
- (K) Minimum distance between buildings: 10 feet
- (L) Maximum building height shall not exceed 2½ stories or 30 feet, whichever is less.
- (M) No accessory building, other than a garage, shall be located within any yard other than the rear yard.
- (N) Parking: Two off street spaces per unit.
- (O) Driveways shall not be constructed closer than five (5) feet from the lot line;
 - (i) Distance between two drives on same lot 15 feet
 - (ii) Width-Single-Maximum at property line 12 feet, at curb 16 feet.
Double-Maximum at property line 20 feet, at curb 24 feet

(c) Low Density Multi-Family Residential District (R-3)

(1) Purpose. The purpose of this District is to allow townhouse and small apartment buildings in those portions of the zoned areas within the Reservation most suited for development, where adequate municipal sewer and water services are immediately available. Permitted Uses

- (A) Any use permitted in the R-2 District
- (B) Apartment buildings containing not more than ten (10) dwelling units
- (C) Townhouses containing nor more than six (6) dwelling units

(2) Accessory Uses

- (A) One accessory building per lot
- (B) Private garage
- (C) Private swimming pools and tennis courts
- (D) Signs as regulated in Section Ten
- (E) Parks and recreational areas operated by the Oneida Tribe, and recreational areas operated by residential neighborhood associations.

(3) Conditional Use

- (A) Any Conditional Use Permitted in the R-2 District
- (B) Hospitals

- (C) Two or more accessory buildings
- (D) Group Foster Home
- (4) Prohibited Uses
 - (A) Any use prohibited in the R-2 District
- (5) Standards
 - (A) Front yard setback: 30 feet
 - (B) Front yard setback-garages and accessory buildings: 60 feet
 - (C) Side yard setback-principal, garages and accessory: 20 feet
 - (D) Rear yard setback: 30 feet
 - (E) Rear yard setback-detached garages and accessory buildings: 30 feet
 - (F) Uses by Conditional Use Permit shall have the following setbacks: front yard-30 feet; side yard-10 feet; rear yard-30 feet.
 - (G) Minimum lot size-15,000 square feet, or 4,000 square feet per unit, whichever is larger
 - (H) Minimum frontage: 150 feet
 - (I) Minimum building area: 950 habitable square feet in single family dwellings; 1,900 habitable square feet for a two family dwelling, 950 habitable square feet per unit in dwellings with three or more units. No individual unit shall have less than 950 habitable square feet. Exception for square footage as provided for in 7(A)(6)(i) may be allowed.
 - (J) Maximum building area-garage and accessory buildings: 30 percent of the rear yard.
 - (K) Minimum distance between buildings: One and two family dwellings-10 feet; dwellings with 3 or more units-20 feet.
 - (L) Maximum building height: 45 feet
 - (M) No accessory building shall be located within any yard other than the rear yard.
 - (N) Parking: Two parking spaces for each dwelling unit, except for housing projects that are restricted to exclusive use by the elderly or the handicapped, where there shall be one (1) parking space per unit.
 - (O) Driveways shall not be constructed closer than five (5) feet from the lot line;
 - (i) Distance between two drives on same lot 15 feet
 - (ii) Width-Single-Maximum at property line 12 feet, at curb 16 feet.
Double-Maximum at property line 20 feet, at curb 24 feet.
- (d) High Density Multi-Family (R-4)
 - (1) Purpose. The R-4 District is intended to permit large multiple dwelling development in those portions of the zoned areas within the Reservation most suited for such development, where adequate sewer and water supplies are immediately available.
 - (2) Permitted Uses
 - (A) Any use permitted in the R-3 District
 - (B) Multiple dwellings containing more than ten (10)

- (C) Townhouses containing not more than ten (10) dwelling units
- (3) Accessory Uses
 - (A) Any accessory use permitted in the R-3 District
- (4) Conditional Use
 - (A) Any Conditional Use Permitted in the R-3 District
 - (B) 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.
 - (C) Group Foster Home
- (5) Prohibited Uses
 - (A) Any use prohibited in R-3 District
- (6) Standards
 - (A) Front yard setbacks-1 and 2 stories: 30 feet; 3 or more stories: an additional 5 feet for each story or fractional story over 2.
 - (B) Front yard setback-detached garages and accessory buildings: 60 feet
 - (C) Side yard setback-1 and 2 stories: 25 feet; 3 or more stories: an additional three (3) feet for each story or fractional story over 2.
 - (D) Rear yard setback-1 and 2 stories: 25 feet; 3 or more stories: an additional five (5) feet for each story or fractional story over 2.
 - (E) Rear yard setback-detached garages and accessory buildings-less than 800 square feet: 5 feet; more than 800 square feet and adjacent to a residential district: 25 feet; all other detached garages and accessory buildings: 5 feet.
 - (F) Uses by Conditional Use Permit 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.
 - (G) Minimum lot size: 15,000 square feet or 4,000 square feet per dwelling unit, whichever is greater.
 - (H) Minimum frontage: 100 feet.
 - (I) Minimum building area-one unit: 800 habitable square feet; two units: 1,600 habitable square feet; more than two units: 800 habitable square feet per unit; no unit shall have less than 800 habitable square feet.
 - (J) Maximum building area-garage and accessory building: 30% of rear yard.
 - (K) Minimum distance between buildings-one and two unit dwellings: 10 feet; dwellings with more than 2 units: 25 feet.
 - (L) Maximum building height: 3 stories or 45 feet, whichever is less.
 - (M) No accessory buildings, other than a garage may be located within any yard other than the rear yard.
 - (N) Parking: Two parking spaces for each dwelling unit, except for housing projects that are restricted to exclusive use by the elderly or the handicapped, where there shall be one (1) parking space per unit.
 - (O) Driveways shall not be constructed closer than five (5) feet from the lot

line;

- (i) Distance between two drives on same lot 15 feet
- (ii) Width-Single-Maximum at property line 12 feet, at curb 16 feet.
Double-Maximum at property line 20 feet, at curb 24 feet

(P) Building Design and Construction: No Land Use Permit shall be issued under Section 11 of this Law for a multiple residence building containing more than ten dwelling units unless the applicant's building plans, including the site plan, are certified by a tribally certified architect, stating that the design of the building and site has been prepared under his direct supervision.

(Q) Incinerators, Trash and Garage: 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.

(R) Elevators: All multiple residence buildings of three or more stories shall be equipped with not less than one public elevator

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

(e) Mobile Home Park District (R-5)

(1) Purpose. The purpose of this district is to allow mobile home parks within the zoned areas within the Reservation that are so located, designed and improved as to provide a desirable environment and protection for and from adjoining uses.

(2) Permitted Uses

- (A) One family, detached, Class A and Class B mobile homes, in developments of 20 or more lots
- (B) Prefabricated homes
- (C) Public parks

(3) Accessory Uses

- (A) garages
- (B) One accessory building per lot
- (C) Signs as regulated in Section 10
- (D) Parks and recreational areas owned and operated by the Oneida Tribe, and recreational areas operated by residential neighborhood associates.

(4) Conditional Uses

- (A) Day Care Centers
- (B) Home Occupations
- (C) Commercial and Service Facilities that are so located and intended to serve only persons within the mobile home park, may be located within mobile home park, may be located within mobile home parks of 100 or more dwelling units, provided that such facilities including related parking areas shall not occupy, in total, more than 5% of the area of the mobile home park.
- (D) Outdoor Storage Areas, including those for recreational vehicles, may be located within mobile home parks, provided that they be visually separated

from adjoining uses, and provided that such storage areas shall not occupy, in total, more than 5% of the area of the mobile home park.

(E) Mobile Offices, no more than 1 unit per development.

(5) Prohibited Uses

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

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

(C) The raising or keeping of livestock other than those animals generally accepted as domestic pets.

(6) Mobile Home Park Standards

(A) Minimum acreage: 6 acres

(B) Minimum width of entrances and exits: 60 feet

(C) Minimum frontage: 200 feet

(D) Minimum number of lots or spaces completed and ready for occupancy before occupancy is permitted: 20 lots

(E) Minimum landscaped buffer from adjacent residential zone: 50 feet

(F) Common Recreational Facilities:

(i) No less than ten percent (10%) of the total areas of any mobile home development established under these regulations shall be devoted to common recreational areas and facilities, such as playgrounds, swimming pools, community buildings, ways for pedestrians and cyclists away from streets, and play areas for small children or other recreational areas in block interiors.

(ii) At least one principal recreation and community area shall contain not less than five percent (5%) of the total area of the development.

(iii) To be countable as common recreational area, interior-block ways for pedestrians or cyclists shall be at least 10 feet in width and form part of a system leading to principal destinations. Such ways may also be used for installation of utilities.

(iv) To be countable as common recreational area, inner block play areas for small children or other inner-block recreational areas shall be at least 20 feet in least dimension and shall contain not less than 1,000 square feet.

(v) 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.

(7) Mobile Home Lot Standards

(A) Front yard setback-principal and detached garages: 10 feet

(B) Front yard setback-accessory buildings: 50 feet

(C) Side yard setback principal and accessory: 7 ½ feet

(D) Rear yard setback: 10 feet

(E) Rear yard setback-detached garages and accessory building: 5 feet

- (F) Uses by Conditional Use Permit shall have the following setbacks: front-25 feet; side yard-25 feet; rear yard-25 feet.
- (G) Minimum mobile home lot size: 7,000 square feet
- (H) Minimum frontage: 70 feet
- (I) Minimum mobile home area: 720 square feet of habitable area
- (J) Maximum building area accessory building: 30 square feet
- (K) Minimum distance between buildings: 5 feet
- (L) Maximum height: 35 feet
- (M) No accessory building, other than a garage, may be located in any yard other than the rear yard
- (N) Parking: two off street spaces; parking is not permitted in any setback areas.
- (O) Driveways and parking areas shall not be constructed closer than five (5) feet from the lot line;
 - (i) Width of Driveway-Single-Maximum at property line 12 feet, at curb 16 feet. Double-Max at property line 20 feet, at curb 24 feet.
- (P) Landscaping: Except for mobile home pad, parking, recreational area, and sidewalks, the entire lot shall be seeded or sodded and maintained with grass
- (Q) No more than one unit is permitted per mobile home lot.
- (R) Maximum mobile home coverage: A dwelling unit and its accessory building shall not occupy more than 35 percent of mobile home lot area. Where roofed area, such as a carport or outdoor recreational shelter, is open for 40 percent or more of its perimeter, its lot coverage shall be computed as one-half the area covered by the roof.
- (S) Outdoor living area on each mobile lot is required:
 - (i) The outdoor living area shall be no less than 300 square feet nor more than 500 square feet.
 - (ii) The minimum horizontal dimension of such area shall not be less than 15 feet.
 - (iii) Such outdoor living area shall be properly drained and located for convenience and optimum use.
 - (iv) Within such area, a section suitably surfaced for garden furniture shall be provided, not less than 100 square feet in area nor 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 set forth at (r) above.

(f) Commercial (C-1)

- (1) Purpose. The purpose of this district is to provide within the zoned areas within the Reservation relatively compact centers for retail sales and services offering a wide range of goods and services.
- (2) Permitted Uses
 - (A) Antique sales.
 - (B) Animal hospital and pet shop

- (C) Art shop, gift shop, picture framing.
- (D) Auction establishments.
- (E) Automobile sales and service establishments.
- (F) Bakery-retail sales on premises only.
- (G) Bank or financial institution.
- (H) Barber shop and beauty parlor.
- (I) Book and stationary store.
- (J) Bowling alley, pool and billiard room, gymnasium, dancing school, dance hall, skating rink, theater.
- (K) Caterer.
- (L) Churches, public schools, parochial schools, and colleges.
- (M) Convention and exhibition hall.
- (N) Dress shop, shoe store, clothing store, dry goods store, notion store, hosiery shop, tailor shop.
- (O) Drive-in restaurants.
- (P) Drug store, pharmacy.
- (Q) Florist shop.
- (R) Food products (retail), grocery store (retail), delicatessen (retail), meat and fish market (retail), fruit and vegetable store (retail), tea and coffee store (retail), package liquor (retail), beer depot (retail).
- (S) Furniture upholstery, refinishing and repairs to include sales.
- (T) Hardware and paint stores.
- (U) Hobby goods stores.
- (V) Hospital or sanitarium.
- (W) Household appliance store, furniture store, plumbing, heating and electrical supplies, crockery store.
- (X) Interior decorating studios
- (Y) Lunchroom, candy store, confectionery store, ice cream store, soda fountain, soft drink stand.
- (Z) Marinas and aquatic nurseries.
- (aa) Micro-wave relay structures.
- (bb) Motel and hotels.
- (cc) Municipal buildings, except sewage disposal plants, garbage incinerators, storage yards, penal or correctional institutions.
- (dd) Video sales and rentals.
- (ee) Music store, radio store, and television store.
- (ff) Newsstand and news agency.
- (gg) Nursing or convalescent home.
- (hh) Photographer's studio, photographer's supplies.
- (ii) Printing and engraving establishments.
- (jj) Private clubs or lodge.
- (kk) Professional services.
- (ll) Public and commercial recreational and community center buildings and

grounds.

(mm) Public garage, public or commercial parking lot.

(nn) Public parks.

(oo) Radio and television broadcasting studios.

(pp) Railroad and bus passenger depots.

(qq) Religious, public buildings, educational, philanthropic, and charitable institutions.

(rr) Retail cleaners and dyers, provided that the premises itself is the only outlet for items cleaned and dyed on the premises.

(ss) Retail monument sales.

(tt) Restaurant, refreshment stand.

(uu) Shoe repair, tailor shops.

(vv) Taverns.

(ww) Telegraph and telephone office.

(xx) Tobacco and pipe store.

(yy) T.V. repair, appliance repair shops.

(zz) Undertaking establishment.

(aaa) T.V., radio stations, cable T.V. sales.

Any use similar to the above uses with the approval of the Land Commission.

(3) Accessory Uses

(A) Signs as regulated in Section 10.

(B) 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 (40%) percent of the total floor area.

(4) Conditional Uses

(A) Automobile body shops and automobile service or filling stations.

(B) Parking lots, commercial.

(C) Day care centers.

(D) Repair facilities.

(E) Schools.

(F) Heavy equipment sales and service.

(G) Farm implement sales and service.

(H) Mobile home sales and service.

(I) More than one accessory building per lot.

(J) Commercial greenhouses.

(K) Automobile car washes.

(L) Clinic or medical office building.

(M) Coin operated cleaning and washing.

(N) Furniture, reupholstering, refinishing and repairs to include sales.

(O) Hospitals or sanitariums.

(P) Marina and aquatic nurseries.

(Q) Microwave relay structures.

- (R) Nursing or convalescent homes.
 - (S) Printing and engraving establishments.
 - (T) Retail cleaners and dyers.
- (5) Prohibited Uses
- (A) Junkyards
 - (B) Exterior Storage of any wrecked or untitled vehicle, farm implements, equipment, furniture, etc.
- (6) Standards
- (A) Front yard setback: 40 feet.
 - (B) Front yard setback-accessory building: 60 feet.
 - (C) Side yard setback - principal and accessory: 5 feet.
 - (D) Rear yard setback: 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) Rear yard setback - accessory buildings: 5 feet.
 - (F) Uses by Conditional Use Permit shall have the following setbacks: front yard-40 feet; side yard -50 feet; rear yard -50 yard, 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.
 - (G) Minimum lot size: 7,200 square feet.
 - (H) Minimum frontage: 60 feet.
 - (I) Minimum building area: exclusive of temporary and seasonal facilities shall be not less than 100 square feet.
 - (J) Maximum building area - principal and accessory buildings combined: 50%.
 - (K) Minimum distance between buildings: 10 feet
 - (L) Maximum building height: 2 ½ stories or 30 feet, whichever is the less.
 - (M) No accessory building shall be located within any yard other than the rear yard.
 - (N) Parking:
 - (i) Parking may be provided in the front yard setback, provided that landscaped buffer of at least 10 feet in width from the right-of-way line shall be maintained.
 - (ii) Required off-street spaces and standards pursuant to Section 13 C. of this Law shall be met.
 - (O) Driveways shall not be constructed closer than five (5) feet from the lot line;
 - (i) Distance between two drives on same lot 15 feet
 - (ii) Width - Single - Maximum at property line 12 feet, at curb 16 feet
Double - maximum at property line 20 feet, at curb 24 feet
 - (P) Off-Street Loading: access shall be provided for the unloading of goods, supplies, or merchandise from truck to business establishment without

obstruction of the public right-of-way.

(Q) Yard Storage:

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

(ii) Any fence constructed pursuant to this Section shall be constructed in a manner which shall meet with the approval of the Zoning Administrator in order to protect public health and safety. Should the owner of any fence erected pursuant to this Law fail to maintain said fence in an approved manner, the Zoning Administrator shall give the owner a thirty (30) days written notice to repair, or remove and replace the fence. Upon failure to comply with this notice, the Zoning Administrator shall remove the fence at cost to the property owner.

(g) Industrial (M-1)

(1) Purpose. The purpose of this district is to encourage manufacturing warehousing and similar and related uses in portions of the zoned areas within the Reservation that are insulated from residential use.

(2) Permitted Uses

(A) Commercial uses permitted in the Commercial District (C-1) EXCEPT for those prohibited in Paragraph 5 of this Section.

(B) Airports, heliports.

(C) Automobile body shop

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

(E) Business College, Trade School.

(F) Feed or seed mill.

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

(H) Laboratory experimental or testing.

(I) 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.

(J) 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.

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

(L) Manufacture and bottling of beverages.

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

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

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

- (P) Wholesale or distributing establishment or warehouse.
- (Q) Wholesale market.
- (R) Commercial Greenhouse.

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, as defined by the Zoning Administrator.

(3) Accessory Uses

- (A) Such accessory uses as are customary in connection with the foregoing permitted uses.
- (B) Living quarters for a watchman or caretaker provided that he is employed on the same premises as the dwelling unit is located.
- (C) Signs as regulated in Section 10.

(4) Conditional Uses

- (A) Two or more accessory buildings on one lot.
- (B) Cement, brick, clay products manufacturing.
- (C) Concrete, bit. conc. batch plant.
- (D) Fuel storage (flammable or explosive)
- (E) Metal fabrication.
- (F) Planing mill.
- (G) Junkyards, including automobile salvage, and scrap and salvage yards, provided that no smelting is permitted in the premises.
- (H) Contractors and demolition firms.
- (I) Microwave relay and transmission towers.
- (J) Sewage disposal plants.
- (K) Garbage incinerators.
- (L) Automobile Service and filling station.
- (M) Manufacture of goods from plastics.
- (N) Manufacture of water heating and treatment equipment.
- (O) Painting and enameling.
- (P) Railroad spurs.
- (Q) Repair service and assembly of vehicles, including the repair and storage of automotive accessories, except the wrecking of motor-propelled vehicles.
- (R) Service industry such as commercial laundries, cleaners and dyers.
- (S) Storage and warehousing of materials.
- (T) Truck or transfer terminal, freight house or bus garage and repair shop.
- (U) Fuel storage (nonflammable, nonexplosive).
- (V) 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.
- (W) Manufacturing of products from wood except the manufacture of paper, pulp, and plastics.

(5) Prohibited Uses

- (A) Any residential use except caretakers pursuant to Paragraph G (3.) (b)
- (B) Blast furnaces.
- (C) Churches.
- (D) Correctional institutions.
- (E) Force plants.
- (F) Foundries.
- (G) Hospitals or sanitariums or asylums.
- (H) Municipal buildings except for sewage disposal plants and garbage incinerators.
- (I) Public parks.
- (J) Primary metal industries.
- (K) Religious, public buildings, philanthropy and charitable institutions.
- (L) Rolling mills.
- (M) Schools except colleges and trade schools.
- (N) The manufacture, processing, or distribution of petroleum or coal products.
- (O) The manufacture, processing, or storage of explosives.
- (P) The manufacture, processing, storage, or distribution of animals or animal by-products; rendering plants, meat packing, gelatin, glue, soap, or fertilizer manufacturing, slaughterhouse, etc.
- (Q) Other similar uses as defined by the Zoning Administrator.

(6) Standards

- (A) Front yard setback: 25 feet
- (B) Side yard setback: 10 feet, except in areas adjacent to residential districts where the setback shall be 50 feet.
- (C) Rear yard setback: 25 feet, except in areas adjacent to residential districts where the setback shall be 50 feet.
- (D) Uses by Conditional Use Permit shall have setbacks as required by the Zoning Administrator; provided that no front nor rear yard shall be less than 25 feet; and further provided that no sideyard setback shall be less than 10 feet.
- (E) Minimum lot size: 1 acre
- (F) Minimum lot dimension: 150 feet
- (G) Maximum lot coverage, principal and accessory buildings: 50%
- (H) Minimum distance between buildings: 10 feet
- (I) Maximum building height: 3 stories or 45 feet, whichever is less.
- (J) Parking must be provided pursuant to Section 13 (C) of this Law
- (K) Driveways shall not be constructed closer than 10 feet from the lot line;
 - (i) Distance between two drives on same lot 15 feet
 - (ii) Width-Single-Maximum at property line 12 feet, at curb 16 feet.
Double-Maximum at property line 20 feet, at curb 24 feet.
- (L) Off street loading must be provided pursuant to Section 13 (D)
- (M) All open areas of any lot not used for parking, driveways or storage shall

be landscaped with trees, shrubs, berms, or planted ground covers.

(N) Appearance

(i) 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 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.

(ii) Except as otherwise provided herein, the sides and rear of all buildings shall be of any material approved by the Land Commission.

(iii) All buildings must be kept in good repair and appearance at all times.

(iv) No building shall be so similar to or so variance with its neighboring buildings as to constitute a depreciation to the immediate neighborhood.

(O) Outdoor storage shall be permitted in side and rear yards only. Said storage shall be screened from any adjacent residential use.

(h) Institutional Zone

(1) The purpose of this district is to allow institutional units in portions of zoned area within the Reservation where community sewer and water services are available

(2) Permitted Uses;

(A) Schools

(B) Government offices (public buildings)

(C) Public parks

(D) Fire, safety and emergency buildings

(3) Accessory Uses;

(A) Government garages or accessory building, garages to permitted uses.

(B) Swimming pools and tennis courts

(C) Signs as regulated in Section 10

(D) Parks and recreational areas owned and operated by the Oneida Tribe and recreational areas operated by residential neighborhood associations.

(4) Conditional Uses;

(A) Churches

(B) Day Care Centers

(C) Convalescent and/or nursing homes

(D) Hospitals

(E) Colleges

(5) Prohibited Uses;

(A) Residential-single or multi-family

(B) The raising or keeping of livestock

(C) Junk yards

(6) Standards

(A) Front yard setback-35 feet

(B) Front yard garages and access buildings-60 feet

(C) Side yard-10 feet

(D) Rear yard-30 feet

(E) Minimum frontage-200 feet

(F) Minimum building area - 150 square feet

(G) Maximum building area-garage & Accessory building - 30%

(H) Minimum distance between building - 15 feet

(I) Maximum building height - 45 feet or 3 stories whichever is less

(J) No access building other than garage shall be located within any yard other than the rear yard

(K) Parking - as per applicable use as regulated in Section 13(C)

(L) Driveways shall not be constructed closer than 5 feet to the lot line;

(1) Distance between two drives on same lot 15 feet

(2) Width - Single - Maximum at property line 12 feet, at curb 16 feet

Double - Maximum at property line 20 feet, at curb 24 feet

(i) Agricultural (A-1)

(1) Purpose. The purpose of the Agricultural District is to provide a district which will permit extensive portions of the zoned areas within 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.

(2) Permitted Uses

(A) Single family dwellings.

(B) Living quarters for persons employed on the premises of a permitted use.

(C) 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.

(D) The growing, harvesting and storage of crops.

(E) The keeping, raising, or feeding of livestock or poultry.

(F) Animal hospitals and commercial kennels.

(G) Riding stables.

(H) Dairying.

(I) Bee keeping.

(J) Floriculture.

(K) Horticulture.

(L) Landscape nurseries and greenhouses.

(M) Forestry and game management.

(N) Orchards.

(O) Pasture.

- (P) Stands for the sale of agricultural products produced on the premises.
 - (Q) Other uses commonly considered as agricultural in nature.
 - (R) Public Parks.
 - (S) Home Occupations.
- (3) Accessory Uses
- (A) Structures accessory to a permitted use.
 - (B) Private garages.
 - (C) Private swimming pools, ponds and tennis courts.
 - (D) Signs are regulated in Article X.
 - (E) Kennels.
- (4) Conditional Uses
- (A) Churches.
 - (B) Schools.
 - (C) Golf courses, but not including commercial driving tees, ranges or miniature golf courses.
 - (D) Public buildings.
 - (E) Cemeteries.
 - (F) Commercial radio and television transmission stations.
 - (G) Forest harvesting equipment, such as sawmills, maple syrup producing plants, and charcoal plants.
 - (H) Airports or heliports.
 - (I) Quarries and sand and gravel pits.
 - (J) Landfills.
 - (K) Junkyards.
 - (L) Conversion of single family dwelling to two family dwelling.
 - (M) Group Foster Home.
 - (N) Fish hatcheries.
 - (O) Egg production.
 - (P) Fur farms.
 - (Q) Sod farming.
 - (R) Meat packing.
- (5) Standards
- (A) Front yard setback: 50 feet.
 - (B) Side and rear yard setback - adjacent to agricultural or industrial uses: 50 feet.
 - (C) Side and rear yard setback - adjacent to residential or commercial districts: 100 feet.
 - (D) Uses by Conditional Use Permit shall have the same setbacks as permitted uses.
 - (E) Minimum lot size: One acre.
 - (F) Location: The minimum lineal distance between dwellings on the same side of the street shall be five hundred (500) feet.
 - (G) Minimum building area for dwellings: 1,000 square feet of habitable area.

- (H) Maximum size for roadside stands: 300 square feet.
- (I) Minimum distance between buildings: 10 feet.
- (J) Maximum height of dwellings: 2 ½ stories or 30 feet, whichever is less.
- (K) Maximum height of farm buildings: 60 feet.
- (L) Maximum height of roadside stands: 10 feet.
- (M) Parking: two (2) parking spaces for a dwelling located on the lot, plus one (N) space for each employee plus space to accommodate all vehicles used in connection with the permitted use thereon.
- (O) Driveways shall not be constructed closer than five (5) feet from the lot line.

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

(2) The width of a single driveway at the property line shall be 12 feet, at curb 16 feet. The width of a double driveway at the property line shall be a maximum of 20 feet at the curb 24 feet.

69.9-1. Conditional Use Permits

(a) Criteria for Granting Conditional Use Permits. In granting a conditional use permit, the Business Committee shall consider the advice and recommendations of the Land Commission and 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 Business Committee 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, in the opinion of the Land Commission, 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 the Zoning 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 of the Oneida Reservation.

(7) The use will not cause traffic hazard or congestion.

(8) The use shall have adequate utilities, access roads, drainage and necessary facilities.

(9) The use will not be in conflict with the Land Use Plan of the Oneida Reservation

(10) All conditional uses other than residential shall require an environmental impact assessment and if deemed necessary by the assessment an Environmental impact statement. Negative environmental impact statements shall be considered sufficient grounds for permit denial. Negative environmental impacts shall be considered in the appeals process.

- (11) All uses which are defined as conditional uses under any zone shall also be considered conditional uses under every other zone where such uses are allowed.
- (b) Conditional Use Permits shall be issued to the applicant only unless otherwise specified by the Land Commission. The Conditional Use Permit may not be transferred or assigned without prior Land Commission approval.
- (c) Expiration. A Conditional Use Permit shall expire if the use is discontinued for a period of six (6) months.
- (d) Additional Conditions: In permitting a new Conditional Use or the alteration of an existing Conditional Use, the Business Committee may impose, in addition to these standards and requirements expressly specified by this Law, additional conditions which the Business Committee 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 Business Committee approval.
 - (7) Limiting the number, size, location or lighting of signs.
 - (8) Required additional fencing, screening, landscaping or other facilities to protect adjacent or nearby property.
 - (9) Designating sites for open space.
- (e) Records. The Zoning Administrator shall maintain a record of all Conditional Use Permits issued, including information on the use, location, and conditions imposed by the Business Committee such as time limits, review dates, and other information as may be appropriate.
- (f) Application. The petitioner must submit the following to the Zoning Administrator:
- (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 1,200 feet of the outer boundaries of the property to be re-zoned.
 - (4) \$50.00 filing fee.
 - (5) Other information as may be required by the Zoning Administrator.
- (g) Petitioner. (1) The petitioner shall be the property owner or lessee, or an appointed agent.
- (h) Procedure.
- (1) The property owner or his agent shall meet with the Zoning Administrator to discuss the proposal.
 - (2) The Land Commission shall hold a public hearing prior to making a recommendation to the Business Committee.
 - (A) Notice of the public hearing shall be published in the tribal Newspaper and in at least one other paper of general circulation not less than ten (10) days and not more than thirty (30) days prior to said hearing.

(B) Notice of the public hearing shall be mailed to all owners located within 1,200 feet of the outer boundaries of the property to be rezoned at least ten (10) days and not more than thirty (30) days prior to said hearing.

(3) The Land Commission must recommend approval, conditional approval or denial to the Business Committee within thirty (30) days of the public hearing.

(4) The Business Committee must act upon the petition within thirty (30) days of the Land Committee recommendation.

(5) The Business Committee shall notify the petitioner of its decision in writing.

(6) No application of a property owner for a Conditional Use Permit 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 to circumstances warrant it.

(7) Failure of the Business Committee to act upon the petition within thirty (30) days of Land Commission recommendation, shall be construed as approval.

(i) Revocation of Conditional Use Permits

(1) Where a Conditional Use Permit has been issued pursuant to provisions of this Law, such permit shall become null and void without further action by the Land Commission or Business Committee unless construction commences within six (6) months of the date of granting such Conditional Use.

(2) A Conditional Use Permit 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 Business Committee shall have the authority to revoke the Conditional Use Permit following a public hearing.

Specific Conditions

Use

Animal Hospital and
Pet Shop

Conditions

Structure shall be at least
100 feet from any residential
district and not nearer than
200 feet from any school,
hospital, or similar institution.

Districts

C-1, A-1, M-1

Automobile sales
and service
establishments

Off-street parking: One
parking space for each 100
square feet of building and
one (1) parking space for
each employee. There shall
be a minimum ten (10) foot
wide landscaped buffer strip

C-1, M-1

Automobile Service
or Filling Station

provided adjacent to any
abutting residential zone.

C-1, M-1

1. No automobile service
station, public garage or
gasoline distributing
station shall be located
within two hundred feet
of a school, church,
hospital, or other public
meeting place having
seating capacity of more
than one hundred (100)
persons.

2. Fuel pump islands shall
be set back not less than
25 feet from any lot line.

3 . Hoists, pits, lubrication,
washing and repair equipment
shall be enclosed within
the principal structure.

4. The Service Station site
shall have a frontage of not
less than 150 feet on a
public street and shall have
a total area of not less than
20,000 square feet.

5. The storage of wrecked or
junked vehicles shall not be
permitted on the site.

Cemetery

At least 20 acres in area

A-1

Use

Conditions

Districts

Greenhouses and
Nurseries
(Commercial)

No greenhouse shall be
closer than twenty-five
(25) feet to a lot that is
residentially zoned

A-1

Group Foster Home	The facility shall not exceed two (2) stories in height and shall provide a minimum of two (2) parking spaces. Buildings may not occupy over 40 percent of the lot.	R-1 R-2 R-3 R-4 A-1
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Mixed Use (Commercial-Residential Building)	Not more than 20 percent of the building area to be used for commercial purposes and no residential unit to be located on the ground floor.	R-4
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Municipal buildings, Churches, Nursing Homes, Museum, Art Centers, Community Centers	Buildings may occupy not over 40 percent of lot and must be set back an additional one foot over the usual yard requirements for each one foot the building exceeds usual height limits.	R-1 R-2 R-3 R-4 C-1 A-1
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Parking lot (Commercial)	No parking allowed in the required front yard. When the proposed parking lot abuts a residence district, a five (5) foot side yard and rear yard setback shall be provided. Within such side or rear yard setback area, 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 shall be provided.	C-1
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Schools

Conditions

Districts

1. Nursery, pre-kindergarten, kindergarten	At least 200 square feet of outdoor play space in the rear yard must be provided	R-1, R-2, R-3, R-4, C-1, C-2
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for each child anticipated on the premises at any one time.

A-1

2. Elementary schools-
Tribal & private

Must have a plot of ground a least five acres plus one additional for every 200 students.

3. High schools
(including Jr.High)

Must have a plot of ground at least ten acres plus one additional acre for every 200 students.

4. Vocational schools
and private colleges
and universities

Must have provided at least one off-street parking stall for every four students enrolled.

69.10-1. REGULATION OF SIGNS

(a) Purpose. The following code 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 within the zoned areas of the Reservation, balanced with the need for business identification, advertising and communication.

(b) Permits:

(1) Permits Required - It shall be unlawful for any person to erect, construct, enlarge, move or structurally modify any sign on lands and waters zoned by this Law within the Reservation, or cause the same to be done, without first obtaining a sign permit from the Zoning Administrator.

(2) 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 code on the date of adoption.

(3) Term of Permit - Every sign permit issued by the Zoning Administrator shall become null and void if construction is not commenced within six (6) months and completed within 45 days from the date of issuance of such permit.

(4) Fees - Permit fees will be determined by the Oneida Business Committee and shall be on record in the office of the Tribal Secretary and the Zoning Administrator.

(5) Appeals - Appeals shall follow regulations detailed in Article IX, of this Law.

(c) Construction Specifications

(1) Compliance with Building Code

(A) All new signs shall comply with the appropriate provisions of the Tribal Building Code or applicable code designated by the Oneida Business

Committee.

(B) Signs shall also comply with the provision of the applicable Electrical Code and the additional construction standards hereinafter set forth in this Section.

(2) Other Requirements

(A) All free standing 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 for 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 Tribal Building Code.

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

(d) Design Standards

(1) 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.

(2) Corner and Intersection Locations - In vision triangles no sign shall be permitted unless it shall be less than thirty (30) inches high; or the bottom of the sign shall be no less than ten (10) feet above the grade.

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

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

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

(e) Maintenance, Removal and Disposition Of Sign

(1) Maintenance and Repair - Every sign, including but not limited to, those signs for which permits or for which no permits or permit fees are required, 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.

(2) Abandoned Signs - All signs or sign messages shall be removed 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 it, the Zoning Administrator shall give the sign owner 30 days written notice to remove it. Upon failure to comply with this notice, the Zoning Administrator or his duly authorized representative shall remove the sign at cost to the sign owner.

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

(4) **Noncomplying Signs**

(A) The Zoning Administrator shall cause to be removed any sign erected on or after the date of adoption of this Law which is not in compliance with all standards of said Law. The Zoning Administrator shall give the sign owner a thirty (30) day written notice to remove the noncomplying sign. Upon failure to comply with this notice, the Zoning Administrator or his duly authorized representative shall remove the sign at cost to the sign owner.

(B) All signs erected prior to the date of the adoption of this Law which are not in compliance with all standards of said Law shall be allowed to remain as originally erected for a period not to exceed one year from the date of the adoption of this Law. No modifications shall be permitted. Upon expiration of the one year time period the Zoning Administrator shall give the Sign Owner a thirty (30) day written notice to remove the non-complying sign. Upon failure to comply with this notice, the Zoning Administrator or his duly authorized representative shall remove the sign at a cost to the sign owner.

(i) No changes in copy or material shall be allowed for nonconforming signs.

(5) **Disposal of Signs Fees** - Any sign removed by the Zoning Administrator pursuant to the provisions of this Section 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 by prosecution of the sign owner, under provisions of this Code. 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 prosecution.

(f) **Prohibited Signs**

(1) **Flashing Signs** are prohibited in all districts.

(2) **Projecting Signs** are prohibited in all districts.

(3) **Roof Signs** are prohibited in all districts.

(4) **Revolving Signs** are prohibited in all districts.

(5) Strings of pennants are prohibited in all areas.

(g) **Permitted Signs - No Permit Required** The following signs shall be permitted anywhere within the zoned areas of the Reservation and 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.

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

(2) Street Banners - advertising a public event may be erected upon recommendation of the Land Commission, and approval of the Business Committee. Banners may be erected no earlier than 60 days before the event and must be removed within 10 days of the event. Banners shall not exceed 20' in length and 200 square feet in area.

(3) Real Estate Signs - shall not exceed twelve (12) square feet in area in the R-1 Single Family Residence District and R-2 Two Family Residence District, and thirty-two (32) square feet in all remaining zoning 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 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 year from the date of first occupancy of the development.

(4) 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 street right-of-way line. Such signs shall not exceed 3 feet in height nor 8 square feet in area.

(5) Flags, Badges, Insignia - of a government or government agency, or of a civic, religious, fraternal or similar organization. Such signs shall not exceed eighteen hundred (1800) square feet in area.

(6) Identification Signs for One and Two Family Dwellings - provided that the signs are less than two (2) square feet in area and include only the name and address of the occupant.

(7) Signs Denoting - the architect, engineer, contractor or owner when placed upon a worksite, which do not exceed an aggregate of forty eight (48) square feet in area. Such signs must be removed within ten (10) days after completion of construction.

(h) Signs Permitted - Permits Required

(1) Residential Districts -

(A) All signs shall be confined to the immediate property being solely advertised or displayed.

(B) No sign shall project higher than one (1) story or ten (10) feet above the finished ground level, whichever is the lower,

(C) Non-residential building use in a residential district shall have no sign larger than eight (8) square feet in area and displaying only the name and

address of the building and identification of the service.

(D) No sign shall project beyond the property line into the public right of way.

(E) Signs shall have a ten (10) foot front, rear and sideyard setback.

(F) No sign shall be permitted in the vision triangle.

(G) No lighting shall be allowed for any free standing sign in a residential district.

(i) 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.

(2) Commercial, Industrial and Agricultural Districts

(A) All signs advertising or displaying business places shall be constructed on the said business premises only, except as permitted pursuant to Section 10 (i).

(B) Size and Location

(i) No premises shall have more than one wall sign on any building face.

(ii) No premises shall have more than two wall signs.

(iii) No premises shall have more than one ground sign or one billboard or one message center, unless frontage on WI highways 54, 172, 29, 32, or 41 for which a variance would then be required.

(iv) No premises shall have more than 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 wall sign, which shall not exceed fifty (50) square feet in area, is permitted. Prior to issuing a permit for the wall sign, the Zoning Administrator shall certify that the billboard located on the premises complies with the provisions of the Zoning Law. One sign may be excluded from the calculation of gross sign area. Total available sign square footage for each premises shall be based upon ten percent (10 %) of the total gross square footage of the primary building occupying the site. In no case shall the gross square footage of sign exceed 1,000 square feet.

(v) No sign shall be less than ten (10) feet above the ground level of a walkway nor less than fifteen (15) feet above the ground level of a driveway. For every foot of height over 15 feet the sign shall be an additional two feet back from the property's right-of-way line.

(vi) No sign shall be permitted within 50 feet of any residentially zoned property.

(vii) No sign shall extend into the public right-of-way.

(viii) No sign shall be located in the vision triangle.

(ix) Real Estate and Construction signs shall be calculated as part of the total allowable square footage of signage on each site.

(x) 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.

(C) Banners, Wall

(i) Shall be permitted only in Commercial and Industrial Districts

(ii) Shall not exceed 48 square feet in area.

(iii) The combined areas of wall banners and existing ground and wall signs shall not exceed 500 square feet for any one premises.

(iv) Wall banners shall not be located on any one premises for more than ninety (90) days in any one calendar year.

(D) Free Standing Signs

(i) Shall not obstruct any street, sidewalk, driveway, exit or pedestrian way.

(ii) Shall be limited to one per premises.

(iii) Shall not exceed 10 square feet per side, no more than two sides permitted per sign.

(E) Electronic Message Center Signs

(i) Message center signs shall be permitted in all Commercial, Industrial, and Agricultural Districts.

(ii) Messages shall be incidental to and customary in conjunction with the principal use of property.

(iii) Message center signs shall not exceed 150 square feet on one side, two sides only permitted per premises.

(iv) Messages shall change at intervals of no less than two (2) seconds.

(F) Ground Signs

(i) Shall not exceed fifty (50) feet in height above the ground level.

(ii) Shall not exceed 250 square feet in area on (1) side, two (2) sides only permitted per premises.

(G) Mobile Mounted Signs

(i) Mobile signs shall be permitted only in the Commercial and Industrial Districts.

(ii) Mobile signs shall not exceed 8 feet in height nor 48 square feet in total area.

(iii) The combined areas of mobile signs and existing ground and wall signs shall not exceed 500 square feet for any one premises.

(iv) Mobile mounted signs shall not be located on any one premises for more than ninety (90) days in any one calendar year.

(v) No flashing lights are permitted on mobile mounted signs.

(vi) May not project into the public right of way.

(H) Wall Signs

(i) Shall not project more than eighteen (18) inches from the wall surface.

(ii) Shall not exceed fifty (50) square feet in area for any one (1) sign, except for billboards which must meet additional requirements pursuant to Section 10 (I).

- (iii) Shall not exceed thirty (30) feet in height above the ground level.
- (I) Window Signs - shall be placed only on the inside of the building and shall not exceed 25 percent of the glass area of the pane upon which the sign is displayed.

(i) Billboards

(1) Districts Where Permitted - Billboards shall be located only on property that is zoned:

- (A) Industrial parcels fronting WI Highways 41, 54, 29 & 172.
- (B) Commercial panels fronting Wisconsin Hwy 54, 29, or WI Hwy 172, WI Hwy 41.
- (C) Agricultural parcels fronting WI Hwy 41, 54, 29, & 172.

(2) Size

- (A) In districts where billboards are permitted, the maximum size per facing of a free standing billboard shall be 300 square feet. The size of sign facing may be increased to 700 square feet by issuance of a conditional use permit pursuant to Section 4 Two (2) facing per structure shall be the maximum permitted, and double faced signs shall be attached back to back.
- (B) Billboards affixed to a wall shall not extend beyond the perimeter of the wall to which it is affixed.
- (C) A maximum height of thirty-six (36) feet above the lot grade is permitted. If the property on which the billboard is located 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.

(3) Location

- (A) The minimum lineal distance between billboards on the same side of the street or highways shall be 500 feet.
- (B) Billboards must meet the setback requirements of the district in which they are located except that the minimum setback from street right-of-way lines shall be thirty (30) feet.
- (C) 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.
- (D) No billboard or billboard structure shall be located in a residential district or within three hundred (300) feet of a residential district, park, playground, school or building used for religious purposes.
- (E) No more than one billboard is permitted on a lot.
- (F) No premises may be zoned for exclusive billboard use.

(4) 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.

(5) 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, as provided in Section 10 (E) (3). 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 structures in accordance with Section 4 (C).

69.11-1. Administration and Enforcement

(a) Land Use Permit

(1) Application: No building or structure shall be constructed, erected, reconstructed, structurally altered, enlarged, or moved unless and until a Land Use Permit shall first have been applied for and secured from the Zoning Administrator. Every such application shall be filed in triplicate and shall be accompanied by a drawing or plat, in triplicate, drawn to scale, showing the lot and building site, the location of the building on the lot, accurate dimensions of the building, yards, and lot, and such other information as may be necessary to the enforcement of this Law.

(2) Procedure: Upon review of the application submitted, the Zoning Administrator shall determine whether the application meets the provisions of the Zoning Law. The Zoning Administrator shall then do one of the following:

(A) Approve Application: In cases where the Zoning Administrator determines that the proposed action meets the provisions of the Zoning Law, he shall promptly issue a Zoning Permit.

(B) Deny Application: In cases where the Zoning Administrator determines that the proposed action does not meet the provisions of the Zoning Law, the Zoning Administrator shall deny the application and:

(i) Advise the applicant of the reasons for denial;

(ii) Advise the applicant of the means, if any, by which the application could be altered to meet the provisions of the Zoning Law;

(iii) Advise the applicant of his right to appeal the denial to the Land Commission;

(iv) Assist the applicant in filing the appeal of the denial to the Land Commission (variance), pursuant to paragraph 12 (B)(2) of this Law.

(v) In cases where an appeal is filed, the Zoning Administrator shall prepare a staff memo to the Land Commission which:

(aa) Outline the facts involved;

(bb) Describe the relationship of the facts to the Tribal Zoning Law and to include planning, land use and administrative practices;

(cc) Suggests a course of action which the Land Commission may take, such course of action may include conditions to be met by the applicant prior to the issuance of the Zoning Permit.

(3) Time Limits

(A) Failure of the Zoning Administrator to act upon such Zoning Permit Application within sixty (60) days after submission shall constitute an approval of such applications.

(B) Validity of Permits: Zoning Permits for construction, reconstruction, or occupancy of buildings, approved by the Zoning Administrator, or in the case of variance, the Land Commission, shall expire after six (6) months from the date of such approval unless the operations called for by such permit shall have commenced during such six month period. A 6 month extension may be granted upon application to the Zoning Administrator prior to the expiration of the original permit. All zoning permits shall expire six months after permit issuance.

(b) Conditional Use Permits. Applications for Conditional Use Permits shall be made to the Zoning Administrator pursuant to Section 9 of this Law.

(c) Amendments. The Oneida Business Committee or the General Tribal Council may, from time to time, in the manner hereafter set forth, amend the regulations imposed in the districts or amend district boundary lines, provided that in all amendatory Laws adopted under the authority of this Section, due allowance shall be made for the Intent and Purposes of said changes according to Section 2 of this Law.

(1) Application. Amendments may be proposed by any governmental body, interested parties, or organizations. An application for such an amendment shall be filed with the Oneida Land Commission in such form and accompanied by such information as required by the Commission. Said application shall be reviewed and a written recommendation thereon shall be submitted to the Business Committee, within thirty (30) days of the receipt of such application.

(2) Public Hearing. The Business Committee shall hold a Public Hearing on each application for an amendment. Procedures for the Hearing shall follow the policies and procedures set forth in the Administrative Procedures Act. The time, place, and purpose of the Hearing shall be published in the Tribal newsletter and in at least one other newspaper of general circulation in the area. Said notice shall appear on at least one occasion. The first such notice appearing not less than ten (10) days prior to the scheduled date of the Public Hearing.

(3) The Land Commission and Zoning Administrator Review. The Land Commission together with the Zoning Administrator shall, within 45 days of receiving an application for amendment prior to the Public Hearing on said application, make written findings of fact and shall submit the same together with its recommendations to the Business Committee. Where the purpose and effect of the proposed amendment is to change the zoning classification of particular property, the Land Commission shall make findings based upon the evidence presented to it in each specific case with respect to the following matters:

(A) Existing uses of land and building with the general area of the property in question.

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

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

(D) Trend of development, if any, in the general area of the property in

question, including changes, if any, which have taken place in it's present zoning classification.

(E) The Land Commission may recommend the adoption of an amendment changing the zoning classification of the property in question to a less restrictive classification than that requested by the applicant.

(F) The Land Commission shall not recommend the adoption of a proposed amendment unless it finds that the adoption of such amendment is in the public interest and is not solely for the interest of the applicant.

(4) Business Committee

(A) The Business Committee shall not act upon a proposed amendment to this Law until it shall have received a written report and recommendation from the Land Commission on the proposed amendment.

(B) The Business Committee may grant or deny any application for an amendment, provided however, that in the event of a written protest against any proposed amendment to this Law having been duly signed and acknowledged by the lessees, assignees and owners of 20 percent or more of either of the acres of land included in such proposed change, or by the lessees, assignees and owners of 20 percent or more of the land immediately adjacent, extending in a radius of 1,200 feet therefrom, such changes of amendments shall not become effective except by the favorable vote of the concurring majority vote plus one member of the Business Committee.

(C) If an application for a proposed amendment is not acted upon finally by the Business Committee within fourteen (14) days of the public hearing date, it shall be deemed to have been denied.

(D) Fees-Any application for an Amendment or a Conditional Use Permit, filed by or on behalf of the owner or owners of the property affected, shall be accompanied by a fee of \$150.00. All fees shall be paid to the Tribal Treasurer or to his/her designated representative.

69.12-1. Variances.

(a) Intent

(1) The Oneida Land Commission may review, revise, or reverse any decision of the Zoning Administrator. In reviewing such decisions the Land Commission may conduct such hearings as it may deem advisable, and shall prescribe what notice, if any, shall be given of such hearings; provided, however, that the Commission shall conduct any review within thirty (30) days after receipt by it of an appeal from the decision of the Zoning Administrator.

(2) The Oneida Appeals Board (or the Business Committee, until such Board of Appeals is established) may review, revise, or reverse any decision of the Land Commission. In reviewing such decisions the Appeals Board may conduct such hearings as it may deem advisable, and shall prescribe what notice, if any, shall be given such hearings; provided, however, that the Board shall conduct any review within thirty (30) days after receipt by it of the appeal from the decision of the Land

Committee. Decisions of the Land Committee which are not revised within thirty (30) days after receipt of the appeal shall stand. No member of the Land Commission shall sit upon the Appeals Board.

(b) Variances

(1) Authority.

(A) The Land Commission shall have the power to vary or modify the strict application of the regulations or provisions in this Law in cases where there are practical difficulties or unnecessary hardships in the way of such strict application; provided however, that the Land Commission shall not have the power to approve:

(i) The establishment of a non-conforming use according to the district regulations of Section 8.

(ii) Alter the applicable requirements for the height, setback, yard, frontage, lot area, and floor area standards by more than 10 percent of the distance or area specified elsewhere in this Law.

(B) The Appeals Board, or the Business Committee, until such time as an Appeals Board is appointed, shall have the same authority and limitations with respect to appeals from the Land Commission decision as the Land Commission does with respect to decisions from the Zoning Administrator.

(2) Application

(A) Upon denial of a Zoning Permit application, the Zoning Administrator shall assist the applicant in filing an application for a variance. Said application shall be transmitted forthwith to the Land Commission.

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

(i) 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 undue hardship.

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

(iii) The granting of the application 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.

(3) Appeals from the Zoning Administrator's Interpretation-

(A) General. Upon appeal from a decision of the Zoning Administrator, the Land Commission shall have the power to decide any question involving the interpretation of any provision of this Law, including determination of the location of any district boundary if there is uncertainty with respect thereto.

(B) Appeals Procedure

(i) Upon receipt of a written application, together with any necessary

plans, maps, and data, the Land Commission shall fix a reasonable time for a Public Hearing, give public notice thereof, as well as due notice to interested parties, and decide the same within a reasonable time, not exceeding 45 days. At the Hearing any party may appear in person, or be represented by an agent or by an attorney.

(ii) No variance shall be granted unless it shall be proven by the applicant that:

(I) 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 under hardship.

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

(iii) The concurring majority vote of four members of the Land Commission shall be necessary to approve any application for a variance in the regulations.

(iv) In the granting of any variance under the provisions of this Section, the Commission shall designate such conditions in connection therewith, as will, in its opinion secure substantially the objectives of the regulations or provisions in the application of which the variance is granted, as to light, air quality or the neighborhood, conformity to the adopted Land Use Policies, and generally, the public health, safety, comfort, convenience, and general welfare.

(v) In all cases in which adjustments or 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.

(4) Appeals from the Land Commission Decision

(A) Upon appeal from a decision of the Land Commission, the Appeals Board shall have the power to decide any question involving the interpretation of any provision of this Law, including determination of the location of any district boundary if there is uncertainty with respect thereto.

(B) Appeals Procedure

(i) Upon receipt of a written application, together with any necessary plans, maps, and data, the Appeals Board, or the Business Committee, until such time as an Appeals Board is appointed, shall fix a

reasonable time for a Public Hearing, give public notice thereof, as well as due notice to interested parties, and decide the same within a reasonable time, not exceeding 30 days. At the Hearing any party may appear in person, or be represented by an agent or by an attorney.

(ii) No variance shall be granted unless it shall be proven by the applicant that:

(I) 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 under hardship.

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

(III) The granting of the application 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 of injurious to property or improvements in the neighborhood.

(iii) The concurring majority vote plus one member of the Appeals Board, or the Business Committee, until such time as an Appeals Board is appointed, shall be necessary to overrule the decision of the Land Commission.

(iv) In the granting of any variance under the provisions of this Section, the Appeals Board shall designate such conditions in connection therewith, as will, in its opinion secure substantially the objectives of the regulations or provisions in the application of which the variance is granted, as to light, air quality in the neighborhood, conformity to the adopted Land Use Policies, and generally, the public health, safety, comfort, convenience, and general welfare.

(v) In all cases in which adjustments or variances are granted under the provisions of this Section, the Appeals Board 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.

(5) All appeals processes shall follow the Oneida Tribe's Administrative Procedures Act once that Act is adopted by the Oneida Tribe. Until such act is implemented, the existing aforementioned appeals procedures shall stand.

69.13-1. Standards

(a) Accessory Buildings, Structures, Uses

(1) No accessory building or use shall be constructed or use developed on a lot prior to obtaining a Land Use Permit for the principal buildings or use to which it is accessory.

- (2) A detached accessory building shall not be located in any required front or side yard.
- (3) All accessory buildings and uses shall comply with the regulations of the zoning district in which they are located.
- (4) Accessory buildings may be located any place to the rear of the principal building as herein regulated, subject to the building code and fire regulations.
- (5) Unless otherwise herein specified, no accessory building shall exceed the height of the principal buildings except when on a farm or related to farming operations.
- (6) Accessory buildings and structures relating to farming operations may be located anywhere on the lot except that the buildings for housing more than two (2) animals shall not be less than fifty (50) feet from the adjacent lot lines and all buildings shall conform to yard regulations.
- (7) No private garage used or intended for the storage of passenger automobiles shall exceed twelve-hundred (1,200) square feet permit of gross area, nor shall any access door or other opening exceed the height of ten (10) feet in residential districts.
- (8) A detached accessory building, shall occupy not more than thirty (30) percent of the area of any rear yard.
- (9) Where a garage is entered from an alley, it must be kept ten (10) feet from the alley line.

(b) Home Occupations

- (1) A home occupations is defined as any occupation conducted within a dwelling and incidental thereto and carried on by a member of the family residing on the premises.
- (2) 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 nuisance or until such time as the occupation is expanded. Upon expansion of any such Home Occupation all activities shall come into compliance with the standards set forth in Section 13 (B)(3)
- (3) All home occupations, shall conform to the following standards:
 - (A) Permitted home occupations shall not be conducted in any building on the premises other than the building which is used by the occupant as the private dwelling.
 - (B) There shall be no exterior or detached garage storage of business equipment, materials, merchandise, inventory or heavy equipment.
 - (C) Permitted home occupations shall not include the employment of any persons not residing on the premises in the performance of the occupation.
 - (D) The use of mechanical equipment other than is usual for purely domestic or hobby purposes is prohibited.
 - (E) There shall be no exterior indication other than a sign pursuant to paragraph 10 (H)(1)(c) that the premises is used for other than a dwelling unit.
 - (F) Any manufacturing business or activity which produces a fire hazards, noxious matter or perceptible noise beyond the lot line is prohibited.
 - (G) Any truck having a load capacity of more than one-half ton shall not

operate out of residential districts.

(H) The operation of any wholesale or retail business which generates more traffic than is normally found in a residential district is prohibited.

(I) Special Use Permits shall be required for all Home Occupation where food preparations takes place. A vendors permit shall be required.

(c) Parking: Those uses already in existence at the time of the adoption of this Law shall be allowed to remain in the existing condition until such time as the building or structure is altered. Upon alteration off street parking spaces shall be provided in accordance with the following requirements. In all districts there shall be provided at the time any building or structure is erected or structurally altered, off-street parking spaces in accordance with the following requirements:

(1) Required Spaces

(A) Automobile Service Stations: One parking space for each employee on the maximum working shift (minimum of two spaces) plus two (2) spaces for each service bay, plus space to accommodate all trucks and other vehicles used in connection therewith.

(B) Boarding and Rooming Houses: At least two (2) parking spaces, plus one (1) parking space for each three (3) persons for whom living accommodations are provided.

(C) Bowling Alleys: At least five (5) parking spaces for each alley, plus such additional spaces as may be required for affiliated uses.

(D) Business or professional office, studio, bank, medical or dental clinic: Five (5) parking spaces plus one (1) additional parking space for each three hundred (300) square feet or floor area over one thousand (1,000) square feet.

(E) Churches and synagogues: At least one (1) parking space for each four (4) seats in accordance with design capacity of the main auditorium.

(F) Dwelling-Single Family and Two (2) Family: Two parking spaces for each dwelling unit.

(G) Dwellings-Multiple: Two (2) 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 55 years of age), one (1) parking space for each unit.

(H) 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) parking spaces plus one (1) parking space for each person on the maximum work shift employed therein.

(I) Hospitals; Sanitarium, convalescent home, home for the aged or similar institutions: One (1) parking space for each two (2) beds plus one (1) for each employee on maximum work shift.

(J) Manufacturing or industrial establishment, research or testing laboratory, creamery, bottling plant, warehouses, or similar establishment: One (1) parking space for each two (2) employees on the maximum working shift plus

space to accommodate all trucks and other vehicles used in connection therewith.

(K) Motel, hotel or tourist home: One (1) parking space for each sleeping room or suite, plus one (1) space for each employee or the maximum working shift.

(L) Mortuary and funeral parlors: at least fifteen (15) parking spaces for each chapel or parlor, plus one (1) parking space for each funeral vehicle maintained on the premises.

(M) Private clubs and lodge: One (1) parking space for each sixteen (16) square feet of assembly area or one (1) parking space for every two and one half (2 ½) seats, whichever is greater.

(N) Restaurant, night club, café, dance hall or similar recreation or amusement establishment, or an assembly or exhibition hall without fixed seats: one (1) parking space for every two (2) seats

(O) Retail store or personal service established not otherwise specified herein: 10,000 square feet or less- 1 space every 150 square feet and one space for every employee on the maximum work shift. Over 10,000 square feet, one space for every 200 square feet, and one for each employee on the maximum work shift.

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

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

(R) Theaters or Auditoriums: At least one (1) parking space for each two (2) seats in the theater plus one space per employee on the maximum work shift.

(S) Day care: one space per seven (7) students and one (1) space per staff.

(T) Warehouse: One space per 300 square feet, one space per employee, and space for trucks.

(2) General Rules

(A) 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.

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

(C) The parking space requirements for a use not specifically mentioned herein shall be the same as required for a use of a similar nature.

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

(E) 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 (10) percent or more in the number of existing parking spaces, such space shall be provided on the basis of the enlargement or change.

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

(G) There shall be no parking in designated front and side setback areas except in the R-5 and C-1 districts pursuant to specific standards therein.

(H) Access drives may not be placed closer than five (5) feet to any lot line:

(i) The distance between two drives on the same lot shall be a minimum of fifteen feet.

(ii) The maximum width of a single driveway shall not exceed 12 feet at the property line and 16 feet at the curb. The maximum width of a double driveway shall not exceed 20 feet at the property line and 24 feet at the curb.

(3) Location and Improvement of Parking Area

(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) of more buildings or establishments; in these cases the required parking space may be located not to exceed three hundred (300) feet from any non-residential building served. 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, approved as to form and executed by the Tribal Attorney and shall be filed with the application for a Zoning Permit.

(B) A parking area plan with stall layout shall be submitted with application for a Zoning Permit.

(C) All access drives or less than 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.

(D) Dust parking free surfaces shall be striped.

(E) Curbs or barriers of at least six (6) inches in height shall be installed along all property lines, abutting a public right-of-way except at designated driveways.

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

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

(H) 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 drives aisles, ramps, and columns.

(i) When parking spaces range between 1-1,000 two (2) percent of those spaces with a minimum of one (1) space shall be dedicated for handicapped use.

(ii) When parking spaces number over 1,000 there shall be at least 20 handicapped spaces plus one (1) percent of the total spaces over 1,000.

(d) Off-Street Loading

(1) General Rules

(A) In connection with any building or structure, 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, there shall be provided off-street loading spaces, the number of which shall be sufficient for the operation of the facility, without causing traffic congestion and traffic hazard on the public approaches to the property.

(B) 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.

(C) No storage of any kind, no motor vehicle repair work, no service of any kind shall be permitted within any required loading space.

(D) Space allocated for an off-street loading space shall not, while so allocated, be used to satisfy the parking requirement.

(2) Location

(A) All required 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) In industrial districts, loading spaces for vehicles of more than two (2) ton capacity shall be located no less than one hundred fifty (150) feet from any residence district.

(C) No 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.

(D) All loading spaces shall be graded and surfaced so as to be dust free and properly drained.

(E) All loading spaces shall be in the side or rear yards.

(F) No overhead doors shall be located in the front of the building with the exception of M-1 and A-1 districts.

(e) 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.

(f) 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 in order that the Business Committee may have assurance 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 will be required at the time of application.

(g) 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.

(h) 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 unless such noise be reasonably necessary to 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 decibels above the ambient noise levels as designated in the following table, shall be a violation.

(2) Noise Level Table

<u>Duration of Sound</u>	I	II	III
	7:00am- 6:00pm	6:00pm- 7:00am	6:00pm- 7:00am
	(All Districts)		(Residential)
Less than 10 minutes	75db	70db	60db
Between 10 min and 2 hours	70db	60db	50db
In excess of 2 hours	60db	50db	40db

(3) Sounds emanating from the operation of motor vehicles on public highways, aircraft, outdoor implements, such as power lawnmowers, snow blowers, power hedge clippers, and power saws, pile drivers or jackhammers and other construction equipment, are exempt from the provisions of this section. Sound 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.

(i) 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 Ringleman Chart, except for one and two family dwellings.

(j) 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.

(k) Toxic and Noxious Matter: No use shall discharge across the boundaries of the lot where it is located, toxic, odorous or noxious matter 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.

(l) 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 defined as electromagnetic energy at any frequency in the radio spectrum between 10 kilocycles and 3 million megacycles.

(m) 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.

(n) 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 by without a current license attached, whether such vehicles be dismantled or not, outside of any enclosed building, except in junkyards permitted pursuant to the provisions of Section 13.

(o) Other 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.

(p) Vision Triangle: The required front yard on a corner lot shall not contain any wall, fence, or other structure, tree, shrub, or other growth, which may cause danger to traffic on a street or public road by obscuring the view. On corner lots, in any district, no structure or planting in excess of thirty (30) inches above the curb line shall be permitted within the vision triangle.

(q) Fences

(1) General Rules

(A) No fence shall be erected or substantially altered within zoned areas within the reservation without securing a permit from the Zoning Administrator.

(B) No fence shall be permitted to remain in a condition that would constitute a public nuisance or dangerous condition, as determined by the Zoning Administrator. Should the Zoning Administrator determine that a dangerous condition or public nuisance exists, he shall notify the owner(s) of the condition and their duty to raze or repair said fence. Should the condition of the fence not be improved within thirty (30) days of notification, the Zoning Administrator is hereby authorized to raze said fence, with cost of razing to be billed to the property owner.

(C) No fence or hedge more than thirty (30) percent solid or more than thirty (30) inches high may be located within twenty-five (25) feet of a street intersection.

(2) Location

(A) Except as provided in 1(c) above, fences and hedges less than four (4) feet high may be located on any part of the lot.

(B) Except as provided in 1(c) above, 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.

(C) Fences, when constructed to enclose any lot or tract of land, 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, pickets, etc., shall be placed on the side of the fence which faces the street or the adjacent property.

(D) No fences shall be allowed or constructed on street right-of-ways.

(r) Height Limitations

(1) 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 aeriels, telephone, telegraph and power poles and lines; microwave relay structures and any necessary mechanical apparatus provided that such structures meet the requirements of Section 15 (C)(2) of this Law.

(2) Farm structures exceeding sixty (60) feet from ground level shall require a Conditional Use Permit.

(3) Any structure not exempted by (1) and (2) above and is more than fifty (50) feet above ground level shall require a conditional use permit.

(s) Encroachments

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

(2) 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.

69.14-1. VIOLATIONS - PENALTIES - REVOCATION OF LEASES

_____ (a) Any person or organization who shall violate 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 forfeiture, and upon conviction thereof shall be punished by a fine not to exceed \$300.00.

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

(c) Any person or organization who is a lessee of the Oneida Tribe of Indians of Wisconsin who shall violate any provision of this Law, or who shall take 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 this 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, provided that the Land Commission may impose additional conditions and such guarantees as they may see fit to ensure that said conditions are met.

69.15-1. AIRPORT ZONING DISTRICTS

(a) Purpose

(1) Section 15: It is the purpose of this article to regulate the use of property and to regulate and restrict the height of structures and objects of natural growth in the vicinity of Austin Straubel Field 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 overlay districts.

(2) Districts: It is the purpose of the districts to protect and provide for the public health, safety, convenience and to protect the aerial approaches to the airport. These provisions are also intended to implement the recommendations of the tribal Comprehensive Plan. 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.

(b) Jurisdiction: The jurisdiction fo this article shall extent over all lands and waters on zoned areas within the Reservation that are located within three (3) miles of the boundaries of Austin Straubel Airport.

(c) General Provisions

(1) Use Restrictions

(A) Activities. Notwithstanding any other provisions of this Law, no use may be made of land or water within any districts established by this article 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 of discharge 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 Section (C)(2) of this Section shall not apply to legal fences or to farm crops which are cut at least once each year.

(2) Height Limitations: No structure, tree or growth shall be erected, planted or altered, allowed to grow or be maintained within any zoning district established by this Law 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 Tribal Airport Height Limitation Map is considered to be a part of this Law and is incorporated herein. The permitted height shall not exceed the difference between the grade elevation and the height limitation numbers shown within the various overlay districts encompassed by this article.

(3) Hazards Marking and Lighting: Any permit or variance granted pursuant to Section 11 or Section 12 of this Law may, if such action is deemed advisable by the Zoning Administrator to effectuate the purpose of this chapter, and if such is reasonable in the circumstances, be so conditioned as to require the owner of the structure or trees, or growth in question 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 an airport hazard. Prior to installation of any such markers or lights, the owner of the airport shall receive a permit from the Zoning Administrator.

(4) 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 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 or his duly authorized representative shall remove the violating structure, tree or growth at cost to the property owner.

(5) Conflicting Regulations: Where a conflict exists between any of these Tribal overlay regulations and any other Tribal regulations or laws applicable to the same site, whether the conflict be with respect to the height of structures or growths, the use of land, or any other matter, the more stringent regulation or Law shall govern and prevail.

(d) Districts

(1) Creation of Districts. For the purpose of this Law, the lands and waters within three (3) miles from the boundaries of the airport is divided into the following zoning districts, with requirements for each district as set forth in paragraphs (A)(B)(C) below.

(A) Noise Cone/Crash Hazard

(B) Overflight/Noise

(C) Height/Noise

(2) District A. Noise Cone/Crash Hazard

(A) District A shall be mapped to encompass 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 pursuant to paragraph E (2)(c); provided that they meet the height restrictions of this Law.

(C) Prohibited Uses. Uses which are specifically prohibited are: residential (except that directly related to a farm operation that exceeds 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.

(3) District B. Overflight/Noise

(A) District B shall be mapped to 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.

(4) District C. Height/ Noise

(A) District C shall be mapped to include all areas within three miles of the airport boundaries. Whenever a property owner 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 zone. The Zoning Administrator shall inform the property owner 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: All uses permitted in the underlying zone, provided that the use meets the height restrictions of this Section.

(e) Maps

(1) Tribal Airport Zoning Districts Maps: The location and boundaries of the districts established by this Section are set forth on the zoning map entitled Tribal Airport Zoning District Map, and are incorporated herein and hereby made a part of this Law. The said map, together with everything shown thereon and all amendments thereto, shall be as much a part of this Law as though fully set forth and described herein. Copies of said map are located in the Zoning Administrator's Office. The Tribal Airport Zoning Districts shall overlay zoning districts created by Section 7. Should conflicts with said zoning districts arise, the more restrictive shall apply.

(2) Tribal Airport Heights Limitation Map: The height restrictions established by this Article are set forth in a map entitled Tribal Airport Height Limitation Map, and are incorporated herein and hereby made a part of this Law. The said map, together with everything shown thereon and all amendments thereto, shall be as much a part of this Law as though fully set forth and described herein. Copies of said map are located in the Zoning Administrator's Office. The Tribal Airport Heights Limitation Map shall overlay zoning districts created by Section 7. Should conflicts with said zoning districts arise, the more restrictive shall apply.

69.16-1. Planned Unit Developments

(a) Purpose - The purpose of this section is to provide for a greater variety and choice of design for urban living, to gain efficiencies, to coordinate design development efforts, to conserve and make available open space, to utilize new technologies for urban land development and to gain flexibilities over conventional land control regulations. This section

should not be used as a device for circumventing the Tribe's development regulations. This section shall be employed in instances where there is truly some benefit to be derived from its use for the community and for the developer.

(b) Scope

- (1) Application for a Planned Unit Development (PUD) may be made for land located in any zoning district pursuant to Section 9, Conditional Uses, and this section.
- (2) The requirements for setback, lot width and percentage of lot coverage stated in individual zoning classifications shall not apply to planned unit developments. In specific cases, the requirements for off street parking stated in Section 13 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 Planned Unit Development plan.
- (3) Zoning Law. Requirements of this section and the Zoning Law shall apply to all Planned Unit Developments. All actions of the Business Committee relative to Planned Unit Development shall be made after recommendation by the Land Commission.

(c) Types of Planned Unit Development (PUD)

(1) General. The following types of planned unit development may be established by special use approval on any existing zoning district or districts as noted below. The options for use are as follows:

- (A) PUD-R Planned Residential Districts in R-2, R-3, R-4 and R-5.
- (B) PUD-C Planned Commercial District in C-1.
- (C) PUD-M Planned Industrial District in M-1.

(2) The area included in each approved planned unit development shall be indicated on the zoning map as PUD "R", "C", or "M".

(3) The term "Planned" for the purposes of this section shall include plans, plats or any combination thereof.

(4) PUD-R Planned Residential District. It is the intent of this sub-section that any residential property which is under single ownership and contains three (3) acres or more area may be developed as PUD-R Planned Residential District. Within the PUD-R District the following uses and densities may be permitted subject to the approval of the Business Committee.

(A) Uses permitted by the right or permitted by special review in the residential district or districts noted above.

(B) Commercial uses may be permitted in the PUD-R District if the planned unit development contains fifty (50) or more dwelling units. Such commercial centers shall be subject to the following requirements:

(i) 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 to the use prior to issuance of the certificates of occupancy for fifty percent (50%) of the dwelling units.

(ii) Except as stated in section 16 (b), all restrictions applicable to the

C-1 District are applicable to the commercial center in the PUD-R District.

(iii) Such establishments shall be located, designed, and operated primarily to serve the needs of the persons within the planned unit development. 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.

(C) 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 or as approved by the Business Committee pursuant to 16 (d)(3).

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

(E) 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 Business Committee may authorize up to twenty percent (20%) increase in density over the district requirement if the following criteria are met:

(i) Architecture-utilization of existing topography, recognition of the character of the area reflected in materials and layout.

(ii) Siting-preservation of unique natural features, separation of pedestrian and vehicular circulation and integration of open space.

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

(iv) Landscaping-compatibility with natural landscape, separation of individual units of privacy.

(v) Convenient, well defined access.

(vi) 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.

(F) Provision for low and moderate income housing and government subsidized housing is permitted in any residential planned unit development. 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.

(5) PUD-C Planned Commercial District: 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.

(6) PUD-M Planned Industrial District: 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 PUD-M. Uses permitted in industrial zoning districts are permitted in the PUD-M District.

(d) General Standards: The following provisions apply to all planned unit development districts:

(1) The setback, lot width and lot coverage requirements as stated in individual zoning classifications shall not apply to planned unit developments, and rather shall be governed by individual site limitations as determined by the Land Commission and the Business Committee.

(2) The number of off-street parking spaces in each planned unit development may not be less than the requirements as stated in Section 13 (C) except that the Business Committee may increase or decrease the required number of off-street parking spaces in consideration of the following factors:

(A) Probable number of cars owned by occupants of dwellings in the planned unit development.

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

(C) Varying time periods of use, and whatever joint use of common parking areas is proposed.

Whatever the number of off-street parking spaces are reduced because of the nature of the occupancy, the Tribe shall obtain assurance that the nature of the occupancy will not change.

(3) 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 either: (1) the land shall be held, developed, and maintained as common open space which shall be administered through a homeowner's association, or (2) the land shall have been dedicated to and accepted by the Tribe for public use. 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.

(4) Signs- As are regulated pursuant to Section 10 of this Law.

(e) Planned Unit Development Application Procedure: All applications for planned unit development shall comply with procedures set forth below and in accordance with Section 9 Conditional Uses.

(1) Pre-Application Conferences - Prior to submitting the Preliminary Development

Plan, the applicant shall confer with the Tribal Planning Office in order to (1) become acquainted with the planned unit procedures and related Tribal requirements; (2) to obtain a written list of what the application shall include, and (3) to obtain copies of any guidelines or law interpretations.

(2) Submission and Review of the Application

(A) An applicant shall make application for the approval of the Planned Unit Development to the Planning Office. The applicant shall present his application along with development plan outline as specified in this section.

(B) The Preliminary Development Plan outline shall include both the development plan map and a written statement of procedures. The plan shall indicate sufficient areas surrounding the proposed planned unit development to demonstrate the relationship of the planned unit development to adjoining existing and proposed uses.

(C) The Preliminary Development Plan outline map must contain the following information:

- (i) The existing topographic characteristics of the land at a contour interval of two (2) feet or less;
- (ii) The existing and proposed land uses;
- (iii) The location and proposed use of all proposed buildings.
- (iv) 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;
- (v) The proposed location of all street, driveways and parking areas.
- (vi) The proposed location and size of public uses including schools, parks, playgrounds, swimming pools and other open spaces; and
- (vii) Flood plain and surface drainage plan, including but not limited to grades at 2 foot contour levels, location of ponds, ditches, sail types and water table.
- (viii) A generalized landscaping and tree planting plan for open spaces, screening and parking development areas, etc.
- (ix) Location of all easements their width and purpose.

(D) The written statement to accompany the development plan outline map must contain the following information:

- (i) A brief description of unique project design needs that make the planned unit approach advantageous to the Tribe and developer;
- (ii) A statement of the present ownership and legal description of all the land included within the planned unit development;
- (iii) A list of the owners of abutting properties and properties located within twelve hundred (1,200) feet of property lines of the land included in the planned unit development complete with their addresses from available Tribal town and/or county records; and
- (iv) An anticipated schedule of development.

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

(E) The plan outline map and written statement must be in sufficient copies to distribute among reviewing agencies as determined by the Planning Office.

(F) The preliminary plans shall be drawn at a maximum scale of 1" equals 100 feet for PUDs under 100 acres. PUDs greater than 100 acres shall be drawn at a scale determined as mutually acceptable by the developer and the Planning Office.

(G) The applicant may be requested to submit any other information or exhibits deemed pertinent in evaluating the proposed planned unit development.

(H) Accompanying the application will be a filing fee which shall be established by the Business Committee.

(3) Conditional Use Permit: An application for Conditional Use Permits shall be filed at the time of application for Planned Unit Development.

(4) Development Guarantee: Prior to the granting of any Zoning Permit within a Planned Unit Development, a deposit shall be made to the Tribe, in cash or letter of credit, approved by the Tribe, equal to one hundred fifteen percent (115%) of the estimated cost of all landscaping improvements as required by the Preliminary Plans

(5) Approval of Application

(A) Within forty-five (45) days after filing of the application, the Land Commission shall review the proposed Planned Unit Development, and present their recommendation that it be disapproved, approved or approved with modifications and giving reasons for the recommendation to the Business Committee. As part of its review, the Land Commission shall hold a public hearing prior to making a recommendation to the Business Committee.

(i) Notice of the public hearing shall be published in the Tribal Newspaper not less than ten (10) days and not more than thirty (30) days prior to said hearing.

(ii) Notice of the public hearing shall be mailed to all owners of property located within 1,200 feet of the outer boundaries of the property to be re-zoned at least ten (10) days and not more than thirty (30) days prior to said hearing.

(B) Within thirty (30) days of Land Commission action, the Business Committee shall disapprove, approve, or approve with modifications the PUD. Failure of the Business Committee to act within (30) days of the Land Commission action shall be construed as approval.

(C) The Business Committee shall notify the applicant of its decision in writing.

(D) A Conditional Use Permit shall be granted on the same date as the approval of the Preliminary Development Plan.

(E) Approval of the application shall be valid for one (1) year. An extension

of one (1) year approval time may be granted by the Business Committee if so requested by the Land Commission in writing not less than one (1) month before the expiration date.

(F) Requests for extension of a Conditional Use Permit shall be made simultaneously with the request for extension Preliminary Plan approval.

(f) Final Development Plan

(1) No changes shall be made in the approved Final Plan during the construction of the planned unit development except upon application to the appropriate agency under the procedures provided below:

(A) Minor changes in the location siting and height of buildings and structures may be authorized by the Land Commission 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 10%.

(B) Major changes are defined as:

- (i) Change in use;
- (ii) Increase in density;
- (iii) Rearrangement of lots, blocks or buildings;
- (iv) Change in architectural design or style;
- (v) Change in type of ownership;
- (vi) Change of more than ten percent (10%) in total floor area;
- (vii) Increase in height of any building;
- (viii) Major modification to the landscape plan;
- (ix) Reduction in proposed open space;
- (x) Change in development schedule;
- (xi) Change in the road location or standards; and
- (xii) Any changes determined to be major by the Business Committee.

(C) Major changes in the Final Development Plan which are inconsistent with the Preliminary Development Plan must be approved by the Business Committee. Such changes can be made for the following reasons only:

- (i) Changes in conditions that have occurred since Final Plan approval.
- (ii) Change in the development policy of the Tribe.
- (iii) Conditions that were unforeseen at the time of approval.

(D) Any changes which are approved for the Final Plan shall be recorded as amendments to the recorded copy of the Final Plan.

(2) From time to time the Land Commission shall compare the actual development accomplished in the planned unit development 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 Land Commission may recommend and the Business Committee may initiate legal proceedings. Upon recommendation of the Land Commission and for good cause shown by the property owner, the Business Committee may extend the limits of the development schedule.

(3) Final Development Plan Contents

(A) The Final Development Plan which may reflect the entire preliminary development plan or any logical part thereof, must be submitted within one (1) year following the approval of the Preliminary Development Plan unless written request is made for an extension of one (1) year and approved by the Business Committee.

(B) The Final Development Plan, with supplemental information in report form, shall be prepared at a scale of not less than 1" equals 100 feet; submitted in sufficient detail to evaluate the building design, and other features of the Planned Unit Development. Submittal of the final development plan must include the following minimum information:

- (i) The existing and proposed topographic characteristics of the land;
- (ii) Proposed land uses;
- (iii) The location and size of all existing and proposed structures and improvements;
- (iv) The maximum height of all buildings;
- (v) The density and type of buildings;
- (vi) Internal traffic and circulation systems off-street parking areas, service areas, loading areas, and major points of access to public rights-of-way;
- (vii) The location, height, and size of proposed signs, lighting and advertising devices;
- (viii) Areas which are to be conveyed, dedicated or reserved as common park areas, including public parks and recreation areas and as sites for schools and other public buildings;
- (ix) A detailed landscaping plan, showing the spacing, size and specific types of landscaping materials; existing vegetation and trees; and existing tree vegetation to be removed.
- (x) Proposed development schedule as required in preliminary plan;
- (xi) Location of all necessary utility easements.
- (xii) A final grading and drainage plan which must contain at a minimum;
 - (aa) Provisions to carry runoff;
 - (bb) Location of ponds as well as depth and area;
 - (cc) Soil locations and type;
 - (dd) Water table identification;
 - (ee) Location of flood hazard areas;
- (xiii) Flood plans and floor elevation;
- (xiv) Building elevations.

(C) Copies of any special agreements, conveyances, deed restrictions, or covenants, which will govern the use, maintenance and continued protection of the planned unit and any of its common park areas must accompany the final development plan.

(D) The applicant may submit any other information or exhibits he deems pertinent in evaluating the proposed planned unit development.

(g) Approval of Final Development Plan

(1) The Land Commission shall review the completed Final Plan within thirty (30) days of receiving said Final Plan and shall forward it to the Business Committee for final action.

(2) The Business Committee shall approve the Final Development Plan if it is in substantial compliance with the approved Preliminary Development Plan within thirty (30) days of the Land Commission action.

(3) Failure of the Business Committee to act within thirty (30) days shall be construed as approval.

(h) Control of Planned Unit Development After Final Plan Approval

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

(2) After final approval, no changes may be made in the approved Final Development Plan except upon application to the appropriate agency under the procedures provided below:

(A) Any minor extension, alteration, or modification of existing buildings or structures may be authorized by the Land Commission if they are consistent with the purposes and intent of the Final Plan. No change authorized by this section may decrease or increase the dimension of any building or structure by more than 10%.

(B) Any uses not authorized by the approved Final Plan, but allowable in the PUD as a permitted principal, accessory, or special 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 the Zoning Law or the approval of special uses.

(C) 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 paragraph (H)(2) (A and B) above.

(D) Changes in the use of common open space may be authorized by an amendment to the Final Development Plan under paragraph (H)(2) (A and B) above.

(E) All other changes in the Final Development plan must be made by the Business Committee under the procedures authorized by this Law. No changes may be made in the Final Development Plan unless said changes are found to be required:

(i) For continued successful functioning of the planned unit development; or

(ii) By change in conditions that have occurred since the final plan

was approved; or

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

(3) 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 planned unit development, and all rights to enforce these provisions against any changes permitted in this section are expressly reserved.

69.17-1. Shoreland Protection Law

(a) In General: The Oneida Tribal Shoreland Protection Law as adopted on December 7, 1981, and any amendment thereto which have been adopted or which may be adopted in the future, are hereby incorporated into this Zoning Law and made a part thereof. Said Shoreland Protection Law shall be considered by the Zoning Administrator when reviewing applications for Zoning permits, and no Zoning Permit shall be issued unless the Zoning Administrator shall have first determined that the proposed structure or use complies with said Shoreland Protection Law and any amendments thereto.

(b) Administration and Enforcement: For purposes of administration and enforcement of this Article, the following shall apply:

(1) The "Special Exception Permit" shall be the "Conditional Use Permit".

(2) In cases where a Land Use Permit has been issued by the Zoning Administrator, he may waive the requirement for a Certificate of Compliance if, in his opinion, the proposed structure of use complies with the provisions of Section 17.3 of the Shoreland Law.

(3) The Zoning Administrator may waive the fees at Section 17.8 of the Shoreland Law.

(4) The Adjustment Committee established pursuant to Section 17.4 of the Shoreland Law shall be the Land Commission.

(5) The appeals procedure and procedure for granting of variances to this Section shall hereinafter be made pursuant to Section 12 of the Zoning Law until such time as Oneida Tribal rules and regulations and/or hearing and appeals procedures are formally adopted by the Oneida Tribe

(6) Any changes and amendments to this Section shall hereinafter be made pursuant to Section 11 (C) of the Zoning Law or until such time as Oneida Tribal Law rules and/or regulations are formally adopted.

69.18-1. Land Development Law

(a) The Tribal Subdivision Law and any amendment thereto are hereby incorporated into this Zoning Law and made a part thereof.

(b) From and after the effective date of this Law, no person, firm, or corporation shall divide any Tribal lands held in Trust, any heirship lands, nor any individual Trust land, located within the Oneida Reservation which results in a minor subdivision, major subdivision, lot division or a replat; no such division, other division or replat shall be entitled to record, and no streets be laid out or improvements made without compliance with all requirements of

said Subdivision Law.

SUBCHAPTER II

SHORELAND PROTECTION LAW

69.19-1. Enactment, Authority, and Title. The General Tribal Council of the Oneida Tribe of Indians of Wisconsin is authorized in Article IV, section 1 (f) of the Constitution and By Laws of the Oneida Tribe of Indians of Wisconsin, does enact this Law which shall be known as the Oneida Tribe of Indians of Wisconsin Shoreland Protection Law.

69.19-2. This Law may simply be referred to as the Oneida Shoreland Law

69.20-1. Finding and Purpose. The Oneida Tribe of Indians of Wisconsin finds that the Shoreland Areas of the reservation are among the most valuable and fragile of its natural resources and that there is great concern related to their utilization, protection, restoration, and preservation. In addition it finds that ever increasing pressures due to use of the Shoreland Areas necessitates increased coordination in management and development of Shoreland Areas in the Reservation. The Tribe further finds that much of the shorelands of the reservation are held in private ownership and that certain development and use trends on the privately owned or publicly owned shorelands of the reservations are not in the best interest of the Tribe or other residents of the reservation. Therefore planning and management is necessary in order to protect the Tribal and Public interest associated with shorelands of the reservation.

It is the policy of the Tribe to provide for the management of the reservation shorelands by planning for and fostering all appropriate and reasonable uses. This policy is designed to enhance the Tribal and public interest. This policy contemplates protecting against adverse effects to the waters of the reservation and their aquatic life, public health, and the land and its vegetation and wildlife. In the implementation of this policy the public's opportunity to enjoy the physical and aesthetic qualities of natural shorelands of the reservation shall be preserved to the greatest extent possible consistent with the overall best interest of the Tribe and the people generally. To this end, uses shall be preferred which are consistent with control of pollution, and prevention of damage to the natural environment, or are unique or dependent upon use of the reservation's shorelands.

Permitted uses in the shorelands of the reservation shall be planned and managed in a manner to minimize, insofar as is practicable, any resultant damage to the ecology and the environment of the Shoreland Area and any interference with the public's use of the waters.

To optimize the accomplishment of the goals and objectives of this Law, comprehensive management of all regions within the reservation is needed. To further this, intergovernmental coordination and cooperation shall be sought. Intergovernmental collaboration could take the forms of technical assistance, agreements, compacts, boards, and/or agencies.

69.20-2. To protect human life and health, the natural environment, aquatic and terrestrial organisms, aesthetic and ecological values, appropriate water uses, and environmentally significant areas within the shoreland area.

Shoreland areas have a direct and significant effect on water quality. The misuse of

shoreland areas results in the diminution of water quality indicated by sedimentation, pollution, and altered water budget dynamics

Diminished water quality adversely affects the recreational and economic uses of the waters. Diminished water quality decreases the suitability of the waters for game species of fish. Diminished water quality adversely affects the public health and general welfare. Therefore, to protect and improve the quality of waters on the Oneida Indian Reservation in Wisconsin and thus protect and improve the public health and general welfare of all people therein, these land use measures, which include zoning, are taken.

Furthermore, these land-use controls will regulate use in floodplains and on steep slopes and thereby promote public safety and minimize the risk of flood and erosional damage. These controls will enhance the quality and livability of human settlements by promoting and maintaining the natural, aesthetic values of Shoreland Areas.

Shoreland Areas including associated wetlands which are important reproduction, nursery, resting, migration, and feeding areas for many species of fish, waterfowl, and other wildlife will be protected. The habitat of endangered and threatened species of which the Wood Turtle, Blanding's Turtle, and Snow Trillium are known to exist within the reservation shoreland will be protected. Historical and archeological sites have mainly been recorded adjacent to waterways within the reservation. These sites which are within the Shoreland Area will be protected.

69.21-1. General Provisions. Jurisdiction. The jurisdiction of this Law shall include all Oneida Tribal Lands which are adjacent to navigable waters and major drainage ways, as defined herein, which would meet one or more of the following criteria:

- (a) Would be inundated by the 100 year flood.
- (b) Are within 300 feet of the ordinary high-water mark of said water systems.
- (c) Have a slope of 12 percent or greater adjacent to the floodplain.
- (d) Areas defined as wetlands.

69.21-2. Zoning Map. A zoning map indicating the various areas which are under the jurisdiction of this Law as defined in Section 21-1. shall be included as part of this Law. See Appendix A.

69.21-3. Compliance. Compliance with this Law is mandatory. The use of any area within the jurisdiction of this Law shall be in compliance with the terms of this Law.

69.21-4. Greater Restrictions. This Law shall not have the effect of repealing or otherwise impairing laws or other regulations which are more restrictive than this Law. Where this Law imposes greater restriction, the provisions of this Law shall prevail.

69.21-5. Severability. If any section or any portion of this Law is adjudged unconstitutional or invalid, the remainder of this Law shall be affected thereby.

69.22-1. Definitions. All words in the present tense include the future tense; all words in the singular number include the plural, and all words in the plural number include the singular number; unless the natural construction of the wording indicates otherwise, the word "shall" is mandatory, and not discretionary; the word "may" is permissive. The phrase "used for" includes the phrases "arranged for", "designed for", "intended for", "maintained for", and "occupied for". All measured distances, unless otherwise specified, shall be measured horizontally, and shall be to the nearest integral foot; if a fraction is less than one-half foot, the next integral foot below shall be taken.

The word "Tribe" shall mean the Oneida Tribe of Indians of Wisconsin.

For the purpose of this Shoreland Law the following terms and words are hereby defined:

Accessory Use—Any facility, structure, building, or use which is accessory or incidental to the principal use of a property, structure or building.

Adjustment Committee—A committee consisting of five members which administers the regulations established in this Law. The major responsibilities of the Adjustment Committee shall be to hear special exception and variance requests and to supervise the Ordinance Administrator. See section 17.4 for a full explanation of the role and definition of the Adjustment Committee.

Aesthetic Value—The utility of an area for its beauty in satisfying directly or indirectly, the needs or desires of human beings.

Agriculture—The use of land for agricultural purposes, including soil tillage for the production of crops, dairying, pasturage, horticulture, floriculture, viticulture, animal and poultry husbandry, and 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.

Appropriate Water Use— The use of water, or any use which is associated with or affects water which is consistent with the specific guidelines and the spirit of this Ordinance.

Associated Wetlands—Those wetlands or wetland areas which either influence or are influenced by and are in proximity to any stream, river, or other water body.

Aquatic Life— Any living organism which derives its existence and would not survive without a water environment for a significant portion of its life cycle. Aquatic life is any organism which is directly associated with the water environment. An organism which does not remain dependent on a water environment for its entire life shall only be considered aquatic life during its water related phase.

Bank—"Bank" means 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 or alteration, slopes or drains without complete interruption into the water body.

Barnyard—For the purpose of this Law, a barnyard is an area associated with and directly adjacent to a structure which houses domestic animals. A barnyard is a fenced area where domestic animals are kept. This area is relatively small and is distinguishable from a pasture. The barnyard will have a higher density of animals than a pasture and will usually be devoid or nearly devoid of vegetation.

Bed—Bed shall mean the bed of a water body. The bed is the land that lies at the bottom of a body of water. This land shall include all material that rests upon the bottom such as mud, flocculent, material, sand, clay, silt, rock, organic debris, logs and stumps. The limit of the bed shall be the ordinary high-water mark of such water body. All material which lies below the ordinary high-water mark shall be defined as the bed of such water body.

Boathouse Building—A building designed exclusively for the sheltering of boats or related marine equipment and which is located on or adjacent to water. Any structure intended for the support, shelter, or enclosure of any person, chattel, or property of any kind.

Building Line— The building line shall be the line that is defined as the minimum distance a building must be set back from the road right-of-way or shall be defined as a line parallel to the road right-of-way which passes through the front most part of the building, whichever is greatest.

Bulkhead—A solid or open pile wall of rock, concrete, steel, timber, or other materials or a combination of these materials erected generally parallel to and near the ordinary high-water mark for the purpose of protecting adjacent wetlands and uplands from waves and currents.

Bulkhead Line—A geographic line along a reach of a water body which allows complete filling on the landward side.

Business Committee—The Business Committee is the governing authority of the Oneida Tribe of Indians. The Business Committee is elected by the General Tribal Council to conduct Tribal business and relations. The Business Committee has authority for all Tribal business, relations, and program activities. Business Committee members must be members of the General Tribal Council.

Camp—An area, including buildings, used for the accommodation of members of various organizations or groups using equipment designed for the purpose of temporary camping.

Camp Area—Any public or private premises established for day and overnight habitation by persons using equipment designed for the purpose of temporary camping.

Camp Grounds—A camp exclusive of buildings.

Channel—A natural or artificial water course of perceptible extent, with definite bed and banks to confine and conduct continuously or periodically flowing water.

Clear cutting—The total or near total removal of trees from an area greater than 1000 square feet where tree is defined as a woody plant which supports branches from its trunk.

Cluster Subdivision—A residential development where regulations apply to the project as a whole instead of to its individual lots. Densities are calculated for the whole project.

Conditional Use—A “conditional use” is a use which is a planned utilization of land requiring issuance of a special exception permit upon meeting certain specified standards after a public hearing and action by the Adjustment Committee.

Conservation Practices—Any practice which is approved as a conservation practice by the Soil Conservation Service. Any practice which is designed to enhance or improve the environment. The Ordinance Administrator shall determine, aside from projects determined by the Soil Conservation Service as conservation projects, whether or not a proposed project could be considered a conservation practice. The following examples would generally be approved as conservation practices: sod waterways, tree planting, revegetation, stream bank improvement, habitat improvement, animal waste handling projects, waterway fencing, and waterway crossing.

Cropping—To devote land to crops where crop means such products of the soil as are annually planted, severed, and saved by manual or mechanical means such as cereals, vegetables and grass for harvest.

Cultivate—To till, prepare for crops, manure, plow, dress, sow and reap, manage and improve in husbandry.

Development—Any man-made change to improved or unimproved real estate, including, but not limited to, construction of, or additions, or substantial improvements to, buildings, other structures, or accessory uses. The term development shall be synonymous with “activity” and refers to any construction, alteration, dredging, drilling, dumping, filling, removal, obstruction, occupancy, participation, practice, enterprise or event within the Shoreland Area.

Destruction of Natural Vegetation—The removal, covering or otherwise extinguishment of vegetation that is naturally occurring.

Dock—This term shall be synonymous with “pier” and refers to any structure 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.

Domestic Animal—Animals which are habituated to live in or about the habitations of people, or such as contribute to the support of an individual or other party.

Dredging—To remove any amount of sand, mud, debris, or other materials from the bed of a water body with the use of a device.

Easement—The quantity of land set aside or over which a liberty, privilege, or advantage in land without profit, existing distinct from the ownership of the land, is granted to the public, utility, or some particular person, corporation, or part of the public for limited right of use.

Ecological Relationship— The relationship between organisms and the environment in which they live. The interaction of these organisms and their environment. The complex interactions of a community and its environment. The complex interactions of a community and its environment as it functions in nature as a unit. An ecosystem.

Erosion—The dislodgement and removal of soil particles by physical forces including but limited to wind, rain-drop splash, water currents, and gravity. The activities of people in disturbing the ground surface can accelerate this process.

Excavate—To dig out materials from the land and to remove elsewhere. This removal may or may not involve the sale of such removed material for economic benefit. Any work involving less than 500 square feet shall not constitute excavation. Where smaller areas are involved, a consolidated area of 1000 square feet or more per acre shall constitute an excavation.

Extreme Loss of Property—Any loss of property beyond that which would be considered normal. The exercise of preventative measures to avoid extreme loss of property shall be allowed where it is shown that an event which would cause extreme loss of property has a significant probability of occurring.

Feedlot— An open area where domestic animals are contained and where it is necessary and usual to bring food from outside the area to feed the animals. This area is usually devoid or nearly devoid of vegetation. This area may also be a barnyard. The concentration of animals in a feedlot will be greater than that in a pasture.

Fertilizing—To apply compost, manure, commercial fertilizer to a medium (soil) to provide nutrients or make available nutrients already there, so as to promote the growth of vegetation.

Filling—The placement of any material, especially unconsolidated material, so as to fill, raise, or otherwise cover an area.

Flood—A general and temporary condition of partial or complete inundation of normally dry land areas from the overflow of inland waters, or the unusual and rapid accumulation or runoff of surface waters from any source.

Floodplain— The relatively flat area or low lands adjoining the channel of a river, stream or 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 100 year flood.

Flood Proofing—Flood proofing involves 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.

Flood Protection Elevation—The flood protection elevation shall correspond to a point 2 feet

above the water surface profile associated with the 100 year floodplain.

Floodway—The channel of a river or other waterway and those portions of the floodplain adjoining the channel required to carry and discharge the flood water or flood flows associated with the 100 year flood.

General Tribal Council—The General Tribal Council is composed of all members of the Oneida Tribe of Indians of Wisconsin and is the policy setting body for the Tribe. It considers constitutional amendments and Tribal Laws. It reviews and provides direction to the Business Committee. Meetings of the council are biannual with a quorum consisting of 75 members.

Grading—Grading means physical disturbance of an area by the addition, removal or redistribution of topsoil or other material.

Lagoon—An artificial enlargement of a waterway.

Lot—Land occupied or to be occupied by a building and its accessory buildings, together with such open spaces as are required under this Law and having frontage on, or otherwise access to, a street.

Lot Width—The distance between sides lines of the lot at the building line.

Main Building—A building in which is conducted the principal use of the lot on which it is situated. In any residential district, any dwelling shall be deemed to be a main building on the lot on which it is situated.

Major Drainage Way—Any water system which has a defined bed and bank and which at least seasonally has water flow. This system shall be a direct tributary to a navigable water as defined in this Ordinance. Major drainage ways and navigable waterways as covered under this Law are indicated on the Ordinance map(s).

Marsh—A low flat area on which the vegetation consists mainly of herbaceous plants such as cattails, bulrushes, tules, sedges, skunk cabbage, and other aquatic or semi-aquatic plants. Shallow water usually stands on a marsh, at least during a considerable part of the year. The surface is commonly soft mud or muck.

Mobile Home— Any vehicle or structure which is, or was as originally constructed, designed to be transported by any motor vehicle upon a public highway and designed, equipped, used, or intended to be used primarily for human habitation, including any addition, attachments, annexes, foundations, and appurtenances thereto.

Mobile Home Park—Any site, parcel, or tract of land designed, maintained, intended or developed with facilities for locating two or more mobile homes. It shall not include a sales lot in which unoccupied units are parked for sale or inspection.

Natural Herbage—Any herbacious plant community which naturally occurs and reproduces. In a disturbed area, which includes farm fields, herbage shall mean any herbacious plant community as described above which is the predominant vegetation on the land.

Navigable water—Navigable water means all rivers, streams, lakes, ponds, sloughs, flowages, and other natural or artificial waterways within the territorial limits of the Oneida Indian Reservation which are navigable (floatable by a shallow draft craft-canoe) during flooding conditions which are a regularly recurring event.

Non-conforming Use—An existing lawful use of structure, building, or accessory use which is not in conformity with the provisions of this Law for the area which it occupies.

Nuisance—The unreasonable, unwarrantable, or unlawful use of property, either real or

personal, so as to obstruct or cause injury to the right of another or of the public. Every violation of this Law is a public nuisance.

Obstruction—Any hindrance, obstacle, or barrier.

One-Hundred Year Flood (Regional Flood)—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 regional flood is once every 100 years; this means that in any given year there is one percent chance that the regional flood may occur or be exceeded.

Ordinance Administrator—An individual or individuals hired to conduct the routine business (at least as one aspect of his/her/their job) associated with this Law. See Section 17.1 for a complete definition of the Ordinance Administration position.

Ordinary High-Water-Mark—The ordinary high-water mark is 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.

Party—An individual or group of individuals, partnership, firm, corporation, association, state, county, city, village, town, sanitary district, or other government corporation.

Party of Interest—Any party 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 water system. Neighbors, counties, towns, villages, cities, and the state may be considered parties of interest. Other parties may be considered parties of interest upon substantiating relevancy of the matter to them.

Passive Uses—Any use which requires limited physical exercise and requires little or no equipment. Passive uses include but are not limited to walking, bird watching, photography, sight seeing, picnicking, wading, and sunbathing.

Pasture—An area used to graze domestic animals. The density of animals in this area would be relatively low as compared to feedlots or barnyards.

Permanent Structure—A structure which is built of such materials and in such a way that it would commonly be expected to last and remain useful for a substantial period of time.

Permit—A written license issued by the Ordinance Administrator empowering the grantee to do some act not forbidden by law, but not allowable without such authority.

Pollutant—Any substance discharged into the water which causes pollution.

Pollution—“Pollution” means man-made or man-induced alteration of the chemical, physical, biological, or radiological integrity of water.

Principle Use—The main use of land or buildings, as distinguished from a subordinate or accessory use.

Private (On Site)—Sewage Disposal System—A sewage disposal system other than a public sewage disposal system, including septic tanks, soil absorption systems, privies, holding tanks, and privately owned common sewerage facilities including package treatment plants, lagoons, and irrigation systems.

Public Sewage Disposal System—Sewers and sewage treatment facilities used in connection therewith which are maintained and operated by a municipality, public utility, or sanitary district.

Recreational Area—Parks, playgrounds, ball fields, sports fields, swimming pools, or other facilities, and areas constructed for recreational activity and open for uses by the public or private organizations.

Refuse—Anything that is discarded as having no value. Refuse is solid waste.

Regional Flood—See One Hundred (100) Year Flood.

Removal of Herbage, Shrubbery, and Small Trees—The cutting, burning, covering, or otherwise destruction of vegetation such as herbs, shrubs, and trees less than five (5) inches in diameter at breast height.

Sanitary Landfill—A waste disposal operation which consists of dumping garbage, rubbish, and other debris onto the ground or into a depression or trench, compacting it and covering it with a layer of earth of suitable thickness.

Setbacks from Water—The minimum horizontal distance from the ordinary high-water-mark of a body of water to the nearest part of the structure.

Shorecover—Any vegetation which grows upon the ground and is within the Shoreland Area.

Shoreland—The area that is adjacent to navigable waters and major drainage ways. This area shall include the 100 year floodplain, all land which is within 300 feet of the ordinary high-water mark of said water systems, all lands which are adjacent to the floodplain and have a slope of 12 percent or greater, and wetlands.

Side Yard—A yard between the side line of a lot and the nearest line of the building 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.

Siltation—The deposition or accumulation of unconsolidated materials.

Silviculture—A woodland management practice through which, for the purposes of this Law, the quality of adjacent surface water is maintained or improved through responsible cutting in shorelands and longlived species are perpetuated and provision is made for efficient methods of slash disposal.

Special Exception—Approval by the Adjustment Committee to conduct a conditional use. Conditional uses are listed for each district of the Shoreland Area. The special exception shall only be good for the conditional use, time period, and land that is specified.

Storage Capacity of a Floodplain—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.

Structure—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 and cabins, mobile homes, gas or liquid storage tanks, bridges, and culverts.

Substantial Alteration (Substantial Change)—Any alteration to an environment which changes or intensifies the land use or causes significant changes to the natural characteristics of the land.

Substantial Detriment—Anything which causes significant pollution, sedimentation (siltation)

alteration of water budget dynamics, diminution of aesthetic value, loss of wildlife habitat disturbance to ecological relationships.

Swamp—A swamp is similar to a marsh except that reeds, shrubs, and trees comprise the characteristic vegetation.

Temporary Structure—A structure which is built of such materials and in such a way that it would commonly be expected to have a relatively short useful life or is built for a purpose that would commonly be expected to be relatively short-term.

Toxic materials—“Toxic materials” are materials which are capable of causing injury to living organisms by chemical means. These materials 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, physiological malfunctions, including malfunctions in reproduction or physical deformations in such organisms or their offspring.

Travel Trailer (including Recreational Vehicles)—A vehicular or vehicular portable structure designed as a temporary dwelling for travel, recreation, and vacation use which does not fall within the definition of a mobile home.

Tribe—The Oneida Tribe of Indians of Wisconsin as managed by the Business Committee under the guidance and direction of the General Tribal Council.

Tribal Waterway—Any water system that originates in or crosses any part of the Oneida Indian Reservation.

Trust Land—Where the title to land is held by the United States for the Tribe or individuals. Individual trust land is land held in trust for an individual Oneida Indian. Tribal trust land (Tribal land) is land which is held in trust for the Tribe. This land is owned in common by the Tribal membership.

Unnecessary Hardship—(1) The 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. (2) Where use restriction is so unreasonable as to constitute an arbitrary interference with basic rights of private property.

Use—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.

Utility— A service such as light, power, or water provided by a public utility.

Variance—A departure from the terms of this Law as applied to a specific building, structure, or parcel of land, which the Adjustment Committee may permit.

Viticultural—The cultivation of vines.

Waste—Anything which is discarded as having no usefulness. Any material that is excreted by an organism.

Water Budget Dynamics—“Water Budget Dynamics” deals with the portion of the hydrologic cycle involving surface water. Specifically, the temporal fluxuations and characteristics of surface water flow and inter-action of surface water with other components of the hydrologic cycle. The effects of people’s actions on this system is of major significance.

Watercourse (Waterway) (Water system)—Any depression serving to give direction to a current of water which has a bed and defined banks.

Wetlands—Lands where the water table is at, near or above the land surface long enough to promote the formation of hydric soils or support the growth of hydrophytes.

69.23-1. Dimensions of Building Sites. Purpose. These requirements are established for the promotion and protection of public health, safety, and welfare. These regulations also regulate development within the Shoreland Area so as to promote and maintain the aesthetic values and ecological relationships of Tribal waterways and associated land corridors. These regulations are intended to protect and improve water quality on the Oneida Indian Reservation.

69.23-2. Lots Not Served by Public Sanitary Sewer.

(a) The minimum area of a lot not served by a public sanitary sewer shall be one acre. The minimum lot width at the building line shall be 100 feet. The minimum lot width at the right-of-way line shall be 50 feet. Because of potential problems involving adequate separating distances between private sewage disposal systems and water wells or waterways, any part of a lot less than 30 feet wide shall not be used to calculate the minimum lot area.

(b) There shall be a minimum side yard dimension for each main building on a lot which is not served by a public sanitary sewer. The minimum width of one side yard shall be 10 feet. The minimum aggregate width of both side yards shall be 25 feet.

(c) Lot sizes greater than one acre may be required in such instances where a greater degree of protection for public health and welfare, natural resources, existing developments or environmentally, historically, or culturally significant areas is required. These greater restrictions shall be identified and justified by the Adjustment Committee according to the procedures explained in Section 17 of this Law or by other laws.

69.23-3. Lots Served by Public Sanitary Sewer.

(a) The minimum area of a lot served by a public sanitary sewer shall be 10,000 square feet. The minimum lot width at the right-of-way shall be 50 feet. The minimum lot width at the building line shall be 75 feet.

(b) There shall be a minimum side yard dimension for each main building on a lot which is served by a public sanitary sewer. The minimum width of one side yard shall be 10 feet.

(c) Lot sizes greater than 10,000 square feet may be required in instances where a greater degree of protection for public health and welfare, natural resources, existing developments or environmentally, historically, or culturally significant areas is required. These greater restrictions shall be identified and justified by the Adjustment Committee according to the procedures explained in Section 17 of this Law or by other laws.

69.23-4. Cluster Subdivisions. Cluster subdivisions may be allowed only if they are approved by the Business Committee. Lot sizes in cluster subdivisions shall be determined by the Business Committee. All other provisions of this Law shall be adhered to.

69.24-1. Setbacks and Minimum Requirements. Purpose. Setbacks from the water's edge are required to promote and maintain the aesthetic values and ecological relationships of Shoreland Areas. Setbacks are intended to protect and improve water quality on the Oneida Indian Reservation. These measures are taken to promote and protect public health and welfare and the quality of water related resources.

69-24-2. Setbacks from Waters.

(a) All structures in proximity to navigable waters or major drainage ways, 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 set back at least 75 feet from the ordinary high-water mark of the waterway.

(b) The minimum elevation of the first floor of any structure which is abutting navigable waters or major drainage ways except structures which have a function which makes it necessary for an on or near water location or are otherwise regulated within this Law shall be two feet above the 100 year floodplain. Where the 100 year floodplain has not been established, the Ordinance Administrator shall determine such. Where technical information is lacking, the Ordinance Administrator may simply state that the first floor of a structure may not be less than 5 feet above the ordinary high water mark, or that the first floor of a structure may not be less than 2 feet above the highest recorded flood elevation. These requirements will be adhered to unless otherwise specified in this Law.

(c) The minimum setback for on-site sewage disposal systems shall be 50 feet from the ordinary high-water mark of a navigable waterway or major drainage way.

69.24-3. Setbacks for Roads. All roads, private and public, and all railroads shall be constructed to minimize their proximity to navigable waters and major drainage ways and may only cross such waters upon issuance of a special exception permit. All such construction must minimize vegetation, environmental damage (e.g., siltation, destruction of natural vegetation, degradation of aesthetics) to navigable waters and major drainage ways and the lands adjacent to them. All waterway crossings shall minimize obstruction to water flow.

All such construction must be planned and implemented to minimize the area affected within the Environmentally Significant District as defined in Section 12 of this Law.

69.24-4. Setbacks for Agricultural Uses. Agricultural practices are those methods used in vegetation and soil management, such as tilling of soil, control of weeds, control of plant diseases and insect pests, soil maintenance and fertilization. Many of these practices require the use of agricultural chemicals, most of which are water soluble and may wash into contiguous land or water areas causing significant alteration and damage to plant and animal habitats, especially those in the fragile shoreline areas. Also, large quantities of mineral and organic sediments enter water bodies through surface erosion when proper land management techniques are not utilized. This Law requires a buffer of permanent vegetation between tilled areas and associated water bodies which will retard surface runoff and reduce siltation. It also controls the location of confined animal feeding operations, retention and storage ponds for feed lot wastes and stock piles of manure solids in Shoreland Areas, so that water areas will not be polluted. Soil conservation measures are exempted from certain agricultural regulations to encourage the use of erosion control measures.

(a) The minimum setback for pastures for the ordinary highwater mark of navigable waterways and major drainage ways shall be 20 feet.

Cattle crossing of waterways shall be allowed where the following standards are met. Water crossings shall have gates at both ends of the crossing and shall be a minimum of 20 feet from the ordinary high-water mark. The slopes of the crossing shall be protected and shall not serve as a conduit for water runoff. The bed of the waterway at the crossing must be rocky or gravelly. If materials (rock or gravel) are to be added to the bed of a waterway (see Section 9.3(c)), they must not be higher than the natural elevation of the waterway bed. Only

one crossing will be permitted for every 200 feet of shoreland property. No two crossings shall be closer than 50 feet apart. Suitable fencing shall contain at least three barbed wires with posts every 16 ½ feet. Crossing widths shall be between 12 and 20 feet.

(b) The minimum setback for any agricultural use such as cultivating, cropping, fertilizing, and applying pesticides from the ordinary high-water mark of navigable waterways and major drainage ways shall be 20 feet.

Crossings shall be permitted for farm machinery. The same provisions shall apply for machinery crossings as for animal crossings, however, gates will not be required if the adjoining fields are not used to pasture domestic animals.

Whereas certain conservation practices require fertilizing, cutting, and planting on the very bank of waterways, all approved conservation practices, except those involving cropping practices, shall be exempted from the above regulation (69.24-4 (b)).

(c) The minimum setback for feedlots, barnyards, and housing facilities for domestic animals from the ordinary high-water mark of navigable waterways and major drainage ways shall be 100 feet.

69.24-5. Easements. Any easement such as sewer and water lines, utility lines, or pipelines shall minimize environmental damage to any area within the Shoreland Area. All easements that are placed within the Environmentally Significant District as defined in Section 12 of this Law shall be placed underground unless such placement will, in fact, cause undue, long range or irreversible damage to ecological relationships. All easements that are placed in the Environmentally Significant District shall require a special exception permit.

69.24-6. Land Uses Causing Substantial Change. Any land use that substantially changes the character of a natural environment, to an environment devoid or nearly devoid of vegetation such as parking lots, airports and quarries shall be avoided where possible within the Shoreland Area. Such land uses shall not be allowed in the Environmentally Significant District as defined in Section 12 of this Law.

69.24-7. Waterway Obstructions.

(a) No obstructions to navigability such as dams, bridges, or fences shall be allowed without issuance of a special exception permit.

(b) Obstructions such as beaver dams, log jams and branches are normal and naturally recurring events. These events are part of the natural characteristic of waterways and shall be preserved as far as is practical. Only when such obstacles cause a conflict with present land use, causing undue hardship to the parties involved, may they be removed. (See Section 9).

69.25-1. Waste Disposal. Purpose. Waste disposal is given particular attention in this Law because a great potential for adverse affects on water quality exist when it is mishandled. Restrictions on waste disposal are given to protect and improve water quality, and to promote and maintain aesthetic values and ecological relationships of Shoreland Areas. Waste disposal regulations are to promote and protect public health and welfare, and to protect the quality of water related resources.

69.25-2. Waste Products and Marginal Products.

(a) No individual, organization or other party shall dump any refuse or other waste product within the Floodplain District or Environmentally Significant District or within 100 feet of

the ordinary high-water mark of navigable waterways or major drainage ways.

(b) The placement or storage of any scrap materials, by-products, raw materials, or marginal products such as fill material, pulp wood, sand and gravel and junked vehicles, shall not be allowed in the Floodplain District or Environmentally Significant District or within 100 feet of the ordinary high-water mark of navigable waterways or major drainage ways. This regulation shall not apply to the storage of such material at residences when such material is for home use.

(c) No sanitary landfill or other waste handling process will be allowed within the Shoreland Area.

(d) No toxic substances shall be disposed of within the Shoreland Area.

69.25-3. Sewage and Sewage Treatment Facilities.

(a) The establishment or operation of a municipal or private sewage treatment facility shall not be allowed within the Environmentally Significant District. The establishment or operation of such a facility shall only be allowed within 100 feet of the ordinary high-water mark or within the Floodplain District with the issuance of a special exception permit.

(b) No individual, organization or other party shall allow any untreated sewage to be released within the Shoreland Area

(c) All sewage treatment facilities that lie within the Shoreland Area or that discharge their treated product into the Shoreland Area shall meet purification standards. Purification standards shall be approved by the Business Committee.

69.25-4. Agricultural Waste.

(a) No individual, organization, or other party shall allow waste from any area that houses or contains domestic animals within the Shoreland Area to drain unobstructed via direct conduit, tile, or channel into any navigable waterway or major drainage way.

(b) No individual, organization, or other party shall dispose of waste from any area which houses or contains domestic animals within the Floodplain District or the Environmentally Significant District or within 100 feet of the ordinary high-water mark of navigable waterways or major drainage ways. Disposal shall not mean the application of animal wastes to fields as fertilizer. Section 6.4 (b) of this Law shall apply when manure is used as fertilizer.

69.26-1. Removal of Shorecover. Purpose. Regulation of vegetation removal is necessary to protect aesthetic values, protect and improve water quality, preserve wildlife habitat, maintain ecological relationships, and protect the quality of water related resources in the Shoreland Area.

69.26-2. Shorecover Removal. Vegetation removal in a strip parallel to the shoreline and extending 50 feet inland from all points along the ordinary high-water mark shall be limited in accordance with the following provisions:

(a) Trees 5 inches or greater in diameter at breast height shall not be cut. A special exception permit may be granted if it is shown that the public good is served by removing trees of this size. Examples of such special exceptions would be for public roads and public easements.

(b) Natural herbage, shrubbery and small trees (trees less than 5 inches in diameter at breast height) shall be preserved whenever practicable. Removal of natural herbage, shrubbery, and

small trees shall require the issuance of a special exception permit.

(c) The above regulations do not restrict the removal of dead, diseased, or dying trees, maintenance of existing lawns, or pruning of trees and shrubs.

(d) Approved conservation practices shall be exempt from the above regulations in Section 8.

69.26-3. Clearcutting. Clearcutting shall not be allowed within 100 feet of the ordinary high-water mark of navigable waters or major drainage ways.

69.26-4. Shorecover Removal Regulations in the Environmentally Significant District. Cutting or removal of herbage, shrubbery, or trees is not allowed within the Environmentally Significant District as defined in Section 12 of this Law. Conservation practices which require the removal of herbage, shrubbery, or trees from the Environmentally Significant District may be allowed, however, a special exception permit must be applied for and received.

69.26-5. Emergencies. In instances of genuine emergency, individuals or parties may act in contravention to the above regulations where immediate and decisive measures are required to protect against loss of life, injury, or extreme property loss. Any individual, organization, or other party which exercises emergency measures must demonstrate to the Ordinance Administrator and/or the Adjustment Committee 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.

69.27-1. Filling, Grading, Lagooning, Dredging, and Excavating. Purpose. Regulation of filling, grading, lagooning, dredging, and excavating is necessary to protect water quality. Regulation of these practices will protect the aesthetic value, preserve wildlife habitat, and maintain ecological relationships within the Shoreland Area. Regulation of these practices will protect the quality of water related resources.

69.27-2. Practices Causing Substantial Detriment. Any filling, grading, lagooning, dredging, or excavating which would result in substantial detriment to navigable waters, major drainage ways, or the Shoreland Area is prohibited.

69.27-3. Land Use Permits and Special Exception Permits.

(a) A land use permit shall be required for all filling, grading, lagooning, dredging, or excavating within the Shoreland Area.

(b) Filling, grading, lagooning, dredging or excavating within a strip parallel to the shoreline and extending 100 feet inland from all points along the ordinary high-water mark or within the Floodplain District as defined in Section 13 of this Law, excluding those areas included in Section 9.3(c), shall require the issuance of a special exception permit. Agriculture practices, single dwelling residential development, and conservation practices shall not be subject to the above regulation, however, shall comply with all other requirements of this Law.

(c) No filling, grading, lagooning, dredging or excavating within a strip parallel to the shoreline and extending 50 feet inland from all points along the ordinary high-water mark or within the Environmentally Significant District as defined in Section 12 of this Law shall be allowed. This shall include the bed of navigable waterways and major drainage ways. A variance may be granted if such proposal will not cause long-range, undue, or irreversible

damage to the environment. Also, the benefits derived from such proposals must significantly enhance the public health and general welfare.

Agricultural uses are exempted from the above regulation, however, they must meet all other requirements as defined in this Law. Conservation practices are considered to significantly enhance the public health and general welfare. Conservation practices require the issuance of special exception permits.

(d) 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 individual, organization or other party which exercises emergency measures must demonstrate to the Ordinance Administrator and/or the Adjustment Committee 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.

69.27-4. Conditions Attached to Permits. In granting a special exception permit or land use permit for filling, grading, lagooning, dredging, or excavating, the following considerations shall be addressed and specific conditions shall be attached to the permit where applicable.

(a) The smallest amount of disturbed or bare ground shall be exposed for the shortest time feasible.

(b) Temporary vegetation or mulching be applied as necessary and permanent cover be established as soon as possible.

(c) Diversions, silting basins, terraces, or other methods of reducing erosion and retarding sedimentation should be constructed.

(d) Fill material be stabilized according to accepted engineering standards.

(e) Fill materials will not restrict floodway or appreciably reduce the storage capacity of a floodplain.

(f) Sides of a channel or artificial waterway be stabilized to prevent slumping.

(g) Sides of a channel or artificial waterway 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.

69.27-5. Extraction Operations.

(a) Gravel pits, quarries, and other earth material extraction operations shall maintain a minimum setback of 100 feet from the ordinary high-water mark of navigable waterways and major drainage ways and shall not operate in the Environmentally Significant District.

(b) At the time of site discontinuation or abandonment a horizontal to vertical slope of 3:1 or flatter must be obtained. The final slope must be stabilized to prevent erosion.

69.28-1. Non-Conforming Use. Continued Non-Conforming Uses. The existing lawful use of a structure or premises, except as covered under section 10.2 of this Law, which is not in conformity with the provisions of this Law may be continued subject to the following conditions:

(a) No such use shall be expanded or enlarged except in conformity with the provisions of this Law.

(b) No structural alteration, addition, or repair to any non-conforming structure shall exceed 50 percent of its assessed value, adjusted to the most current equalized value for that area,

except to place it in conformity with this Law.

(c) Any alteration, addition, or repair to any non-conforming structure within a 100 year floodplain shall include flood proofing measures as covered in Section 13.8 of this Law.

(d) If such use is discontinued for twelve consecutive months, any future use of the structure and premises shall conform with this Law.

69.28-2. Special Exception Permit Waiver. All uses which require the issuance of a special exception permit but were in existence before the adoption of this Law shall not require a special exception permit.

69.28-3. Non-Conforming Uses Which Must Conform with the Provisions of this Law within a Set Time Period.

(a) Setbacks for pastures as covered in Section 6.4(a) of this Law which were in existence at the time of adoption of this Law shall come into compliance with this Law within three years following the date each case is recorded as a non-conforming use.

(b) Setbacks for any agricultural uses such as cultivating, cropping, fertilizing, and applying pesticides, as covered in Section 6.4(b) of this Law, which were in existence at the time of adoption of this Law, shall come into compliance with this Law within three years following the date each case is recorded as a non-conforming use.

(c) The minimum setback for feedlots and barnyards, as covered in Section 6.4(c) of this Law, which were in existence at the time of adoption of this Law shall be 20 feet from the ordinary high-water mark of navigable waterways and major drainage ways. These uses shall come into compliance with this Law within three years following the date each case is recorded as a non-conforming use.

(d) Setbacks and other regulations concerning waste disposal as covered in Section 7 of this Law which existed prior to the adoption of this Law, shall come into compliance with the Law within three years following the date that each case is recorded as a non-conforming use.

(e) The date in which the Ordinance Administrator contacts any individual or other party which maintains any non-conforming use as listed above to require that individual or other party to place such use in compliance with this Law according to Section 10.3 shall be dependent upon the severity of each individual case in causing pollution of Tribal waterways. The Ordinance Administrator shall determine the severity of each case in causing pollution and shall require compliance with Section 10.3 of this Law first for those individuals or parties which maintain the most severe pollution problems. Any appeals of the Ordinance Administrator's determination(s) shall be submitted in writing to the Adjustment Committee. (See Section 17.4(c)).

69.29-1. Shoreland Zoning Districts. Districts. The shorelands of the Oneida Indian Reservation are divided into three districts. Any use not listed as a permitted use within these districts shall be prohibited. These districts are:

(a) The Environmentally Significant District.

(b) The Floodplain District.

(c) The Outlying District.

69.29-2. District Boundaries. The boundaries of these districts shall be those areas designated on a map entitled Oneida Reservation Shoreland Ordinance map. This map shall be included as part

of this Law. All information presented on the map shall be as much a part of this Law and carry the same force as the written text. The boundaries indicated on the map shall be based on the best available information at the time, from any reliable source.

The Ordinance map does not indicate all areas within the Oneida Reservation which are included in the Environmentally Significant or Floodplain Districts due to the small scale of the Ordinance Map and the lack of information for all shoreland locations. The Ordinance Administrator shall determine the district boundaries for every specific site upon application for a land use permit (See Section 17.1 (K)) or otherwise as information becomes available.

The overall Shoreland Zone may be determined to be more extensive than indicated on the Ordinance Map only if the 100 year floodplain is not indicated on the Ordinance Map and it is determined to extend beyond 300 feet of the ordinary high-water mark of a navigable stream or major drainage way, or if an area is determined to be a wetland but is not presently indicated on the Ordinance Map.

Where there is a question about the exact location of district boundaries and the boundary locations are disputed, the Adjustment Committee shall hear the dispute and decide the location of the boundaries according to Section 17.4(b) of this Law.

The map included with this Law is intended only as a guide. It is a visual tool to aid in the understanding of this Law. This map is not intended to be a device to indicate the exact locations of regulatory zones or setbacks for specific areas. The extent to which this Law will apply to specific parcels of land will be made on a case-by-case basis. A document size map is included as Appendix A.

69.30-1. Environmentally Significant District. Purpose. Environmentally significant areas have been designated because of their great importance for flood control, species reproduction, nutrient filters, uniqueness, aesthetic appeal, water related activities, their accelerated potential for contamination. These areas are most sensitive to change, thus, they have the most stringent regulations associated with them.

The purpose of establishing an Environmentally Significant District is to preserve ecological relationships, important natural resources and aesthetic values within the Shoreland Area. To protect sensitive areas from adverse use and maintain these areas as habitat for flora and fauna. To protect the quality of Tribal waterways. To promote and protect public health and welfare. To protect other areas of significance such as endangered species habitat, and historical and archeological sites.

69.30-2. Designation.

(a) The Environmentally Significant District shall include the following:

- (1) All areas delineated as wetlands.
- (2) The bed of all navigable waterways or major drainage ways.
- (3) All areas with a slope of 12 percent or greater adjacent to the floodplain.
- (4) Endangered species habitat.
- (5) Historical or archeological sites.
- (6) All other areas as designated due to aesthetics, uniqueness, or high potential for contamination or destruction.

(b) Where the Floodplain District and this District overlap, the regulations of this district shall prevail.

69.30-3. Permitted Uses. The following uses shall be permitted unless otherwise restricted in any other part of this Law or any other Law in effect.

- (a) Harvesting wild crops, including ferns, wild rice, mushrooms, berries, fruit, and seeds.
- (b) Hunting and trapping.
- (c) Fishing.
- (d) Forestry.
- (e) Wildlife preserves, conservancy areas, and scientific areas.
- (f) Passive and other uses which would not adversely affect the natural fauna, flora, or water regimen.

69.30-4. Conditional Uses. The following uses may be permitted upon issuance of a special exception permit. All such uses must meet all other requirements as established in this Law and any other Law that is in effect.

- (a) Easements such as telephone lines, pipe lines, transmission lines, and sewer lines.
- (b) Hiking trails, bridle trails, and bike paths.
- (c) Non-residential buildings used solely in conjunction with raising of waterfowl, minnows, and other similar lowland animals, fowl, or fish.
- (d) Piers, docks, boathouses, and boat landings.
- (e) Roads and railroads.
- (f) Dams and bridges.
- (g) Parks and swimming areas.

69.31-1. Floodplain District. Purpose. To allow safe discharge of flood water, to preserve storage capacity of the floodplain, to minimize property damage and other flood related costs and to minimize erosion and other problems which occur during times of flooding. To protect and promote the public health and general welfare. To protect and improve the quality of Tribal waterways.

69.31-2. Designation.

- (a) The Floodplain District shall include all lands adjacent to navigable waters or major drainage ways that would be inundated by the 100 year flood.
- (b) Where the Environmentally Significant District and this district overlap, the regulations of the Environmentally Significant District shall prevail.

69.31-3. Removal of Lands from the Floodplain District. Compliance with the provisions of this Law shall not be grounds for the removal of lands from the Floodplain District unless such lands are filled to a height of at least two feet above the elevation of the 100 year flood for the particular area and are contiguous to other lands lying outside the Floodplain District.

69.31-4. Permitted Uses. All uses listed below shall be permitted unless otherwise restricted in any other part of this Law or any other Law that is in effect. But no use shall adversely affect the capacity of the channels or floodways of any navigable waterway or major drainage way.

- (a) Agricultural uses such as: general farming, pasture, grazing, outdoor plant nurseries, horticulture, viticulture, truck farming, forestry, sod farming, and wild crop farming. These uses are regulated under Section 6 and 10 of this Law. Although these uses are permitted within the Floodplain District they must comply with the requirements of Section 6, Section 10, and other parts of this Law. Concentrated animal containment areas, including barnyards,

barns, and feedlots, shall not be allowed.

(b) Non-structural industrial-commercial uses: loading areas, parking areas, airport landing strips. These uses are regulated under Section 6 and 10 of this Law. Although these uses are permitted within the Floodplain District, they must comply with the requirements of Section 6, Section 10, and other parts of this Law.

(c) Private and public uses such as: golf courses, tennis courts, driving ranges, archery ranges, picnic grounds, parks, wildlife and natural preserves, game farms, fish hatcheries, shooting preserves, target ranges, trap and skeet ranges, hunting and fishing areas, hiking and horseback riding trails.

(d) Residential uses such as: lawns, gardens, parking areas, and play areas. These uses must comply with Section 6 and other parts of this Law.

(e) Uses or structures accessory to open space.

(f) All permitted uses in Section 12 of this Law.

69.31-5. Conditional Uses. The following uses may be permitted upon issuance of a special exception permit. All such uses must meet all other requirements as established in this Law and any other Law that is in effect.

(a) Uses or structures accessory to special exception permit uses in this Section.

(b) Extraction of sand, gravel, or other materials. These uses must comply with Section 9 of this Law.

(c) Public sewage treatment facilities.

(d) Ponds.

(e) Conditional uses in Section 12.

69.31-6. Standards for Development in the Floodplain District/Conditions for Special Exception Permits in the Floodplain District.

(a) Uses or structures in the Floodplain District shall not adversely affect the efficiency of or unduly restrict the capacity of the channels or floodways of any navigable waterway, major drainage way, or other drainage system.

(b) No structure, fill, deposit, obstruction, or other use may be allowed as a special exception in the Floodplain District 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.

(c) Structures:

(1) Shall not be designed for human habitation.

(2) Shall have a low flood damage potential.

(3) Are to be constructed and placed on the building site so as to offer minimum obstruction to the flow of flood waters. Wherever possible, structures will 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.

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

(5) Shall have all service facilities such as electrical and heating equipment two feet

or greater above the 100 year flood elevation.

(d) Streets and bridges:

(1) Shall have adequate flood proofing measures provided to a height of two feet above the 100 year flood elevation.

(2) Shall be constructed to minimize any increase in the 100 year flood elevation. No increase in the 100 year flood elevation shall exceed 0.1 foot. Also, no increase in the 100 year flood elevation shall be allowed unless appropriate arrangements are made with all affected parties.

(e) Fill or deposition of materials:

(1) Shall minimize any increase in the 100 year flood elevation. No increase in the 100 year flood elevation shall exceed 0.1 foot. Also, no increase in the 100 year flood elevation shall be allowed unless appropriate arrangements are made with all affected parties.

(2) Shall not adversely affect the storage capacity of the floodplain.

(3) Shall be protected against erosion by riprap, vegetation cover, sheet piling, or bulkheading.

(4) Proposed to be deposited in the floodplain must be shown to have some beneficial purpose and the amount thereof not greater than is necessary to achieve that purpose, 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.

(f) Construction and substantial improvements to utilities may be permitted provided they are flood proofed to at least two feet above the 100 year flood elevation.

(g) All sewage disposal systems shall be flood proofed to at least two feet above the 100 year flood elevation.

(h) All wells shall be flood proofed to at least two feet above the 100 year flood elevation.

(i) The type of equipment to be used in any special exception permit project shall be identified.

69.31-7. 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:

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

(b) Any addition to a structure shall be flood proofed, by means other than the use of fill, to at least 2 feet above the 100 year flood elevation. See Section 13.8 below.

(c) No structural repairs, modifications, or additions to a structure as long as use continues shall exceed 50 percent 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.

(d) If a non-conforming structure is destroyed or is so badly damaged that it can not be practically restored, it cannot be replaced, reconstructed or rebuilt unless permanently changed to a conforming use. Practically restored shall mean that the cost to restore a damaged structure is 50 percent or less of the assessed value of said structure adjusted to the most current equalized value for that area.

69.31-8. Flood Proofing. Floodproofing measures shall be designed consistent with an elevation 2 feet above the 100 year flood elevation to withstand flood velocities, forces, and other factors associated with flooding. All flood proofing shall provide anchorage to resist flotation and lateral movement. Other flood proofing measures may include the following and shall be prescribed according to Section 17.5(d)(10).

- (a) Installation of watertight doors, bulkheads, and shutters.
- (b) Reinforcement of walls and floors to resist pressure.
- (c) Use of paints, membranes, or mortars to reduce seepage of water through walls.
- (d) Addition of mass or weight to structures to prevent flotation.
- (e) Placement of essential utilities above the flood protection elevation.
- (f) Pumping facilities and/or sub-surface drainage systems for buildings to relieve external foundation wall and basement floor pressures and to lower water levels in structures.
- (g) Construction of water supply and waste treatment systems to prevent the entrance of flood waters.
- (h) Construction to resist rupture or collapse caused by water pressure or floating debris.
- (i) Cutoff valves on sewer lines or the elimination of gravity flow basement drains.

69.32-1. Outlying District. Purpose. To prevent water pollution, preserve and protect hydrological and ecological relationships and promote the public health, safety, prosperity and general welfare by providing for safe and orderly shoreland development.

69.32-2. Designation. This district includes all areas within the jurisdiction of this Law excluding the areas within the Environmentally Significant District and the Floodplain District.

69.32-3. Permitted Uses. The following shall be allowed within the Outlying District provided they are not prohibited by other sections or parts of this Law and by any other Law which may be in effect.

- (a) Agriculture, commercial, forestry, recreation and residential uses are permitted provided they comply with all aspects of this Law.
- (b) Any uses permitted under Section 13 of this Law.
- (c) Accessory uses to parts (a) and (b) above.

69.32-4. Conditional Uses. The following uses are allowed within the Outlying District upon issuance of a special exception permit and provided they are not restricted in any other section or part of this Law or any other Law which may be in effect. Any uses which are not allowed subsequent to the issuance of a special exception permit shall meet all other requirements of this Law.

- (a) Camps and campgrounds.
- (b) Mobile home parks.
 - (1) Mobile home density shall be regulated the same as other dwelling densities as indicated in Section 5 of this Law.
 - (2) Mobile home site dimensions shall be consistent with the building site dimensions indicated in Section 5 of this Law.
 - (3) The Business Committee may establish lesser standards for home site dimensions and densities in mobile home parks.
 - (4) Any mobile home site shall not have individual on-site soil absorption sewerage disposal systems unless it meets the minimum lot size specifications as stated in Section 5 of this Law.

(c) Travel trailer parks.

- (1) The maximum number of travel trailers shall be 15 per acre.
- (2) Each trailer site shall be separated from other sites by a yard not less than 15 feet wide.
- (3) One and one-half parking spaces shall be provided per site.
- (4) The minimum dimension of a travel trailer site shall be 25 feet wide and 40 feet long.

69.33-1. Non-Point Source Pollution, Reclamation and Bonding. Non-Point Source Pollution.

(a) 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 hereafter in this Section.

(b) Practices to control non-point source pollution are addressed below. These practices are expressed in terms of performance.

- (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.
- (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) Utilize appropriate structural soil erosion control measures (e.g., diversions, terraces, sediment basins).
- (9) Redirect surface water drainage away from critical areas and reduce runoff velocity.
- (10) Detail surface water and encourage on-site infiltration to the degree possible and practicable.

(c) The Ordinance Administrator shall not issue any permits nor shall the Adjustment Committee approve any variance or special exception for any land disturbing activities unless the applicant satisfies that there will be adequate provisions to prevent non-point source pollution to Tribal waterways. To substantiate that adequate provisions to protect against unnecessary non-point pollution will be taken, the Ordinance Administrator and/or the Adjustment Committee 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.

The plan or statement shall indicate how non-point pollution will be controlled referring to what practices listed in Section 15.1(b) of this Law shall be employed. The Ordinance Administrator and/or the Adjustment Committee shall only allow land development or use to begin when it has been adequately shown that non-point pollution will be controlled. The individual or party that is attempting to secure work approval shall be responsible for all costs associated with non-point pollution control. Where appropriate, storm water management to control non-point source pollution shall be addressed.

(d) An approved non-point pollution control statement or plan becomes binding upon the individual or party and all work must comply with such. Non-conformance with any part of the non-point 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 Ordinance Administrator or the Adjustment Committee.

69.33-2. Bonding and Reclamation.

(a) Any development or land use which is determined by the Adjustment Committee to be a major project due to potential significant environment alteration shall 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 may be held by the Adjustment Committee in lieu of a bond.

(b) 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 detention areas.

(c) The Ordinance Administrator shall determine whether land reclamation is adequate. The Ordinance 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 is established where removed. Foreign debris and materials not common at the site prior to project commencement are not remaining at the site post completion. An even or balanced slope is retained.

(d) In the case where a project has been completed but the site has not been reclaimed, the Ordinance Administrator shall contact the contractor and inform him/her of the type of reclamation work that is required. If reclamation has not begun within 15 days, or arrangements for reclamation have not been made within 15 days, the Ordinance 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 Ordinance Administrator. The Adjustment Committee must

release such monies. If for any reason there is no bond money held, the Ordinance Administrator, after 15 days following his/her contacting the project contractor without satisfactory results, shall seek legal means for reclamation of the site.

(e) The following schedule shall be used as a guide in setting bonding requirements. Any significant variation from the financial requirements of this schedule shall be justified in writing by the Adjustment Committee.

Bonding requirements shall be \$200 per lot for residential developments and \$800 per acre for all other projects.

69.34-1. Permit Transfer, Time Limitations and Maintenance. Permit Transfer. Issued permits express the consent of the Oneida Tribe of Indians for a party to conduct work within the Shoreland area and that the public rights and the general public interest are protected. Although issued to a specific party, this consent is not limited to execution of the work by the party, 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 Ordinance Administrator in writing at the time of transfer of permit.

69.34-2. Time Limitations. Permits shall be valid for a period of two years from the date of issue, and the work permitted shall be completed prior to the expiration date. Extension for additional periods of 6 months may be granted by the Ordinance Administrator or the Adjustment Committee subject to the following conditions.

(a) Extension requests be made in writing to the Ordinance Administrator at least 90 days prior to the permit expiration date.

(b) Permits shall be reviewed by the Ordinance Administrator for compliance with current requirements. If not in compliance the extension request shall be denied.

69.34-3. Maintenance. Work performed under a Land Use Permit shall be maintained in good condition and no further authorization is required for routine maintenance. However, any work performed other than routine maintenance, shall require issuance of a new Land Use Permit. Routine maintenance shall include the means to prevent the degeneration of a completed project, however, shall not allow major work such as regrading and refilling.

69.35. Administration.

69.35-1. Ordinance Administrator. The Business Committee, largely through its Ordinance Administrator shall have the duty and power to enforce the provisions of this Law and all other ordinances, laws, and orders of the Oneida Tribe of Indians which relate to shorelands, floodplains, surface waters, and ground waters of the Oneida Indian Reservation

There is hereby created the Office of Ordinance Administrator. The Ordinance Administrator shall exercise the following duties and powers:

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

(b) Issue permits and inspect properties for compliance with this Law. Where the issuance of a permit is appropriate, such permit shall be issued within 15 days following application by an individual or other party.

- (c) Keep records of all permits issued, inspections made, work approved, and other official actions.
- (d) Inspect new and existing sewerage and water systems. Prohibit the use of sewerage disposal systems until such systems have been inspected and approved. Prohibit the use of any such system which is not in compliance with the requirements of this Law.
- (e) Have access to any premises during regular working hours (9 a.m.-5 p.m., Monday through Friday) for the purpose of performing the duties for the Ordinance Administrator.
- (f) Make on-site investigations.
- (g) Report non-conformance to the provisions of this Law to the Business Committee.
- (h) Effect the prohibition of non-conforming uses which shall have begun subsequent to the adoption of this Law. Prohibit all non-conforming uses as described in Section 10 of this Law.
- (i) Notify all non-conforming uses in writing, enumerating the extent of non-conformance, whether the non-conforming use must be placed in compliance with this Law or what restrictions non-conformance places on the use.
- (j) Develop a comprehensive list of all non-conforming uses. Update this list regularly eliminating any non-conforming use which becomes a conforming use. Develop a comprehensive list of special exception permits, land use permits, variances, and amendments.
- (k) Determine the ordinary high-water mark line, the 100 year flood line and jurisdictional boundaries of the Shoreland Area based on the best available information of reliable agencies or other sources.
- (l) Determine, or obtain from the appropriate agency(s), waste water quality standards.
- (m) Issue Certificates of Compliance.

69.35-2. Land Use Permit.

- (a) A land use permit is required in the following cases:
 - (1) Before any building or other structure is erected, moved, or structurally altered so as to change its use or increase its floor area.
 - (2) Before any land use is intensified.
 - (3) Before any private sewerage or water system is constructed or structurally altered.
- (b) An application for a land use permit shall be made to the Ordinance 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:
 - (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.
 - (4) Where a private water or sewerage system is to be installed:
 - (A) Type of proposed installation.
 - (B) Name of person in charge of installation.
 - (C) Type of occupancy, number of occupants or patrons, and estimated water consumption.

(D) Size and location of the proposed sewage disposal system.

(E) A sketch showing:

-location of wells, streams, lakes, buildings, septic tank systems, and holding tanks within 100 feet of the proposed sewage disposal site.

-the location of all percolation test holes and report of each test and soil boring as run by a sanitary technician.

-depth to bedrock if less than 6 feet.

-depth to groundwater if less than 5 feet.

-slope in feet per 100 or contour lines at two foot intervals in the area of the proposed absorption field and well.

69.35-3. Certificate of Compliance.

(a) A certificate of compliance is issued by the Ordinance 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 15 days of an inspection which results in a verdict of project compliance.

(b) All existing developments and land uses within the Shoreland Area not listed in Section 10.3 of this Law shall be issued a certificate of compliance. The certificate will indicate the extent and type of use allowed and whether or not such use conforms with this Law. If such use is not in conformance with this Law, it shall be subject to the restrictions set forth in Section 10 of this Law.

(c) Land uses included in Section 10.3 of this Law shall be issued a certificate of compliance as the present land use is made to come into compliance with this Law.

69.35-4. Adjustment Committee.

(a) The Adjustment Committee is hereby authorized to administer the regulations set forth in this Law.

(1) The Adjustment Committee shall adopt such rules as it deems necessary for the conduct of business.

(2) It shall hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by an administrative official in the enforcement or administration of this Law. Appeals are covered in part C of this Section.

(3) It shall hear and decide special exceptions to the terms of this Law. It may attach conditions to special exception permits which may include completion dates, allowable uses, provisions, stipulations, restrictions, or any condition that shall be met to allow compliance with this Law. Failure to comply with any of these conditions will result in termination of such special exception permit and put the holder of such permit in non-conformance with this Law from the date of permit termination.

(4) It may authorize variances from the terms of this Law. Variances shall be allowed only to eliminate any unnecessary hardship due to unusual circumstances. Any variance that is permitted shall only pertain to the issue in question and shall not amend this Law nor establish a precedence for lesser restrictions. Approval of variances from the terms of this Law shall not be in conflict with the public interest.

The Adjustment Committee may attach conditions to a variance. Failure to comply with any of these conditions will result in termination of the variance and put the holder of such variance in non-conformance with this Law from the date of variance termination.

(b) The Adjustment Committee shall decide mapping disputes. The following procedure shall be used in deciding contested cases in which the location of a boundary is disputed.

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 Adjustment Committee 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 Adjustment Committee and to submit his own technical evidence if he so desires. The Committee 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, Adjustment Committee members shall field investigate appeals that involve mapping disputes.

(c) The Adjustment Committee shall hold a public hearing in deciding any situation under Section 17.4(a)(2),(3), or (4), or 17.4(b) above. The Adjustment Committee may request all records of the Ordinance Administrator which deal with the situation which the public hearing concerns to aid in their decision of the request or appeal.

(1) Any appeal under Section 17.4(a)(2) or 17.4(b) shall be made within 45 days of the controversy. The appeal shall be filed with the Ordinance Administrator and the Secretary of the Adjustment Committee and shall include the specific grounds for the appeal.

The Adjustment Committee shall set a public hearing for the appeal within 45 days of the date the appeal is filed and shall publish in the local newspaper, once a week for two weeks, the last day of publication to be not less than 7 days prior to the hearing, a notice specifying the date, time, and place of the hearing and the matters to come before the Adjustment Committee, as well as mailed notices to the parties in interest. Notices shall be posted at the Oneida Nation Memorial Building (Civic Center). In the event of a non-daily newspaper, the notice shall be published in each edition or twice prior to the hearing.

A decision regarding the appeal shall be made within 15 days of the hearing. The final disposition of an appeal shall be in the form of a written disposition of an appeal by the Chairperson and the Secretary of the Adjustment Committee. Such resolution shall state the specific facts which are the basis for the Adjustment Committee's determination and shall either affirm or dismiss the appeal in whole or in part. The final disposition shall be posted and published as described above, including sending the disposition and justification thereof to the applicant and parties of interest.

(2) Any request under Section 17.4(a)(3) or (4) shall be made to the Ordinance Administrator. The application shall be forwarded to the Adjustment Committee and

the Ordinance Administrator shall set a public hearing for no more than 45 days from the date of application. The request shall include the specific grounds for such special exception or variance.

The public hearing shall be announced in the local newspaper once a week for two weeks. The last day of publication to be not less than 7 days prior to the hearing. In the event of a newspaper other than daily, the notice shall be published in each edition or twice prior to the hearing. A notice specifying the date, time, and place of the hearing and the matters to come before the Adjustment Committee shall be posted at the Oneida Nation Memorial Building. Notices shall also be sent to the parties of interest.

A decision regarding the request shall be made within 15 days of the hearing. The final disposition of the application shall be in the form of a written resolution or order signed by the Chairperson and the Secretary of the Adjustment Committee. Such resolution shall state the specific facts which are the basis for the Committee's determination and shall either affirm, modify, or deny the request in whole or in part. The final disposition shall be posted and published as described in part (1) above, including sending the disposition and justification thereof to the applicant and parties of interest.

(3) An appeal from the decision of the Adjustment Committee may be taken to the Oneida Tribal Business Committee. See Section 18.2.

(d) The Adjustment Committee shall consist of five members. These members are appointed by the Business Committee. Adjustment Committee members do not have to be Oneida Tribal members. Three (3) members shall constitute a quorum. Meetings (Public Hearings) shall be scheduled on a regular basis. There shall be established the following officials: Chairman, Vice Chairman, and Secretary. The term for each Adjustment Committee member shall be two years.

69.35-5. Special Exception Permits.

(a) Any use listed in this Law as a Conditional Use and/or as otherwise requiring a Special Exception Permit may be allowed only upon application to the Ordinance Administrator and issuance of a Special Exception Permit by the Adjustment Committee.

(b) In passing upon a Special Exception Permit, the Adjustment Committee shall evaluate the effect of the proposed use upon:

- (1) The maintenance of safe and healthful conditions.
- (2) The prevention and control of water pollution, including sedimentation.
- (3) Existing topographic and drainage features and vegetative cover on the site.
- (4) The location of the site with respect to floodplains and floodways of rivers and streams.
- (5) The erosion potential of the site based on degree and direction of slope, soil, type, and vegetative cover.
- (6) The location of the site with respect to existing or future access roads.
- (7) The need of the proposed use for a shoreland location.
- (8) Its compatibility with uses on adjacent lands.
- (9) The amount of liquid wastes to be generated and the adequacy of the proposed

disposal system.

(c) The determination of the Adjustment Committee on each Special Exception Permit shall be based on the effect of the proposed project with respect to the spirit of this Law.

(d) The Adjustment Committee may attach conditions to Special Exception Permits. 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. Conditions would be attached, as deemed necessary, to further the purpose of this Law. Such conditions may include specifications for:

- (1) Type of shore cover.
- (2) Increased setbacks and yards.
- (3) Special sewage disposal and water supply facilities.
- (4) Landscaping and placing screens.
- (5) Period of operation.
- (6) Operational control.
- (7) Deed restrictions.
- (8) Locations of piers, docks, parking areas, signs other structures.
- (9) Type of construction.
- (10) Flood proofing measures.

(e) In order to secure information upon which to base its determination, the Adjustment committee may require the applicant to furnish, in addition to the information required for a permit, the following information:

- (1) A plan of the area showing contours, soil types, high-water mark, groundwater conditions, bedrock, slope and vegetative cover.
- (2) Location of buildings, parking areas, traffic access, driveways, walkways, piers, open spaces and landscaping.
- (3) Plans of buildings, sewerage disposal facilities, water supply systems, and arrangements of operations.
- (4) Specifications for areas of proposed filling, grading, lagooning, or dredging.
- (5) "Flood proofing"- special exceptions requiring flood proofing measures shall be signed consistent with the flood protection elevation for the particular area, as described in the Floodplain District, Section 13 of this Law.
- (6) Other pertinent information necessary to determine if the proposed use meets the requirements of this Law.

(f) Before passing upon an application for Special Exception Permit, the Adjustment Committee shall hold a public hearing. Notice of such public hearing specifying the time, place and matters to come before the Committee shall be given in the manner specified in Section 17.4(c). The Committee shall state in writing the grounds for refusing a Special Exception Permit.

(g) Exceptions shall be applicable solely to the project described. Where a special exception does not continue in conformity with the conditions of the original approval, the Special Exception Permit shall be terminated by action of the Adjustment Committee. Special Exception Permits shall not be issued for uses which are prohibited by this Law or which allow a lesser degree of flood protection that identified in Sections 13.6 through 13.8 of this

Law.

(h) Separate Special Exception Permits shall not be required for the same project if such a project involves two or more elements requiring a Special Exception Permit. However, before a special exception permit may be granted, all elements for which special exceptions are requested must be addressed.

(i) To avoid discouraging conservation practices, the issuance of a special exception permit for such practices shall not include the payment of a fee.

69.35-6. Variances.

(a) A variance from the terms of this Law may be issued by the Adjustment Committee for a specific structure or land use. A variance shall be applicable solely to the project described. Where a variance does not continue in conformity with the conditions of the original approval, the variance shall be terminated by action of the Adjustment Committee. A variance may only be issued subsequent to a public hearing and the approval of the Adjustment Committee. Notice of such public hearing specifying the time, place, and matters to come before the Committee shall be given in the manner specified in Section 17.4(c). The Committee shall state in writing the grounds for refusing a variance.

(b) In passing upon a variance, the Adjustment Committee shall evaluate the effects of the proposed use upon the Shoreland Area. This shall follow the same as Section 17.5(b) of this Law.

(c) In order to secure information upon which to base its determination, the Adjustment Committee may require the applicant to furnish additional materials. This shall follow the same as Section 17.5(e) of this Law.

(d) The Adjustment Committee may attach conditions to variances. 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. Conditions would be attached, as deemed necessary, to further the purpose of this Law. This shall follow the same as Section 17.5(d) of this Law.

(e) The determination of the Adjustment Committee on each variance shall be based on the effect of the proposed project with respect to the spirit of this Law. In every case where a variance from the regulations of this Law has been granted by the Committee, the minutes of the Committee shall affirmatively show that an "unnecessary hardship" exists; and the records of the Committee shall clearly show in what particular and specific respects an "unnecessary hardship" is created. In addition, the record shall show any recommendations made available 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.

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

69.35-7. Special Exception Permits and Variances Compared. Special Exception permits are issued for uses which are designated as "conditional uses" or are otherwise listed as requiring a Special

Exception Permit. These uses have a higher potential for impacting the environment and, therefore, although generally appropriate, must have a greater degree of monitoring.

Variance may be granted for uses not allowed in the shoreland district. Applications for variance are always reviewed critically. Variances shall only be granted if special circumstances prevail (e.g., strict compliance with this Law is unreasonable) and environmental safeguards are incorporated into the proposed project.

69.35-8. Fees.

(a) Any individual or other party upon filing an application for permits, receiving a certificate of compliance, or requesting a public hearing shall pay a fee to the Ordinance Administrator according to the following schedule. The fee paid shall be greater of the two amounts.

Land Use Permit	\$5.00 or 0.04% of the total project cost
Public Hearing(Special Exceptions, Variances, Appeal of Administrative Decisions, Mapping Disputes)	\$25.00 or 0.2% of the total project cost

69.36-1. Changes, Amendments, and Appeals. Changes and Amendments. Boundaries of use districts and regulations in this Law may be changed or supplemented by the Business Committee.

Proposed amendments to this Law can be made by petition of any interested party. Petitions shall be submitted to the Ordinance Administrator who shall forward petitions to the Business Committee and make arrangements for and give notice of the public hearing thereon. Changes and amendments to this Law shall be subject to General Tribal Council approval.

The Business Committee shall seek all pertinent information and expert testimony in deciding upon a petition. The petitioner shall submit to the Business Committee a statement of the specific grounds for the proposed amendment and any supporting documentation the petitioner may have.

The Business Committee shall set a public hearing for no more than 45 days from the date of petition receipt and shall publish in the local newspaper a notice specifying the date, time, and place of the hearing and the matters to come before the Business Committee. The notice shall be published once a week for two weeks with the last publication date not less than seven days prior to the hearing. In the event of a non-daily newspaper, the notice shall be published in every edition or twice prior to the hearing. Notices shall also be mailed to parties of interest and shall be posted at the Oneida Nation Memorial Building.

A decision regarding a petition for amendment shall be made within 15 days of the hearing. The final disposition of the Business Committee shall be in the form of a written resolution and shall state the specific facts which are the basis for determination. The resolution shall be signed by the Chairperson and the Secretary of the Business Committee. The final disposition shall be published and posted as described above. If the petition is affirmed, the Law shall be changed to agree with the amendment.

Any amendment to the Law shall be so recorded as such in the Law.

69.36-2. Appeals. An appeal from a decision of the Ordinance Administrator is covered under section 17.4(c)(1) of the Law. An appeal from a decision of the Adjustment Committee may be taken before the Business Committee. This appeal procedure shall be consistent with the procedures outlined in

Section 36-1 above.

69.37. Enforcement and Penalties.

69.37-1. Governmental Role. Any non-conformance with the provisions of this Law, or any obstruction of the Ordinance Administrator in the reasonable and proper performance of his/her duties, by an individual or other party shall be forwarded by the Ordinance Administrator to the Business Committee for inquiry and action. An individual or other party determined by the Business Committee to be in non-conformance with this Law shall forfeit to the Oneida Tribe of Indians the costs of Business Committee declaratory action and all costs associated with the restoration of the affected shoreland area to its original condition prior to the non-conformance to the fullest extent possible as determined by the Ordinance Administrator and/or to a situation compatible with the requirements established in this Law as determined by the Ordinance Administrator. The forfeiture of costs associated with restoration may be avoided if restoration is accomplished by the individual or party in non-conformance. All restoration work shall be subject to approval by the Ordinance Administrator.

69.37-2. Non-Governmental Course of Action. Every non-conformance with the provisions of this Law may be ended by the action of any individual or other party residing or located within the Oneida Indian Reservation, or any other party of interest. By written petition, any individual or other party may forward a non-conformance to the Ordinance Administrator. This written petition shall include an explanation of the purported divergence from Law regulations. Upon receipt of a petition, the Ordinance Administrator shall establish whether or not a non-conformance exists. If it is determined that a non-conformance does exist, the Ordinance Administrator shall seek appropriate means as established in sub-sections 37-1 and 37-3 to resolve the situation. If the situation is determined to be in conformity with this Law, no further action is taken. This determination of the Ordinance Administrator may be appealed according to Section 35-4(c)(1) of this Law.

69.37-3. Administrative Remedies. Prior to any litigation the Ordinance Administrator shall seek to remedy any non-conformance through administrative means. The Ordinance Administrator shall contact any party in non-conformance with this Law and inform them of such non-conformance. The Ordinance Administrator shall submit to the individual or party a directive which shall state the type and extent of the non-conformance and what must be done to place the practice in compliance with the Law or whether the practice must be discontinued. The Ordinance Administrator shall work with the individual or party to aid in developing a plan to attain compliance. Only if this fails or if there is no response from the individual or party within 30 days shall the Ordinance Administrator pursue litigation. Where it is determined by the Ordinance Administrator that immediate action is necessary to enjoin a development or land use, the Ordinance Administrator shall bypass the above procedure, however the Ordinance Administrator shall always contact the individual or party to seek voluntary relief prior to litigation.

69.37-4. Supplemental Enforcement and Penalties. The Business Committee shall have all the powers of a court of equity including the power to enforce its orders and the power to enjoin an individual or other party.

End.

SHORELAND PROTECTION :

Adopted - BC-12-7-81

incorporated into Zoning Law - BC-9-28-90-E.

Amended - 3-01-06-D