

**ONEIDA INDIAN NATION
LAND USE AND ZONING STANDARDS**

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ONEIDA INDIAN NATION
LAND USE AND ZONING STANDARDS

ARTICLE I: General Provisions

Section 1: Scope

The Oneida Indian Nation (the “Nation”) has authorized the promulgation of land use and zoning standards (“Standards”) necessary to implement the Oneida Indian Nation Land Use, Environmental, Health & Safety Ordinance, Ordinance No.: O-14-03 (the “Ordinance”). These Standards are not all-inclusive, but are adjunct to, and must be read in connection with the Ordinance.

These Standards shall apply to the use of Nation Land, wherever situated, until such time as such Nation Land is transferred to the United States Department of the Interior to be held in trust for the Nation. These Standards shall apply to the location, design, construction, alteration, occupancy, and use of all structures located, or to be located in the future, on any such Nation Land.

Section 2: Purpose

These Standards are enacted to protect and promote the health, safety, and welfare of the Nation, its members, and members of the general public, to guide, regulate and encourage the orderly and appropriate development and use of Nation land and the buildings and structures located thereon, to preserve and enhance the value of Nation land, and for the following additional goals:

- A. To promote the utilization of Nation land for the purposes for which it is most desirable and best adapted;
- B. To preserve and protect lands and structures that are historically and culturally significant;
- C. To enhance the aesthetic and architectural quality of Nation land, and maintain its natural beauty;
- D. To mitigate the negative environmental impacts of development;
- E. To conserve the natural character of Nation land by permitting development in appropriate locations;
- F. To promote conservation of open space and valuable natural resources and minimize degradation of the environment through improper use of land;

- G. To promote sufficient space in appropriate locations for a variety of residential, recreational, commercial and industrial uses in order to meet the needs of the Nation;
- H. To encourage the conservation of energy and the appropriate use of renewable energy resources;
- I. To integrate different types of housing and different kinds of land uses in order to encourage social and economic interaction;
- J. To protect residences from dangerous and noxious nuisances, odors, pollution and other unsightly, obtrusive and offensive land uses and activities;
- K. To promote the location and design of transportation routes to facilitate the free flow of traffic and to avoid facilities and routes which result in congestion;
- L. To provide a flexible system of land use regulation that balances the unique characteristics of the landscape, the needs of the Nation, the impact of proposed land uses on the natural and human environment and the purposes enumerated in these Standards.
- M. To establish a system of fair, comprehensive, consistent and equitable regulations, standards, and procedures for the review and approval of proposed land development within the Nation.
- N. To provide standards pertaining to preexisting lots, structures, and uses which do not conform to the regulations, standards, restrictions and limitations established herein.
- O. To provide for variances from such regulations, standards, restrictions and limitations, as appropriate and consistent with the Ordinance and these Standards.
- P. To provide for planned development uses, conditional uses, and other uses requiring special approval, as appropriate and consistent with the Ordinance and these Standards.
- Q. To provide administrative authorities and procedures as shall be necessary to the implementation and enforcement of the various provisions of these Standards.
- R. To provide for the orderly amendment of these Standards.

Section 3: Interpretation

- A. The Nation does not, by enacting these Standards, waive in any respect its sovereign immunity, or that of its agents or officers, in any manner, under any law, for any purpose, or in any place.
- B. These Standards are not subject to review or modification in any state or federal court or by any authority outside the Nation. Nothing in these Standards shall constitute, or be

construed as, the Nation's consent to the extension of jurisdiction by the State of New York or by any municipality over matters coming within the purview of these Standards.

- C. These Standards do not create any right, cause of action, or benefit enforceable at law or in equity by any person against the Nation, its agents, its officers or employees, or any other person.
- D. The Standards herein adopted are not otherwise intended to interfere with, abrogate, or annul any other rules, regulations, laws or ordinances of the Nation, provided that wherever the requirements of these Standards are at variance with the requirements of any other lawfully adopted Nation rules, regulations, laws, or ordinances, the most restrictive, or those imposing the higher standards, shall govern.

Section 4: Duties of Code Enforcement Officer

- A. The Nation Representative(s) delegates to the Code Enforcement Officer the duties and responsibilities expressly set forth in these Standards.
- B. Upon the request of an applicant or effected person or party, the Nation Representative(s) or his designee may (but is not required to) review and may, consistent with the Ordinance and the Standards herein adopted, modify, any acts, decisions or determinations of the Code Enforcement Officer.

Section 5: Interpretation of District Boundaries

Where uncertainty exists as to the location of any district boundaries, the following rules shall apply:

- A. Where such boundaries are indicated as approximately following lot lines, such lot lines shall be construed to be such boundaries.
- B. Where boundaries are indicated as following shorelines of streams, lakes, canals, ponds, reservoirs, or other bodies of water, said boundaries shall be construed to follow such shorelines and, in the event of change in the shoreline, shall be construed as moving with the actual shoreline.
- C. If, after the application of the foregoing rules, uncertainty exists as to the exact location of a district boundary, the Code Enforcement Officer shall determine and fix the location of said line.

ARTICLE II: Zoning Districts

Section 1: Enumeration of Districts

The land subject to these Standards is hereby divided into the following types of Zoning Districts:

- A Agricultural District
- A-R Agricultural Residential District
- R-H Rural Hamlet District
- R-1 Residential District
- C-1 General Commercial District
- C-M Commercial/Manufacturing District
- PDD Planned Development District
- H-P Historic Preservation Overlay District

Section 2: District Objectives

The objectives of the districts are as follows:

- A. A Agricultural District: to maintain active farming areas as the preferred land use while providing for limited low-density housing development primarily oriented to farm uses. All development should be planned to maintain, as much as possible, agricultural lands.
- B. A-R Agricultural Residential District: to provide for undeveloped areas in proximity to areas already developed for residential purposes; these areas are intended for suburban-type development in proximity to existing services within existing population centers.
- C. R-H Rural Hamlet District: to provide for a cluster of moderate-density neighborhood housing development and neighborhood services in traditional hamlet form while maintaining the generally rural character of the area.
- D. R-1 Residential District: to provide for moderate to high-density housing development in or adjacent to existing population centers; also, to provide for small-scale commercial services necessary for residential areas.

- E. C-1 General Commercial District: to provide for commercial development that is in close proximity to existing commercial centers and planned infrastructure development
- F. C-M Commercial/Manufacturing District: to provide for industrial development and to allow this to occur with compatible large-scale commercial operations.
- G. PDD Planned Development District: to provide for unified development of generally large-scale, new, and innovative projects with a mix of uses that are compatible with one another within a single or phased project.
- H. H-P Historic Preservation Overlay District: to provide for the protection of sites of historic and cultural importance to the Nation.

Section 3: Zoning Map

The Nation Representative(s) or a designee may establish Zoning Districts on the land subject to these Standards. The districts will be shown, defined, and bounded on the map accompanying these standards, which will be entitled, "Oneida Indian Nation Zoning Map." The Zoning Map and all explanatory material are hereby made a part of these Standards.

Section 4: Lots in More than One District

Where a lot or combination of parcels forming a single development is located in more than one zoning district, the Code Enforcement Officer shall render a determination with respect to which District's regulations apply. The Code Enforcement Officer shall consider the following factors in making such a determination:

- A. Is there an insignificant area in one district? If so, the standards and regulations for the District which includes the majority of the lot or development in question should be applied.
- B. If the proposed plans submitted are not detailed enough to allow complete analysis of the impacts and implications for both zoning districts, the Code Enforcement Officer may require that the applicant submit detailed plans showing all proposed changes, methods of operation, and any other information necessary for the determination.

ARTICLE III: Use Regulations

Section 1: Permit Required; Applicability

- A. In each of the districts, no parcel of land or building shall be used and no building shall be erected or altered except for one or more of the uses listed for that district and until application is made and approval is granted for such use. Any action which constitutes

the initiation of a use, such as land clearing, grading, or excavation, shall not be commenced unless and until a zoning permit is issued pursuant to these standards.

- B. Agricultural use of the land (non-structural) shall be exempt from the provisions of these standards; however, all structures are required to obtain a building permit.

Section 2: Permitted Principal Uses

“Permitted principal uses” for each Zoning District are permitted with a building permit.

Section 3: Site Plan Review Uses

“Site plan review uses” for each Zoning District must receive site plan approval from the Code Enforcement Officer as set forth below.

Section 4: Special Use Permit Uses

“Special use permit uses” for each Zoning District must receive a special use permit, as well as site plan approval, from the Code Enforcement Officer as set forth below.

ARTICLE IV: Agricultural Zoning District

Section 1: Purpose; Permitted Uses; Supplemental Regulations

- A. Purpose and Intent. The Agricultural District is intended to conserve rural areas that are characterized by farms and agricultural operations, including residential development that is ancillary to farming and compatible with low-density residential development. The preferred land use in this district is agriculture and agricultural infrastructure. Properties within this district principally rely on individual on-site systems for the essential provision of water supply and septic disposal. Therefore, in order to ensure adequate separation of these essential systems to eliminate their potential for contamination and to prevent any undue burden upon the natural environment and landowners, the required minimum residential lot size is the largest under these Standards. The large lot requirement is intended to promote separation of farms and unrelated residential uses to protect both activities from the potential adverse effects each has upon the other while, at the same time, allowing for affordable housing within the portions of the district that are not necessarily viable for farming. The overall level of development within this district is encouraged to be maintained at a low intensity so that the cumulative effects of development can be absorbed within the existing, unimproved environmental conditions of the area.

B. Uses permitted by right with a zoning permit as required shall be as follows:

1. Single-family dwelling on a permanent foundation and its accessory uses and structures.
2. Wildlife management areas or conservation lands;
3. Agriculture, with the following restrictions:
 - a. No retail or commercial activity shall take place other than the storage, processing, and sale of farm products predominantly produced by the farmer.
 - b. The storage of manure shall not take place within 150 feet of the nearest lot line.
 - c. No farm stock, horses or other animals other than household pets shall be kept in a building, any part of which is closer to the nearest residential lot line than 150 feet. Manure, garbage or refuse shall not be stored within 150 feet of a property line and must be a minimum of 100 feet from any approved potable water supply.

C. Uses permitted upon site plan review are as follows:

1. Two-family dwellings.
2. Churches.
3. Government buildings.
4. Libraries.
5. Farm stands with less than 3,000 square feet of retail floor area.
6. Stables.
7. Hospitals.
8. Gun clubs.
9. Recreation facilities including parks and playgrounds.
10. Temporary dwellings.

D. Uses permitted upon issuance of a special permit are as follows:

1. Child day-care facilities.
2. Schools.

3. Golf courses.
4. Country stores of 3,000 square feet or less.
5. Campgrounds.
6. Cemeteries.
7. Tourist homes or hostels.
8. Farm supply and/or equipment, sales, or service.
9. Animal day care, kennel, shelter, hospital or veterinary clinic.
10. Motor vehicle service stations and associated minor retail uses.
11. Marinas.
12. Mining and excavation.
13. Landfills.
14. Utility sub-stations, telecommunications facilities, or wind energy conversion systems.
15. Outdoor furnaces.

Section 2: Dimensional Requirements

The following dimensional requirements apply:

- A. Agriculture or wildlife management areas.
 1. Area, minimum: three acres. (Note: A farm may be less than three (3) acres if it is situated adjacent to an existing agricultural parcel or is deemed to be economically viable agriculture.)
- B. Residential structures and uses:
 1. Lots shall meet the following form-based lot size requirements:

Regulation	One-Family	Two-Family
Area, minimum (square feet)	40,000	80,000
For structures up to 2,000 square feet	40,000	_____

For structures between 2,000 square feet and 3,000 square feet	60,000	_____
For structures 3,000 square feet or greater	80,000	_____
Width, maximum (feet)	150	200
Lot coverage (maximum percentage)	25%	25%

2. Principal structure and accessory structures shall meet the following requirements:

Regulation	One-Family	Two-Family
Front yard setback (feet) (Measured from the center line of the street)	80	80
Side yard setback		
One side (feet)	15	15
Total both sides (feet)	30	30
Rear yard setback		
Principal structure (feet)	35	35
Accessory structure (feet)	20	20
Maximum height (feet)	35	40

C. Non-residential uses and structures:

1. Lots shall meet the following requirements:

- a. Area, minimum: 80,000 square feet.
- b. Width, minimum: 200 feet.
- c. Coverage, maximum: 25%

2. Principal structures and accessory structures shall meet the following requirements:

- a. Front yard setback: 110 feet (measured from the center line of the street).
- b. Side yard setback:
 - i. One side: 15 feet.
 - ii. Total of both sides: 50 feet.
- c. Rear yard setback for principal structure: 35 feet.
- d. Rear yard setback for accessory structures: 15 feet.
- e. Maximum height: 50 feet.

ARTICLE V: Agricultural Residential Zoning District

Section 1: Purpose; Permitted Uses; Supplemental Regulations

- A. Purpose and Intent. The A-R District is intended for undeveloped areas in proximity to areas already developed for residential purposes and is likely to be used for suburban-type development in proximity to existing services within population centers. The District is intended to accommodate the continued use of existing farms and to allow for some minimal residential development in appropriate locations (e.g., within proximity to existing or proposed water infrastructure). Residential land use within this district will largely rely on individual on-site septic systems for wastewater disposal. Therefore, residential lots in this district are larger than in the R-1 district to ensure that wastewater effluent does not burden local groundwater supplies. A secondary rationale is to discourage the premature extension of public sewer infrastructure.
- B. Uses permitted by right with a zoning permit shall be as follows:
1. Single-family dwelling on a permanent foundation and its accessory uses and structures.
 2. Wildlife management areas or conservation lands;
 3. Agriculture, with the following restrictions:
 - a. No retail or commercial activity shall take place other than the storage, processing, and sale of farm products predominately produced by the local farmer.
 - b. The storage of manure shall not take place within 50 feet of the nearest lot line.
 - c. No farm stock, horses or other animals other than household pets shall be kept in a building, any part of which is closer to the nearest lot line than 150 feet. Manure, garbage or refuse shall not be stored within 150 feet of a property line and must be a minimum of 150 feet from any approved potable water supply.
- C. The following uses are permitted upon site plan review:
1. Two-family dwellings.
 2. Churches.
 3. Government buildings.
 4. Libraries.
 5. Hospitals.

6. Temporary dwellings.
7. Recreational facilities, including parks and playgrounds.

D. Uses permitted upon issuance of special permit are as follows:

1. Child day-care facilities.
2. Schools.
3. Parks, playgrounds and other similar recreational facilities which are privately operated, but not-for-profit.
4. Golf courses.
5. Country stores of 3,000 square feet or less.
6. Motor vehicle service stations and associated minor retail uses.
7. Tourist homes or hostels.
8. Animal day care, kennel, shelter, hospital or veterinary clinic.
9. Utility sub-stations, telecommunications facilities, or wind energy conversion systems.
10. Outdoor furnaces.

Section 2: Dimensional Requirements

The following dimensional requirements apply:

A. Agriculture or wildlife management areas:

1. Area, minimum: three acres. (Note: A farm may be less than three (3) acres if it is situated adjacent to an existing agricultural parcel or is deemed to be economically viable agriculture.)

B. Residential structures and uses.

1. Lots shall meet the following requirements:

Regulation	One-Family	Two-Family
Area, minimum (square feet)	40,000	40,000
Width, minimum (feet)	150	200
Lot coverage (maximum percentage)	25%	25%

2. Principal structure and accessory structures shall meet the following requirements:

Regulation	One-Family	Two-Family
Front yard setback (feet) (Measured from the center line of the street)	80	80
Side yard setback		
One side (feet)	15	15
Total both sides (feet)	30	30
Rear yard setback		
Principal structure (feet)	35	35
Accessory structure (feet)	15	15
Maximum height (feet)	30	35

C. Non-residential uses and structures.

1. Lots shall meet the following requirements:

- a. Area, minimum: 80,000 square feet.
- b. Width, minimum: 300 feet.
- c. Coverage (maximum percentage): 25%

2. Principal structure and accessory structures shall meet the following requirements:

- a. Front yard setback: 110 feet (measured from the center line of the street)
- b. Side yard setback:
 - i. One side: 30 feet.
 - ii. Total of both sides: 50 feet.

- c. Rear yard setback for principal structure: 50 feet.
- d. Rear yard setback for accessory structures: 15 feet.
- e. Maximum height: 50 feet.

ARTICLE VI: Rural Hamlet Zoning District

Section 1: Purpose; Permitted Uses; Supplemental Regulations

- A. Purpose and intent. The Rural Hamlet Zoning District is intended to serve residents within a hamlet or similarly developed setting with limited “neighborhood style” retail, personal, or service-oriented services. This district may include a mix of the aforementioned services with higher density residential development. Small commercial businesses may be in proximity to residential uses, and large-scale businesses with traffic-intensive uses will be discouraged. The interspersing of residential uses in traditional neighborhood design is encouraged, including first-floor commercial with second-story residential or professional office space, to enhance or maintain a balanced neighborhood character.
- B. Uses permitted by right with a building permit shall be as follows:
 - 1. Single-family dwelling on a permanent foundation and its accessory uses and structures.
- C. Uses permitted upon site plan review are as follows:
 - 1. Retail or personal services.
 - 2. Offices.
 - 3. Government buildings.
 - 4. Libraries.
 - 5. Delis, pizza shops, or restaurants less than 2,500 square feet.
 - 6. Churches.
 - 7. Animal day care, kennel, shelter, hospital or veterinary clinic.
 - 8. Two-family dwellings.
 - 9. Multi-family dwellings.

10. Motor vehicle service stations and associated minor retail uses.
 11. Convenience stores of 2,000 square feet or less.
 12. Second-story or third-story apartments.
 13. Neighborhood-oriented commercial services.
 14. Banquet facilities.
 15. Utility sub-stations, telecommunications facilities, or wind energy conservation systems.
 16. Recreational facilities including parks and playgrounds.
- D. Uses permitted upon issuance of a special use permit:
1. Motor vehicle service stations.
 2. Multi-family dwellings.
 3. Child day-care facilities.
 4. Schools.
 5. Tourist homes or hostels.

Section 2: Dimensional Requirements

The following dimensional requirements apply:

A. Residential structures and uses.

1. Lots shall meet the following requirements:

Regulation	One-Family	Two-Family	Multi-family
Area, minimum (square feet)	20,000	20,000	25,000 plus 3,000 per unit
Area, with public water and sewer (square feet)	12,500	12,500	
Width, minimum (feet)	80	80	100
Lot coverage (maximum percentage)	30%	25%	50%

2. Principal structures and accessory structures shall meet the following requirements:

Regulation	One-Family	Two-Family	Multi-Family
Front yard setback (feet) (Measured from the center line of the street)	80	80	80
Side yard setback			
One side (feet)	15	15	15
Total both sides (feet)	35	35	35
Rear yard setback			
Principal structure (feet)	35	35	35
Accessory structure (feet)	10	10	10
Maximum height (feet)	30	30	30

B. Non-residential uses and structures.

1. Lots shall meet the following requirements:

- a. Area, minimum: 20,000 square feet.
- b. Width, maximum: 100 feet.
- c. Coverage, maximum: 40%

2. Principal structures and accessory structures shall meet the following requirements:

- a. Front yard setback: 80 feet.
- b. Side yard setback:
 - i. One side: 15 feet.
 - ii. Total of both sides: 30 feet.
- c. Rear yard setback for principal structure: 35 feet.
- d. Rear yard setback for accessory structures: 10 feet.
- e. Maximum height: 30 feet.

ARTICLE VII: Residential Zoning District

Section 1: Purpose; Permitted Uses; Supplemental Regulations

- A. Purpose and intent. This district is designed to encourage residential development in conjunction with the provision of public water and sewer services. It is to be applied to areas either currently served with public water and sewer services or to sites that are likely to be serviced by public water and sewer as proposed in short-term (five- to ten-year) plans. Provision for open space protection and/or recreation may be provided on an individual site or neighborhood basis. It is intended to promote the formation of neighborhoods in a moderate-density setting as a logical extension to developed population centers and to promote logical and efficient infrastructure. This district is intended to avoid inefficient land use patterns to avoid and minimize impacts to significant environmental features, agriculture, and opens space.
- B. Uses permitted by right with a building permit as required shall be as follows:
1. Single-family dwelling on a permanent foundation and its accessory uses and structures.
- C. The following uses are permitted upon site plan review:
1. Two-family dwellings.
 2. Multi-family dwellings.
 3. Churches.
 4. Government buildings.
 5. Libraries.
 6. Recreational facilities including parks and playgrounds.
- D. Uses permitted upon issuance of a special use permit are as follows:
1. Child day-care facilities.
 2. Schools.
 3. Parks, playgrounds and other similar recreational facilities which are privately operated, but not-for-profit.
 4. Utility sub-stations, telecommunications facilities or wind generators.

Section 2: Dimensional Requirements

A. The following dimensional requirements apply:

1. Lots shall meet the following requirements:

Regulation	One-Family	Two-Family	Multi-family
Area, minimum (square feet)	20,000	20,000	25,000, plus an additional 3,000 per d.u.
Area, with public water and sewer (square feet)	12,500	12,500	12,500
Width, minimum (feet)	80	80	100
Lot coverage (maximum percentage)	30%	30%	50%

2. Principal structures and accessory structures shall meet the following requirements:

Regulation	One-Family	Two-Family	Multi-Family
Front yard setback (feet) (Measured from the center line of the street)	80	80	80
Side yard setback			
One side (feet)	15	15	15
Total both sides (feet)	30	30	30
Rear yard setback			
Principal structure (feet)	35	35	35
Accessory structure (feet)	15	15	15
Maximum height (feet)	40	40	40

B. Non-residential uses and structures.

1. Lots shall meet the following requirements:

- a. Area, minimum: 40,000 square feet.
- b. Width, minimum: 200 feet.
- c. Coverage (maximum percentage): 30%.

2. Principal structures and accessory structures shall meet the following requirements:

- a. Front yard setback: 80 feet (measured from the center line of the street)

- b. Side yard setback:
 - (1) One side: 15 feet.
 - (2) Total of both sides: 30 feet.
- c. Rear yard setback for principal structure: 35 feet.
- d. Rear yard setback for accessory structures: 15 feet.
- e. Maximum height: 40 feet.

ARTICLE VIII: General Commercial Zoning District

Section 1: Purpose; Permitted Uses; Supplemental Regulations

- A. Purpose and intent. This district is intended to provide a full range of wholesale, retail, personal, entertainment, professional and office services in a well-designed setting. Uses in this area will rely on adequate access to highways to accommodate employee- and business-oriented trips.
- B. Uses permitted upon site plan review are as follows:
 - 1. Wholesale, retail, or personal service uses.
 - 2. Motor vehicle sales, service, or repair.
 - 3. Offices.
 - 4. Restaurants.
 - 5. Mortuaries.
 - 6. Hospitals.
 - 7. Nursing homes.
 - 8. Churches.
 - 9. Government buildings.
 - 10. Libraries.
 - 11. Multi-family dwelling units associated with site plan review.

12. Recreational facilities including parks and playgrounds.

13. Animal day care, kennel, shelter, hospital or veterinary clinic.

C. Uses permitted upon issuance of a special use permit:

1. Shopping centers.

2. Drive-through service.

3. Entertainment.

4. Outdoor storage, displays, or seating.

5. Utility substations, telecommunications facilities, and wind energy conservation systems.

6. Hotels/Motels.

7. Private or indoor recreation.

8. Gaming Facilities.

9. Dwelling units associated with permitted uses.

D. Prohibited uses are as follows:

1. Freestanding dwelling units.

Section 2: Dimensional Requirements

The following dimensional requirements apply for structures and uses:

A. Lots shall meet the following requirements:

1. Area, minimum (square feet): 40,000.

2. Width, minimum (feet): 200.

3. Lot coverage (maximum percentage): 50%

B. Principal structures and accessory structures shall meet the following requirements:

Regulation

Front yard setback (feet) (Measured from the center line of the street)	110
Side yard setback	
One side (feet)	20
Total of both sides (feet)	45
Rear yard setback	
Principal structures (feet)	40
Accessory structure (feet)	10

ARTICLE IX: Commercial

Section 1: Purpose; Permitted Uses: Supplemental Regulations

- A. Purpose and Intent. This District is intended for commercial and manufacturing uses that need good highway access and large site areas for buildings, structures, and outdoor storage, display or operation. This District is also intended for uses that focus on the movement, storage or processing of raw materials or semi-finished goods to major transportation routes. Retail or non-retail uses that are not reliant upon close proximity to residential areas and which are not generally compatible with residential uses are encouraged in this District. Good access to major transportation routes, and separation from and buffering to residential uses, is to be encouraged.
- B. Uses permitted upon site plan review are as follows:
1. Retail or personal service accessory to a wholesale or industrial establishment.
 2. Wholesale warehouse establishments.
 3. Trucking and transportation terminals.
- C. Uses permitted upon issuance of a special use permit:
1. All uses with the exception of those listed in sub-section D below.
- D. Prohibited uses are as follows:
1. Residential uses, except for on-site residency of security personnel.
 2. The operation of stockyards, slaughter houses, and rendering plants.

3. The production from raw material of chemicals, cement, pain products, rubber, soaps, starch and the by-products of coal, coke, petroleum and natural gas.
4. The reduction, refining, smelting and alloying of metal or metal ores; the distillation of wood or bones; or the reduction and processing of wood pulp and fiber.
5. The storage of radioactive material.

Section 2: Dimensional Requirements

The following dimensional requirements apply for structures and uses:

- A. Lots shall meet the following requirements:
 1. Area, minimum (square feet): 80,000.
 2. Width, minimum (square feet): 100.
 3. Lot coverage (maximum percentage): 30%
- B. Principal structure and accessory structures shall meet the following requirements:

Regulation

Front yard setback (feet)	100
(Measured from the center line of the street)	
Side yard setback	
One side (feet)	30
Total of both sides (feet)	50
Rear yard setback	
Principal structures (feet)	50
Accessory structure (feet)	10

ARTICLE X: Planned Development District (PDD)

Section 1: Creation

The Nation Representative(s) or a designee may establish a planned development district in which diverse residential, agricultural, commercial, and/or manufacturing uses may be brought together pursuant to a compatible and unified plan of development which is in the interest of the general welfare of the public.

Section 2: Dimensions

Dimensional regulations, including but not limited to area, yard, coverage, setback, and height requirements, shall consider appropriate agricultural, residential, commercial, or manufacturing districts, except when the Nation finds that it is in the public interest to modify these requirements.

Section 3: Procedure

The applicant shall submit a site plan to the Code Enforcement Officer which, in addition to complying with all general site plan requirements, shall show the proposed mix of uses and all proposed dimensions pertaining to the project.

The Nation Representative(s) cannot approve a zone change to a PDD, unless he determines that:

- A. The proposed uses will not be detrimental to present and potential surrounding uses.
- B. Land surrounding the proposed development can be used in coordination with the proposed development and can be compatible in use.
- C. Existing and proposed streets are suitable and adequate to carry anticipate traffic within and in the vicinity of the proposed district.
- D. Existing and proposed utility services are adequate for proposed development.
- E. Each phase of the proposed development, as proposed to be completed, contains the required parking spaces and landscaped areas necessary for creating and sustaining a desirable and stable environment.

Section 4: Zoning Map, Site Plan Review

If the Nation Representative(s) or a designee approves the zone change, the Nation Zoning Map shall be amended to reflect the change. The applicant shall then be required to obtain site plan approval from the Code Enforcement Officer.

ARTICLE XI: Historic Preservation Overlay District

Section 1: Designated Sites

The Nation Historian shall submit to the Nation Representative(s) or his designee a list of historically or culturally significant sites on the land subject to these Standards. These sites shall be included in the Historic Protection Overlay District, which may overlay portions of any regular zoning district.

Section 2: Special Use Permit

A special use permit shall be required prior to conducting any activity on any site within the Historic Protection Overlay District. Before ruling on an application for a special use permit, the Code Enforcement Officer shall obtain the recommendation of the Nation Historian. A special use permit will be issued only upon a finding that: (a) the proposed project will not adversely affect the historic or cultural character or architectural integrity of the sites or buildings under discussion; or (b) there is no equitable alternative to the project's proposed effect on the historic or cultural character of the site.

ARTICLE XII: Nuisance/Public Safety Issues

- A. No building, structure, or use shall be permitted in any district if such building, structure or use creates any dangerous, injurious, noxious or otherwise objectionable fire, explosive, or other hazard; noise or vibration; smoke, dust, dirt, or other form of air pollution; electrical or other disturbance; glare; or other substance, condition, or element in such amount as to become obnoxious or dangerous to the health and safety of the premises, surrounding area, or public.
- B. The determination of the existence of any dangerous or obnoxious condition shall be made by the Code Enforcement Officer at:
 - 1. The point or points where such condition shall be most apparent for fire or explosion hazards, for radioactivity and electrical disturbances, and for smoke and other forms of air pollution.
 - 2. The property lines of the use creating such elements for noise, vibration, glare, and odors.
- C. The following performance standards shall be considered in regulating the potentially dangerous or objectionable aspects of land uses or activities on Nation land:
 - 1. The dumping of hazardous materials, refuse, waste materials, and other substances is prohibited in all districts.
 - 2. Liquid waste and effluents shall be discharged into an approved sewage treatment system which is in compliance with applicable Nation health standards.
 - 3. There shall be no emission into the atmosphere of fly ash, dust, fumes, vapors, gases and other forms of air pollution which can cause damage to life or property, or discharge into any sewage disposal system or stream or into the ground of any materials of such a nature or temperature as can contaminate any watercourse or supply or can cause any dangerous or unhealthy condition, except upon compliance with applicable Nation standards.

4. Except for during construction, no use shall be permitted which results in the dissemination of noxious dust, smoke, chemicals, or odors into the air.
5. Except for during construction, any dangerous or obnoxious vibration, heat, or noises resulting from the use shall not be evident beyond the property line.
6. Precautions against fire hazards, radiation, and explosion and the proper handling and storage of materials and the structural design and safeguards for the health of workers and the public shall comply with the provisions of applicable Nation standards.
7. No storage of any flammable liquid or gas in quantities exceeding 280 gallons shall be allowed except with the prior approval of the Nation's Fire Marshall and in conformance with applicable Nation standards. Storage tanks shall be appropriately maintained and drained when not in use.
8. There shall be no excessive direct or sky-reflected glare, whether from flood lights or from high-temperature processes such as combustion or welding or otherwise, so as to create a dangerous or obnoxious condition at the points of measurement specified in section B above. This restriction shall not apply to signs otherwise permitted by the provisions of these Standards.
9. No activities shall be permitted which emit dangerous radioactivity or electrical disturbance adversely affecting the operation of any equipment other than that of the creator of such disturbance. There shall be no activities that emit radioactivity exceeding federal guidelines.
10. With respect to any application for a zoning permit or a certificate of occupancy for any use, the Code Enforcement Officer may require the applicant, at the applicant's expense, to provide such evidence as may be deemed necessary to determine whether or not the proposed use will conform to the performance standards set forth above.

ARTICLE XIII: Nonconforming Uses

Section 1: Continuance

Any nonconforming use which existed lawfully at the time of the adoption of these Standards may be continued so long as it remains otherwise lawful, subject to the standards contained in this section. Ordinary repair and maintenance or replacement and installation or relocation of non-bearing walls, non-bearing partitions, fixtures, wiring, or plumbing may be performed.

Section 2: Structural Alteration or Enlargement

No structure shall be structurally altered or enlarged unless the use thereof shall thereafter conform to the standards of the zoning district in which it is located. No parking, yard, space or dimensional nonconformity may be created or increased.

Section 3: Damage or Destruction

When a structure is damaged or destroyed by any means not within the control of the owner, to the extent of more than 50% of the cost of replacement of the structure new, the structure shall not be restored unless its use thereafter conforms to the use standards of the zoning district in which it is located. No parking, yard, space or dimensional nonconformity may be created or increased.

- A. When a structure is damaged or destroyed by any means not within the control of the owner thereof to the extent of 50% or less of the cost of replacement of the structure new, repair or restoration of such structure may be made; provided, however, that:
 - 1. No parking, yard, space or dimensional nonconformity is created or increased.
 - 2. A building permit is obtained and restoration is actually begun within one year after the date of such partial damage or destruction and is diligently pursued to completion.
- B. In no event shall any damage or destruction to such a structure by any means within the control of the owner be repaired or restored, except in accordance with these Standards.

Section 4: Moving

No structure or use of land shall be moved in whole or in part, for any distance whatsoever, to any other location on the same or any other lot, unless the entire structure and/or use conforms to all standards of the zoning district in which it is located after being so moved.

Section 5: Expansion of Use

No nonconforming use shall be expanded, enlarged or increased in intensity. Such prohibited activity shall include, but shall not be limited to:

- A. Expansion of such use to any structure or land area other than that occupied by such nonconforming use on the effective date of these Standards, or any amendment to these Standards which causes such use to become nonconforming.
- B. Expansion of such use within a building or other structure to any portion of the floor area that was not occupied by such nonconforming use on the effective date of these Standards, or any amendment to these Standards which causes such use to become nonconforming.

- C. An extension of the hours of operation of such use beyond the existing hours of operation at the adoption of these Standards shall not be allowed.

Section 6: Change in Use

- A. A nonconforming use in a structure designed for a use permitted in the district in which it is located shall not be changed to any use other than a use permitted in the zoning district in which the property is located.
- B. Once changed to a permitted use or to a more restrictive use in accordance with Subsection 6(A) above, the use shall not be changed back to the prior nonconforming use. The use will be deemed changed when an existing nonconforming use is terminated and a new use commences and continues for a period of seven consecutive days, including any change of use in violation of this subsection.

Section 7: Abandonment or Discontinuance

- A. When the active operation of all or a portion of a nonconforming use is discontinued or abandoned for a period of nine consecutive months, regardless of any intent to resume or not to abandon the use, the use or portion thereof shall not be reestablished or resumed. The active operation of a use shall be the typical or normal activities associated with the use. In the case of abandonment or discontinuance of all of a nonconforming use, any subsequent use or occupancy of such land or structure shall comply with the use standards of the zoning district in which such structure is located. In the case of abandonment or discontinuance of a portion of a nonconforming use, the remaining occupied portion of the nonconforming use may continue subject to the provisions of this Article.
- B. The legality of one or more nonconforming uses located within a property shall not affect the determination that another nonconforming use on the same property has been discontinued or abandoned.
- C. An owner or operator shall have the opportunity to submit evidence that the property and its use have not been discontinued or abandoned. The Code Enforcement Officer shall then issue a letter of determination based upon relevant evidence that a nonconformity has continued, been discontinued or abandoned.

Section 8: Nonconforming Accessory Uses and Structures

No use, structure or sign that is accessory to a principal nonconforming use or structure shall continue after such principal use or structure shall have ceased or been terminated.

Section 9: Nonconforming Signs

- A. Nonconforming signs shall be removed when any use of the property on which the sign is located is discontinued or abandoned.

- B. Nonconforming signs may not be enlarged, extended, relocated or altered in any way, except to make them conform to the provisions of these Standards. This provision shall not restrict the routine maintenance of nonconforming signs.

ARTICLE XIV: Nonconforming Structures

Section 1: Continuance

Any nonconforming building or structure which existed lawfully at the time of the adoption of these Standards may be continued so long as it remains otherwise lawful, subject to the restrictions of this Article.

Section 2: Repair or Alterations

Any nonconforming structure may be maintained, repaired or altered, provided no additional nonconformity is created or the degree of the existing nonconformity is increased. Any permits issued for a nonconforming structure or use shall be subject to site plan review.

Section 3: Damage or Destruction

- A. In the event that any part of a nonconforming structure which contributed to its nonconformity is damaged or destroyed, by any means, to the extent of more than 50% of the cost of replacement of said part new, such part shall not be restored unless it shall thereafter conform to the standards of the zoning district in which it is located.
- B. When any part of a nonconforming structure is damaged or destroyed, by any means, to the extent of 50% or less of the cost of replacement of such part new, no repairs or restoration, except in conformity with the applicable zoning district standards, shall be made unless a zoning permit is obtained and restoration is actually begun within one year after the date of such partial destruction and is diligently pursued to completion.

Section 4: Moving

No nonconforming structure shall be moved in whole or in part, for any distance whatsoever, to any other location on the same or any other lot unless the entire structure shall thereafter conform to the standards of the zoning district in which it is located after being moved.

ARTICLE XV: Regulations Concerning Specific Uses and Structures

Section 1: Marinas

A marina shall meet the following standards, as determined by the Code Enforcement Officer:

- A. A marina shall provide sufficient space for each boat that will be stored or serviced on the property. The Code Enforcement Officer may limit the number or size of boats to be stored or serviced on the property, in connection with site plan review.
- B. A marina shall reasonably limit the effect of noise on neighboring properties, including by regulation of the operation of boat motors.
- C. A marina shall reasonably limit the effect of lighting glare on neighboring properties.

Section 2: Motor Vehicle Uses, Including Sales, Service, and Service Stations

- A. No wastewater, oil, or toxic or inflammable materials shall pollute, or create hazardous conditions.
- B. Ingress and egress shall be so designed as to minimize traffic congestion. For this purpose the number and location of driveways shall be subject to the approval of the Code Enforcement Officer on site plan review.
- C. No exterior storage of dismantled or disabled vehicle parts or salvage material shall be permitted unless properly screened or fenced.
- D. Any repair of motor vehicles on the site shall be performed in a fully enclosed building or otherwise appropriately screened from neighboring properties as determined by the Code Enforcement Officer.
- E. A site plan for a motor vehicle service station shall show: the number and location of fuel tanks to be installed, the dimensions and capacity of each storage tank, the depth that the tanks will be placed below the ground, the number and location of pumps to be installed, and the type of structures and buildings to be constructed.
- F. All fuel pumps shall be located at least 20 feet from any building and from any street or property line.
- G. The entire area of the site on which motor vehicles travel or park shall be hard-surfaced.
- H. Motor vehicles shall be parked on site in an orderly fashion.

Section 3: Contractor Yards

- A. Any area used for the outdoor storage of construction equipment and/or heavy machinery shall have a front yard setback of no less than 100 feet, with side and rear yard setbacks no less than 80 feet.
- B. Any contractor's yard shall be appropriately screened on all sides from neighboring properties, as determined by the Code Enforcement Officer.

Section 4: Junkyards

- A. No junkyard shall be permitted without a special use permit.
- B. A junkyard shall have front, side, and rear yard setbacks of a minimum of 150 feet.
- C. The Code Enforcement Officer may limit the number of automobiles or automobile bodies to be accumulated, on site plan review.
- C. Any junkyard shall be appropriately screened on all sides from neighboring properties, as determined by the Code Enforcement Officer.

Section 5: Mining, Excavation, Landfill, and Grading

The removal of soil, sand, gravel, minerals, rock, or quarried stone from property, except when incidental to construction of a building on the same premises, shall be permitted only subject to the following provisions:

- A. The removal of materials shall be conducted so as to result in the improvement of the land, having due regard to the contours in the vicinity such as leveling slopes and removing hills. The digging or creating of pits or steep slopes shall not be permitted, unless provision is made to refill such pits.
- B. The excavation operation sites shall be graded smooth and left in a neat condition. Cut slopes and spoil banks shall not be allowed to remain. The operation site shall be fertilized, mulched, and reseeded so as to establish a firm cover of grass or other vegetation sufficient to prevent erosion under the supervision and to the satisfaction of the Nation's Environmental Manager.
- C. All surface drainage existing or developing by or through the excavation operations shall be controlled by the owner to prevent erosion and to prevent debris and other loose materials from filling any drainage course, street or private property. All provisions to control natural drainage water shall meet with the approval of the Nation's Environmental Manager.
- D. Materials used for excavation or blasting shall not be located within 200 feet of any street or other property line.

- E. Power-activated sorting machinery or equipment shall not be located within 300 feet of any street or other property line, and all such machinery shall be equipped with satisfactory dust-elimination devices.
- F. All slopes resulting from excavations shall be adequately fenced, as determined by the Nation's Environmental Manager.
- G. Stripping of topsoil for sale for use on other premises, except as may be incidental to an on-premises construction project, shall be prohibited.
- H. A land reclamation plan must be submitted prior to the issuance of a zoning permit under this section. The Environmental Manger may require the posting of a performance bond or similar security to assure compliance with the plan prior to the issuance of a permit.
- I. In any district, the dumping of refuse and waste material for landfill is prohibited. Loam, rock, stone, gravel, sand, cinders, and gravel may be used for landfill to grades approved by the Nation's Environmental Manager.
- J. Grading. No grading, cut, or fill shall be carried out in any district which leaves the slope of finished grade in excess of 50% (one foot vertical for every two feet of horizontal distance).

Section 6: Drive-Through Uses

Drive-through uses shall be subject to the following requirements:

- A. Drive-throughs shall be located to preserve continuous vehicular and pedestrian access from the public right-of-way to the principal building entry.
- B. When adjacent to residential uses, drive-throughs, including both the facility and queuing lanes, shall be a minimum of 100 feet from the property line of adjacent residential properties and screened as determined by the Code Enforcement Officer.
- C. The stacking spaces shall be located so as not to interfere with the use of parking spaces or the free flow of traffic on the site and shall be adequately striped and marked with directional signs.
- D. Any outside speakers shall be adequately screened and/or metered so as not to increase the sound level at the property lines.

Section 7: Public Utilities

Public utility substations and similar utility structures shall comply with the following:

- A. The facility shall be surrounded by a fence set back from property lines in conformance with district regulations for front, side and rear yards.
- B. A landscaped area at least 15 feet wide shall be maintained in front, rear and side yards.
- C. Where practical, low-profile equipment shall be used.

Section 8: Animal Day Care, Kennel, Shelter, Hospital, or Veterinary Clinic

An animal day care, kennel or shelter shall be subject to the following requirements:

- A. An animal, day care, kennel or shelter (except for outside runs) shall be completely enclosed, and such outside runs shall be no closer than 100 feet to any lot line or residential district boundary as measured from the nearest lot lines.
- B. Fenced areas used in association with such use may not be permitted within 50 feet of any side or rear property line and shall be prohibited in a front yard.
- C. An acceptable waste storage and removal program must be used, as determined by the Nation's Environmental Manager.
- D. There shall be no outdoor storage of refuse, feed, or other material, and no on-site incineration of refuse.
- E. An odor-absorbing air filtration system shall be used.

Section 9: Stables

All stables shall be subject to the following general requirements:

- A. General
 - 1. No odor- or dust-producing use, including the storage of manure, shall take place within 150 feet of the nearest lot line.
 - 2. No horses shall be kept in a structure that is closer to the nearest lot line than 150 feet.
 - 3. Fencing of four feet in height shall enclose a paddock and be no closer than eight feet to a property line.
 - 4. The criteria set forth in this section shall apply equally to both horses and donkeys.

5. All required lot size minimums contained in this section shall include usable pasture land as determined by the Code Enforcement Officer.
- B. Required lot sizes: The lot must contain a minimum of three acres of usable pasture land for up to two horses or donkeys plus 1 1/2 acres of usable pasture land for each additional horse or donkey.
 - C. Required stable sizes
 1. Stables housing horses or donkeys shall be a minimum of 450 square feet for one horse or donkey, plus an additional 350 square feet for each additional horse or donkey.
 2. The calculation of required stable square footage may include the total square footage of the building(s) used to support horse keeping on the lot, including but not limited to stalls, aisle ways, feed and tack rooms, loft storage and/or hay storage. Turnout sheds with three sides and a roof may be counted toward total square footage.

Section 10: Swimming Pools

A swimming pool may be located in any district upon site plan review by the Code Enforcement Officer, subject to the following requirements:

- A. A private swimming pool shall be located in a rear yard only (front yard only for waterfront properties).
- B. The swimming pool area shall be entirely enclosed with a durable fence not less than four feet in height.
- C. Every gate or other opening in the fence enclosing any swimming pool shall be kept securely closed and latched at all times when such pool is not in use.
- D. A swimming pool shall not be less than 10 feet from side and rear lot lines.
- E. The water inlet of every swimming pool shall be above the overflow level of said pool.
- F. No permit shall be granted for the installation of any commercial swimming pool unless a licensed professional engineer has certified that the drainage plan and construction plan of such pool is adequate and will not interfere with the public water supply system, with existing sanitary facilities, or with the public streets or adjacent properties.

Section 11: Outdoor Storage

Outdoor storage shall only be allowed in accordance with this section.

- A. No outdoor storage shall be permitted without a special use permit.
- B. Outdoor storage shall not be allowed in the front yard.
- C. Outdoor storage shall not occupy more than 20% of the entire lot area and shall meet the following criteria:
 - 1. All outdoor storage shall be fully screened to ensure the area is not visible from the public right-of-way or adjacent residential uses.
 - 2. Screening shall be of sufficient height and density to completely hide the storage from public view.
 - 3. All screening shall be maintained in such a manner as to project a neat and orderly appearance at all times.
- D. Outdoor storage shall only exist as an accessory use.

Section 12: Outdoor Seating

Outdoor seating/assembly areas shall be subject to the following requirements:

- A. Along any sidewalk where parking of motor vehicles is permitted, eight feet of unobstructed space adjacent to the curb is required to allow for discharging passengers and screening.
- B. The proposal for such uses shall also demonstrate a layout which will not interfere with or obstruct pedestrian or vehicular traffic.

Section 13: Satellite Dishes

A satellite dish shall be permitted in all districts when:

- A. Such receiver is not located in any front yard area, unless no other location is technically or physically feasible.
- B. Landscaping is provided to partially screen such receiver from public view.
- C. No receiver is mounted on the roof of any building or vehicle, unless such installation has received site plan approval from the Code Enforcement Officer.

Section 14: Solar Power

An alternative domestic energy supply installation shall be permitted in all districts when:

- A. No solar energy device which is not an integral part of the structure is located in any front yard area.
- C. Landscaping is provided around any ground-mounted solar device to partially screen it from public view.
- D. The Code Enforcement Officer has issued a special use permit for the alternative domestic energy supply installation.

Section 15: Outdoor Furnaces

- A. Permit required. No person shall cause, allow or maintain the use of an outdoor furnace without first having obtained a permit from the Code Enforcement Officer.
- B. Existing outdoor furnaces. Any outdoor furnace in existence on the effective date of this section shall be permitted to remain, provided that the owner obtain a permit for such use from the Code Enforcement Officer within six months from the effective date of this Standard. If the owner of an existing outdoor furnace does not receive a permit within six months of the effective date of this Standard, such outdoor furnace shall be removed. “Existing” or “in existence” means that the outdoor furnace is in place on the site as of the date of adoption of this Standard.
- C. Use; placement; operation.
 - 1. Permitted fuel. Only firewood and untreated lumber are permitted to be burned in any outdoor furnace. Burning of any and all other materials in an outdoor furnace is prohibited.
 - 2. Minimum lot size. Outdoor furnaces shall be permitted only on lots of three acres or more.
 - 3. Setbacks. Outdoor furnaces shall be set back not less than 200 feet from the nearest property line.
 - 4. Months of operation. Outdoor furnaces shall be operated only between September 1 and May 31.
 - 5. Spark arrestors. All outdoor furnaces shall be equipped with properly functioning spark arrestors.

- D. Suspension of permit. A permit issued pursuant to this section may be suspended as the Code Enforcement Officer or Fire Marshall may deem necessary to protect public health, safety and welfare if any of the following conditions occur:
1. Emissions from the outdoor furnace exhibit excessive opacity;
 2. Malodorous air contaminants from the outdoor furnace are detectable outside the property on which the outdoor furnace is being operated;
 3. The emissions from the outdoor furnace interfere with the reasonable enjoyment of life or property;
 4. The emissions from the outdoor furnace cause damage to vegetation or property; or
 5. The emissions from the outdoor furnace are or may be harmful to human or animal health.
- E. A suspended permit may be reinstated once the condition which resulted in suspension is remedied and reasonable assurances are given that such condition will not recur. Recurrence of a condition which has previously resulted in suspension of a permit shall result in the revocation of the permit, and the subject outdoor furnace shall not be eligible for another permit thereafter.
- F. Effect on other regulations. Nothing contained herein shall authorize or allow burning which is prohibited by any other codes, laws, rules or regulations adopted by the Oneida Indian Nation.

Section 16: Transmission Towers

- A. The following shall be fully documented in an application for a special use permit for a transmission tower:
1. The need for the proposed use.
 2. The availability of alternative sites.
 3. The physical features, the general character, present use and probable future use of the proposed site and all adjoining properties.
 4. The distance from existing and proposed public rights-of-way.
 5. The distance from existing residential dwellings.
 6. The adaptability of the proposed site for the proposed use, including topography, natural buffers, screening and fencing.

7. A complete survey of the site, stamped by a licensed surveyor, showing present zoning of the site and all property within 2,000 feet of the site. The survey shall also locate all structures and identify the principal use within 2,000 feet of the site.
8. The visual impact of the tower on the environment, including all measures to mitigate visual impact.
9. The effect of the proposed use on all other properties in the neighborhood; on whether it will materially affect the value of such properties; on the use and enjoyment of such properties by the occupants; and any other effect of such use on the health, welfare and safety of the occupants of such properties.

Section 17: Temporary Use

Except as otherwise expressly provided in this section, temporary uses are permitted in any district, subject to the standards hereinafter established.

- A. Particular temporary uses permitted. Application must be made to the Code Enforcement Officer, who may issue zoning permit(s) for the allowable uses in this section, setting forth in the permit any conditions or requirements which will be applicable to the temporary use.
 1. Temporary art and craft festival, show, exhibit or sale.
 - a. A temporary outdoor festival, art and craft show, exhibit or sale may be permitted in any district when approved by the Code Enforcement Officer on the basis of the adequacy of the parcel size, parking provisions and traffic access and the absence of any undue adverse impact on surrounding properties and districts.
 - b. Such use shall be limited to one event for a period not to exceed seven consecutive days per year.
 - c. The hours of operation shall be limited to 8:00 a.m. to 11:00 p.m.
 - d. Such use need not comply with the front yard requirements of this chapter, except that structures or equipment that might block the view of operators of motor vehicles on the public streets shall not be located within 30 feet of the intersection of the curb lines of any two streets.
 - e. Such use need not comply with the maximum height requirements of these Standards.
 - f. A temporary indoor art or craft show, festival, exhibit or sale may be permitted in any nonresidential district or in any public park in a residential district subject to prior approval by the Code Enforcement Officer. Such use shall be limited to a

period not to exceed three days per event and no more than two events per year for each organization.

2. Real estate office, contractor's office, equipment shed and construction staging areas.
 - a. Real estate offices.
 - (i) Real estate offices containing no sleeping or cooking accommodations, unless located in a model dwelling unit, may be permitted in any district when accessory to a new housing development.
 - (ii) Such use shall be limited to the period of the initial active selling or leasing of dwelling units in such development.
 - b. Contractors' offices, equipment sheds and construction staging areas containing no sleeping or cooking accommodations may be permitted in any district when accessory to a construction project. Temporary storage shall be allowed as an accessory use to the contractors' office or equipment shed.
 - c. Such uses shall be limited to a period not to exceed the active duration of such project.
 3. Seasonal sales.
 - a. Seasonal sales, including, but not limited to, Christmas tree sales, may be permitted in any district other than R-1 when approved by the Code Enforcement Officer on the basis of the adequacy of the parcel size, parking provisions and traffic access and the absence of undue adverse impact on surrounding properties and districts. Such sales shall be limited to one event per organization each year.
 - b. Such use shall be limited to a period not to exceed 45 days.
 - c. Display of Christmas trees need not comply with the yard and setback requirements of this chapter, except that no tree shall be displayed within 30 feet of the intersection of the curblines of any two streets.
 4. Temporary outdoor events for businesses. A temporary outdoor event may be permitted on the premises of the operating business by the Code Enforcement Officer depending on the adequacy of the lot size, parking provision, and traffic access and the absence of any undue adverse impact on the neighboring properties and districts.
- B. Parking. Before approving any temporary use, the Code Enforcement Officer shall make an assessment of the total number of off-street parking spaces which shall be reasonably required for the particular use, its intensity, and the availability of other parking facilities

in the area, and shall approve such temporary use only if such off-street parking is provided.

- C. Period of operation. A temporary use shall be operated only during those hours or days of the week as specified in this section or as approved by the Code Enforcement Officer on the basis of the nature of the temporary use and the surrounding uses.

Section 18: Adult Uses

A. Purpose.

1. It is recognized that structures and establishments operated as adult uses have serious objectionable operational characteristics. In order to promote the public health, safety and general welfare, this section is intended to restrict adult uses to General Commercial, Commercial/Manufacturing and PDD zoned areas.
2. The Nation hereby finds that the operational characteristics of adult uses and the secondary effects of adult uses increase the detrimental impact on a community when such uses are spread throughout the community.
3. This section is intended to promote the health, safety and general welfare of the residents of Nation land by regulating the concentration and location of such adult uses.
4. This section has neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative materials, including sexually oriented materials; neither is it the intent nor effect of this section to condone or legitimize the distribution of obscene material.
5. Adult uses may be specially permitted in the Commercial, Commercial/Manufacturing and PPD Zoning Districts, subject to the additional restrictions and criteria set forth herein and as otherwise regulated under this chapter. Such uses are otherwise prohibited throughout the lands subject to these Standards.

B. Restrictions.

1. No adult use shall be allowed or permitted in any zoning district of the Nation, except in a Commercial, Commercial/Manufacturing or PDD Zoning Districts. All adult uses shall comply with the applicable provisions of this chapter, including those relating to structures and uses permitted in the Commercial, Commercial/Manufacturing or PDD Zoning Districts.
2. In addition, no person shall construct, establish, operate or maintain, or be issued a certificate of occupancy for, any adult use within Nation land unless such use meets the following standards:

- a. No adult use shall be allowed or permitted on a lot that is closer than 700 feet to:
 - (i) Any residential district.
 - (ii) Any property that is used, in whole or in part, for residential purposes.
 - (iii) Any regular place of worship, community center, funeral home, library, public or private school, nursery school, day care center, hospital or public park, playground, field, or trail.
 - c. Where there is a conflict between these Standards and any other ordinance, law, rule or regulation of the Nation, the most restrictive ordinance law, rule or regulation shall apply.
- C. Observation from public way prohibited. No adult use shall be conducted in any manner that permits the observation of any material depicting, describing or relating to specified sexual activities or specified anatomical activities from any public way or from any other lot, including but not limited to any lighting, display, decoration, poster, photograph, video, sign, show, doorway, window, screen, or other opening.

Section19: Wind Energy Conversion Systems

A. Intent and purpose.

1. The Nation, through these regulations, seeks to promote the safe, effective and efficient use of small wind energy systems installed to reduce the on-site consumption of utility-supplied electricity. The Nation recognizes that wind energy is an abundant, renewable, nonpolluting energy resource and that its conversion to electricity will reduce our dependence on nonrenewable energy resources and decrease the air and water pollution that results from the use of conventional energy sources. It is therefore the intent and purpose of these regulations to balance the encouragement of this renewable resource with any impacts such use may have on health, welfare and safety to the community and preserving and protecting the aesthetic qualities of the Nation.
2. These regulations relate to small or on-site-use wind energy systems and do not address large-scale wind turbines or wind farms which are typically intended to sell energy directly to power companies or retail users.

B. Permits required. No person, firm or corporation, or other entity being the owner or occupant of any land or premises within Nation land shall use or permit the use of land or premises for the construction of a tower for on-site-use wind energy deriving purposes without obtaining a special use permit from the Code Enforcement Officer, as hereinafter provided.

C. Special use permit. The following criteria are hereby established for purposes of granting a special use permit for an onsite wind energy conversion system under this chapter:

1. Noninterference. Individual on-site-use wind energy conversion systems shall not be installed in any location along the major axis of an existing microwave communications operation where its operation is likely to produce an electromagnetic interference in the link's operation.
2. Proximity to radio, television and telephone systems. Individual on-site-use wind energy conversion systems shall not be installed in any location where their proximity interferes with existing fixed broadcast, retransmission, or reception antennas for radio, television or wireless phone.
3. Scenic viewsheds. Individual tower facilities for on-site-use wind energy conversion systems shall not be installed in any location that would substantially detract from or block the view(s) of all or a portion of a recognized scenic viewshed, as viewed from any public road, right-of-way or publicly owned land. For purposes of this subsection, consideration shall be given to any current, amended, and/or future officially recognized Nation planning document or resource.
4. Noise limitations. The level of noise produced during wind turbine operation shall not exceed 50 dba beyond the present ambient sound levels at preconstruction levels, as measured at the boundaries of the closest parcels that are owned by non-site owners and that abut either the site parcels or any other parcels adjacent to the site held in common by the owner of the site parcel, as those boundaries exist at the time of the special use permit application. The applicant will be required to submit technical data to the satisfaction of the Code Enforcement Officer as to this requirement. This obligation shall be a continuing obligation with exceptions only for short-term events such as utility outages and severe windstorms.
5. Height. It is recognized that wind turbines require greater heights to reach elevations with wind currents reasonably adequate to generate energy. Onsite-use wind energy conversion systems shall not exceed a total height of 100 feet for single-family residential applications (less than or equal to 25 kW) and shall not exceed a total height of 150 feet for nonresidential applications [i.e., farm, small business, etc. (less than or equal to 125 kW)] from the ground to the top of the highest point of blade height (tip) as extended at its highest vertical point, provided that the application includes specific evidence that the proposed total height does not exceed the height recommended by the manufacturer or distributor of the on-site-use wind energy conversion system.
6. Ground clearance. The minimum distance between the ground and any part of the rotor blade must be 30 feet.
7. Emergency shutdown/safety. The applicant shall post an emergency telephone number so that the appropriate entities may be contacted should any wind turbine need immediate repair or attention. This telephone number should be clearly visible on a permanent structure or post located outside of the fall zone of the tower. The

location should be convenient and readily noticeable to someone likely to detect a problem. Further, no wind turbine shall be permitted which lacks an automatic braking, governing or feathering system to prevent uncontrolled rotation, over-speeding, and excessive pressure on the tower structure, rotor blades, and turbine components or enclosed shelter.

8. Lightning protection. All energy towers shall have lightning protection.
 9. Utility service. All power lines from the wind turbines to on-site interconnection equipment shall be located underground and installed by certified professionals and must meet all applicable codes.
 10. Access road. To the greatest extent possible, existing roadways shall be used for access to the site and its improvements. In the case of constructing any roadways necessary to access the system, they shall be constructed in a way that allows for the passage of emergency vehicles in the event of an emergency. Each application shall be accompanied by correspondence from the Nation Fire Marshall as to the acceptability of the proposed ingress to and egress from the tower.
 11. Security/Anticlimb device. The design of each device shall not allow for climbing by the public for a minimum height of 15 feet from the ground.
 12. Decommissioning. The owner shall remove any obsolete or unused wind turbines and accessory structures within one year of discontinuance of use. Failure to remove the obsolete or unused tower in accordance with these regulations shall be a violation of this section. Should the wind energy conversion system be nonoperational for any continuous six-month period, the approvals granted shall be deemed void and the wind energy conversion system shall be decommissioned, subject to a new approval under this section.
 13. Setbacks. Wind energy conversion systems shall comply with all setbacks within the affected zone. However, in addition, all on-site use wind energy conversion systems shall be set back a distance equal to the height of the tower plus blade length plus an additional 25 feet from all property lines, public roads, power lines and preexisting and future structures. Additional setbacks may be required in order to provide for the public's safety, health and welfare, including the possibility of ice thrown from the blades.
- D. Insurance. The applicant, owner, lessee or assignee shall maintain a current insurance policy which will cover installation and operation of the on-site-use wind energy conversion system at all times. Said policy shall provide a minimum of \$300,000 property and personal liability coverage.
- E. Inspections. The Code Enforcement Officer shall have the right at any reasonable time to enter, in the company of the owner or his agent, the premises on which a wind energy conversion system is being or is constructed, to inspect all parts of said wind energy

conversion system installation and require that repairs or alterations be made if, in his judgment, there exists a deficiency in the operation or the structural stability of the system. If necessary, the Code Enforcement Officer may order the system secured or to otherwise cease operation. It shall not be required that the owner or agent be present in the event of an emergency situation involving danger to life, limb or property.

Section 20: Harboring of Animals

Other than dogs, cats and other customary household pets, the harboring of animals (as defined herein) shall be prohibited on uses other than agricultural, stable, or commercial animal-based uses.

ARTICLE XVI: Generally Applicable Site Plan Standards

The following standards shall be applicable in all districts.

Section 1: Visibility at Intersections and Curb Cuts

- A. Visibility shall be maintained for vehicles on adjacent streets to provide safe sight distances for both vehicles and pedestrians. On corner lots, no fence, wall, hedge or other structure or planting more than three feet in height shall be erected, placed or maintained so as to obstruct visibility of vehicular or pedestrian traffic within the triangular area formed by the intersecting street right-of-way lines and a straight line joining said street right-of-way lines at points 20 feet distant from the point of intersection, measured along said street right-of-way lines.
- B. Visibility shall be maintained for vehicles at curb cuts along public rights-of-way. At curb cuts along public rights-of-way, no fence, wall, hedge, or other structure or planting more than three feet in height shall be erected, placed or maintained along such public right-of-way in each direction from such curb cut for a distance of 10 feet.

Section 2: Accessory Buildings and Structures

- A. No accessory structure shall be permitted without the presence of an approved principal structure.
- B. Farm structures in the Agricultural District shall be exempt from the provisions of this section except for front yard setbacks.
- C. There shall be no more than two accessory buildings and/or structures on each parcel intended or used for residential purposes.
- D. In any residential zoning district, the maximum height of accessory buildings shall not exceed the height of the principal structure.

- E. An accessory building or structure attached to a principal building shall comply in all respects with the yard requirements of these standards applicable to the principal building. Detached accessory buildings or structures shall be located to the rear of the front building line of the principal building and, if located in a side yard area, shall conform to side yard requirements of these Standards.
- F. For the purposes of regulating the locations of accessory buildings or structures on corner lots and on lots extending through between two parallel streets, all portions of a corner lot or a through lot which front on a public street shall be subject to the front yard requirements of the zoning district in which said corner lot or through lot is located.
- G. In any commercial, manufacturing, or agricultural zoning district, non-dwelling accessory buildings or structures shall comply with front and side yard requirements for the principal building to which they are accessory and shall not be located closer to any rear property line than 10 feet.

Section 3: Exceptions to Height Limitations

The height limitations of these Standards shall not apply to farm structures, silos, belfries, church spires, cupolas, penthouses, and domes which are not used for human occupancy; nor to chimneys, ventilators, skylights, water tanks, and necessary mechanical appurtenances usually carried above roof level; nor to flagpoles, monuments, transmission towers and cables, radio and television antennas or towers, and similar structures. Such features however shall be erected only to such height as is necessary to accomplish the purpose for which they are intended.

Section 4: Off-Street Loading

- A. Every building occupied for the purpose of business or industry shall provide adequate space for the loading and unloading of vehicles off the street.
- B. Loading spaces shall be located on the same lot, or on a directly adjoining lot in the same zoning district as the building or structure to which they are accessory.
- C. Loading spaces shall be provided in sufficient number and of sufficient size so that no loading or unloading operations infringe upon motor or pedestrian traffic on any street or sidewalk.
- D. Loading spaces shall not be occupied by or considered as any part of any off-street parking.

Section 5: Adequacy of Water Supply and Sewage Disposal

Before a zoning permit is issued for the construction of a building requiring a water supply and sewage disposal, written evidence that acceptable provisions have been made for both shall be provided to the Code Enforcement Officer.

Section 6: Mechanical and Building Equipment

In all commercial and manufacturing zoning districts, all building mechanical systems, including but not limited to air-conditioning units, exhaust systems, communications equipment, satellite dishes, fire escapes, elevator housings, and other similar elements, shall be integrated into the overall design and character of the structure and site as required by the Code Enforcement Officer, with care to remotely locate or screen the same from adjoining uses.

Section 7: Restoration of Construction Sites

- A. No excavation, grading, clear cutting or clearing in preparation for site development shall be undertaken prior to the granting of any special use permit, site plan, variance or subdivision approval required for such development.
- B. The Nation Representative(s) or a designee may, in connection with a major project site plan or major residential development, require an applicant to post a bond or other form of security to guarantee reclamation of areas to be excavated or graded. Such bond or other security shall be for an amount reasonably related to the potential cost of such reclamation and shall be in a form deemed acceptable by the Nation Legal Department.
- C. In the event that construction of a structure is stopped prior to completion and the building permit expires, the premises shall be promptly cleared of any rubbish or building materials, and any open excavation with a depth greater than two feet below existing grade shall either be promptly filled in and the topsoil replaced or shall be entirely surrounded by a fence at least six feet high that will effectively block access to the area of the excavation by the applicant.
- D. Within six months after work on an excavation for a building has begun or within six months after a construction project, building or structure has been destroyed, demolished or abandoned, all structural materials shall be removed from the site, and any excavation remaining shall be covered over or filled to the normal grade by the applicant.

Section 8: Dumpsters and Refuse Collection Areas

- A. Dumpsters must be screened from view from any abutting residence, residential district, public street or walkway with screening. This standard shall apply to all dumpsters, including those used for collection and storage of recyclable materials, whether public or private. All screening shall be maintained in such manner as to present a neat and orderly appearance at all times.

- B. Refuse collection areas and similar facilities shall be screened or enclosed from view from any abutting residence, residential district, public street or walkway in such manner and with such materials as are deemed acceptable by the Code Enforcement Officer given the conditions existing on the site. All screening or enclosures shall be maintained in such manner as to present a neat and orderly appearance at all times.
- C. Refuse collection areas shall have hardened, stabilized surfaces constructed to prevent accumulation of storm water runoff.
- D. All refuse collection areas shall be effectively designed to contain all refuse generated on site and deposited between collections.
- E. Refuse shall not be visible from outside the refuse enclosure.
- F. Refuse collection areas shall be so located upon the lot as to provide clear and convenient access by refuse collection vehicles.

Section 9: Landscaping and Landscape Maintenance

- A. Any use required by these Standards to be landscaped shall provide for the planting of trees, shrubs, bushes and ground cover. Existing trees and shrubs shall be protected wherever possible. Landscaping structures such as retaining walls or tree wells may be required.
- B. The Code Enforcement Officer may require a landscaping plan, drawn to scale, showing all existing landscaping before development, landscaping to be retained and all new plantings. The species and size of all trees, shrubs and bushes may be required to be shown on such plan.
- C. The area to be landscaped shall be determined by the Code Enforcement Officer based on the type, location and size of project.
- D. Any lawns, landscaping, buffer strips or similarly planted areas shall be appropriately maintained throughout the year. Such areas shall be kept clear of debris and waste and plant materials shall be trimmed or cut according to any plans approved by the Code Enforcement Officer in a manner appropriate to the plant species.

Section 10: Screening

- A. Any use required by these Standards to be screened shall provide a structural or planted (landscaped) screen sufficient to effectively screen such use from view from abutting properties and the public right-of-way as is considered appropriate.
- B. The Code Enforcement Officer shall determine the requirements for screening in conjunction with a review of applications where screening may be required.

Section 11: Fences and Walls

- A. Fences and walls shall require a building permit.
- B. In any district, no fence or wall shall be placed or maintained within a front yard which interferes with the safe movement of vehicular or pedestrian traffic or the removal and storage of snow.
- C. The height of all fences or walls shall be measured from the average finished grade within two feet of the fence or wall line.
- D. No fence or wall in a residential or historic district shall exceed six feet in height in a side or rear yard.
- E. No fence or wall in an industrial or agricultural district shall exceed eight feet in height.
- F. A fence twelve feet in height shall be allowed to enclose a tennis court or basketball court.
- G. At all street intersections and along all street rights of way, no fence shall be positioned to interfere with clear sight lines.
- H. All solid fences shall be installed so that the finished side shall face outward; all bracing shall be located on the inside of the fence.
- I. All fences and walls shall be maintained (on both sides) and, when necessary, repaired or replaced.
- J. Any fence or wall shall be located at least two feet from the property line so that repairs and maintenance may be performed within the boundaries of the lot on which the fence is situated.
- K. In agricultural districts, barbed wire or other fences maintained for the purpose of fencing a field or pasture to enclose crops, livestock, or other agricultural uses, including woodlots, are exempt from this Standard in that such a fence may be constructed and maintained on the property line so long as it does not encroach on an adjoining landowner's property.
- L. This Standard shall not be applied so as to restrict the erection of a wall for the purpose of retaining earth.

Section 12: Off-Street Parking

- A. Off-street parking space shall be required for all buildings constructed or new uses established after the effective date of these Standards.

B. Change in use or intensity.

1. Whenever a use existing on the effective date of this chapter is changed to a new use, off-street parking space shall be provided as required herein for such new use.
2. Whenever the intensity of use of any building, structure or use is increased, off-street parking space shall be provided for such increase in intensity of use.

C. Variance. In case of practical difficulty or special conditions arising out of the parking requirements of this Standard, such requirements may be modified through an application to the Code Enforcement Officer for a variance.

D. Measurement and computation.

1. When determination of the number of required parking spaces results in the requirement of a fractional space, any fraction up to and including $\frac{1}{2}$ shall be disregarded and fractions over $\frac{1}{2}$ shall require one parking space.
2. In places of worship and other places of assembly in which patrons or spectators occupy benches, pews or other similar seating facilities, each 30 inches of such bench shall constitute a seat for purposes of the requirement for off-street parking space under this section.
3. When parking spaces are required on the basis of the number of staff or employees, the maximum number present at any one time shall govern.

E. Uses not specified. For uses not expressly listed in this section, parking spaces shall be provided on the same basis as required for the most similar listed use, as determined by the Code Enforcement Officer.

F. Required parking spaces. For the following uses, the minimum required number of off-street parking spaces shall be as follows:

<u>Use</u>	<u>Minimum Number of Spaces</u>
1. Single-family dwelling	2 per dwelling unit
2. Multi-family dwelling	1 per dwelling unit
3. Amusement Center	As determined per site plan review
4. Auditorium, theater or church	1 per each 5 seats
5. Bed and Breakfast	1 per guest room plus 1 for operator
6. Business/Professional office	1 per each 400 square feet of gross floor area
7. Day Care or nursery	1 per each 6 persons enrolled
8. Funeral Home	As determined per site plan review

9. Hall without fixed seats	1 per each 100 square feet of gross floor area
10. Health Club	2 per each 1,000 square feet of gross floor area
11. Library, museum or gallery	1 per each 800 square feet of gross floor area
12. Manufacturing facility	1 per each employee on maximum shift
13. Medical/Dental clinic or office	3 for each examination space
14. Motel or hotel	1 for each guest room
15. Restaurant, bar, cafe or nightclub	1 for each 200 square feet of gross floor area
16. Restaurant, carryout	As determined per site plan review
17. Restaurant with drive-thru	As determined per site plan review
18. Retail store or shop, individual	1 per each 400 square feet of gross floor area
19. Senior housing or nursing home	1 per each 4 beds
20. Wholesale facility or warehouse	1 per each employee on maximum shift
21. Shopping Center or Gaming Space	
a. 0 to 50,000 square feet of gross floor area	1 per each 150 square feet of gross floor area
b. 50,000 to 150,000 square feet of gross floor area	357, plus 1 per each 165 square feet of gross floor area in excess of 50,000 square feet
c. 150,000 to 400,000 square feet of gross floor area	963, plus 1 per each 270 square feet of gross floor area in excess of 150,000 square feet
d. 400,000 square feet of gross floor area and up	1,890, plus 1 for each 285 square feet of gross floor area in excess of 400,000 square feet

G. Parking reserve plans. Up to 25% of the parking spaces required in this section for an office use may be landscaped and reserved for future parking upon approval of the Code Enforcement Officer and subject to the following conditions:

1. The parking reserve plan shall show the location and layout of the parking held in reserve, and all other parking and access, together with all stormwater facilities which shall be sized to accommodate the reserve parking and any other amenities that would be necessary if the reserved parking were built.
2. The applicant shall submit competent information to justify the reservation.
3. If any of the reserve parking is to be constructed, initiated by the applicant or as provided for below, the applicant shall first obtain site plan review approval from the Code Enforcement Officer.
4. Within 30 days from the date of a written notice from the Code Enforcement Officer, based upon the Code Enforcement Officer's observation that parking at the facility is insufficient, the applicant/operator of the facility shall file an application for site plan

review or amended site plan review, as appropriate. The applicant/operator shall diligently pursue such approval and subsequent construction of additional parking as may be required by site plan review. The observation that parking has become insufficient shall include the following or similar circumstances: (a) regular or significant numbers of vehicles parked in unapproved areas of the site; (b) off-site parking on neighboring properties; or, (c) parking on public streets. Such evidence must be of a continuous nature rather than a single occurrence.

H. Location.

1. Parking shall be located within 1,000 feet of the use served.
 2. In residential districts: No parking shall be located in the required front yard setback except in a legal driveway that provides access to the residence, the rear yard, or a detached or attached garage.
 3. Customer or employee parking for nonresidential uses shall not be located within 10 feet of any residential district or use, except where a screening at least six feet in height is placed on the lot line, in which case no setback shall be required.
 4. Parking lots and parking areas shall be screened from abutting residential uses and districts with screening with a minimum height of six feet.
 5. Parking shall not be located within 10 feet of any street frontage.
 6. Combined facilities. The collective provision of off-street parking areas by two or more buildings or uses located on adjacent lots is permitted, provided that the total of such facilities shall not be less than the sum required of the various buildings or uses computed separately and further provided that the land upon which the collective facilities are located is Oneida Indian Nation land.
 7. Up to 50% of the parking spaces required by this section may be otherwise located off site as approved by the Code Enforcement Officer upon findings that:
 - a. It is impractical to provide parking on the same lot with the structure.
 - b. The required space is fully provided in a permanent, safe and easily accessible manner.
 - c. The off-site parking is within 500 feet of the parcel or use it is supporting and within the same or a less-restricted district.
- I. Maneuvering space. Maneuvering space shall be located completely off the right-of-way of a public street, place or court.

J. Space sizes. The following minimum standards shall apply to the width and length of required parking spaces:

<u>Type of Parking</u>	<u>Angle</u>	<u>Stall Length</u>	<u>Stall Width</u>	<u>Aisle Width</u>
Traditional	90 degrees	19' 00"	9' 06"	24' 00"
Traditional	60 degrees	21' 00"	9' 06"	One way: 18' 00"
Traditional	45 degrees	19' 10"	9' 06"	One way: 13' 00"
Handicapped*	90 degrees	19' 00"	9' 06"	24' 00"
Handicapped*	60 degrees	21' 00"	9' 06"	One way: 18' 00"
Handicapped*	45 degrees	19' 10"	9' 06"	One way: 13' 00"

Notes:

Vertical clearance equals or exceeds 7' 00"

*Loading area abutting stall shall be 8' 00" wide

K. Surface.

1. Off-street parking lots shall be constructed in such a manner as to provide an all-weather, durable and dustless surface. Individual stalls shall be clearly identified by markings no less than four inches in width.
2. Parking surfaces shall be graded and drained to an approved drainage system to dispose of surface water accumulation in the area without shedding additional water on an adjoining property or right-of-way.

L. Lighting.

1. Lighting fixtures shall be designed, sized and located so as not to cast direct rays of excessive brightness upon adjoining premises or cause glare hazardous to pedestrians or persons using adjacent public streets.
2. Parking lots used after sundown shall be lighted to give protection to persons using the lot, and the light source shall cast down.

ARTICLE XVII: Signs

A Permit. A sign permit must be obtained from the Code Enforcement Officer prior to the installation of any sign which exceeds five square feet in area. This section does not pertain to governmental signs (traffic, street, etc.) or any sign required by Nation law.

- B. Sign sizes and permitted locations. Signs permitted in all districts without a permit include:
1. Signs advertising the sale, rental or lease of the premises, such sign not to exceed 12 square feet in area.
 2. Professional nameplates and homeowner identification signs: one allowed per premises, not to exceed three square feet; it must be attached to the premises.
 3. Signs advertising the sale of farm products grown on the premises in A and AR Districts only. Such signs shall not exceed 12 square feet; and such signs shall be left up during the selling season only.
- C. Signs permitted in all districts with a sign permit.
1. Off-premises signs. Such signs shall be no closer to the highway right-of-way than 25 feet.
 2. On-premises signs. In residential districts, signs and advertising on-premises nonresidential uses shall not exceed 12 square feet in area.
- D. Sign sizes allowed in business, commercial and industrial districts with a sign permit. On-premises advertising signs not shall not exceed 200 square feet without a variance from the Code Enforcement Officer.
- E. Traffic obstruction or hazard.
1. No sign shall be permitted which may impair public safety; restrict vision between intersecting streets, streets and sidewalks, around curves, etc.; be confused with traffic sign or signal or obstruct the same; or constitute a hazard to public safety.
 2. Illuminated signs or lighting devices shall not be placed or directed so as to cause either direct or indirect glare or reflection upon any highway or other premises that may constitute a traffic hazard or nuisance.
 3. Setback. All signs shall observe a twenty-five-foot minimum setback from the highway right-of-way.
- F. Abandoned signs. Any sign which no longer advertises an existing business conducted or product sold on the premises shall be removed within six months of the discontinuation of the use.
- H. Revocation of sign permit. All signs must be kept in a neat and orderly appearance. Safe structural maintenance is also required. Any sign failing to meet such standards, upon written notice by the Code Enforcement Officer to the owner of such sign, shall have a ninety-day period to conform to acceptable standards. In the case of a failure to comply

within the prescribed period, the sign permit shall be revoked and the sign removed within 30 days of notice to remove such sign.

ARTICLE XVIII: Environmental Review

Section 1: Environmental Manager

The Nation's Environmental Manager, or his duly authorized appointee, shall administer the requirements of this Article.

Section 2: Requirement to Provide Information on Environmental Impacts of a Project

A. Before any applicant is issued a special use permit by the Code Enforcement Officer, the Environmental Manager must complete the Nation Environmental Review Process by issuing a Determination of Significant Effect or issuing a Determination of Categorical Exclusion.

B. Categorically Excluded Activities. Where the Environmental Manager determines that a project will not to have a Significant Effect on the Environment and therefore constitutes a Categorically Excluded Activity, no EAF shall be required, and the Environmental Manager shall issue a Determination of Categorical Exclusion.

C. The Environmental Manager shall be responsible for developing an EAF for evaluations required by this Article to be conducted under the NER, in order to identify and evaluate whether a proposed project would have a Significant Effect on the Environment.

D. With respect to any project for which a NER is required under this Article, an Applicant shall submit a completed EAF to the Environmental Manager and Historic Resources Specialist.

E. With respect to any project for which a NER is required under this Article, the Historic Resources Specialist shall be responsible for undertaking, at the expense of the Applicant, any archeological reviews or surveys required for the Historic Resources Specialist to prepare the Historic Resources Specialist Determination.

F. With respect to any project for which a NER is required under this Article, upon a determination by the Environmental Manager that the Applicant has submitted a properly completed EAF, the Environmental Manager shall prepare a Notice of EAF Completion, which shall include all of the following information:

- (1) A brief description of the project;
- (2) The proposed location of the project;
- (3) A location where the EAF is available for Public review; and
- (4) Notice of a period of fifteen (15) days during which the Environmental Manager will accept written comments by the Public on any Significant Effects on the Environment arising out of the project.

G. The Environmental Manager shall publish the Notice of EAF Completion in any regularly issued newspaper or periodical that is available to the Public or shall post the Notice of EAF Completion on the Nation's website and at Nation Member government programs and services offices to ensure that the Public is sufficiently informed of the Notice of EAF Completion.

H. With respect to any project for which a NER is required under this Article, the Environmental Manager shall prepare, or cause the Applicant to prepare, responses to written comments by the Public addressing Significant Effects on the Environment arising as a result of the proposed project. Upon reasonable request, responses shall be made available for review to a member of the Public.

I. The Environmental Manager shall issue a Determination of Significant Effect for the proposed project, which shall:

- (1) Include a statement that the NER process was properly followed;
- (2) Identify any Significant Effects on the Environment;
- (3) Include the Historic Resources Specialist Determination; and
- (4) Include responses to Public comments.

Section3: Code Enforcement Officer's Action on Report

The Code Enforcement Officer shall not issue a permit (building or special use permit) for any project unless (1) the Environmental Manager determines that the project will not have a potential significant, adverse environmental impact; or (2) the Environmental Manager determines that the project minimizes adverse environmental impacts to the maximum extent practicable, in view of reasonable alternatives to the project. The Code Enforcement Officer shall impose such conditions on a zoning permit as are necessary to ensure that any adverse environmental impacts are minimized to the maximum extent practicable.

ARTICLE XIX : Administration and Enforcement

Section 1: Code Enforcement Officer

The Code Enforcement Officer shall have the following powers and duties:

- A. Cause any plans, buildings, or premises to be examined or inspected to determine compliance with the provisions of this chapter. In the fulfillment of these duties, he or she shall be authorized to enter any premises or building at a reasonable time and upon reasonable notice to determine whether or not the same is in violation of this chapter and may impose such reasonable conditions as may be deemed necessary to ensure compliance, including but not limited to the posting of securities.

- B. Provide the Variance Board, in writing, with all facts pertaining to the refusal to issue zoning permits when such information is requested by the Board.
- C. For violations of this chapter:
 - 1. Notify, in writing, the person responsible for such violations, indicating the nature of the violation and ordering the action to correct it;
 - 2. Order discontinuance of illegal uses of land, buildings or structures; removal of illegal buildings or structures, or of illegal additions, alterations or structural changes; stop work or discontinuance of any illegal work being done; or
 - 3. Take any other action authorized by this chapter to ensure compliance with or to prevent violation of its provisions.
- D. On the serving of the notice by the Code Enforcement Officer to the person responsible for any violation of these Standards, the zoning permit for the pertinent use or structure shall be held null and void. A new zoning permit shall be required for any further use of such building or premises.
- E. Issue appearance tickets for violations of these Standards, requiring appearance in Nation Court.

Section 2: Fees, Costs and Security

- A. Permit application fees and expenses.
 - 1. Fees required by this chapter shall be paid upon the submission of applications.
 - 3. The Nation Representative(s) or a designee shall establish and may waive the fees for applications. The Code Enforcement Officer shall inform applicants of applicable fees.
 - 4. There shall be no fees where the Nation or any of its instrumentalities is the applicant.
- B. Professional Services. The Code Enforcement Officer, Environmental Manager, and Variance Board may engage the services of professional consultants, at the expenses of the applicants, during the site plan review, special use permit, and variance approval processes.
- C. Performance bond. In lieu of the completion of required improvements, the Code Enforcement Officer, prior to final approval, may require from the applicant a security acceptable to the Nation Legal Department in an amount sufficient to cover the full cost of said improvements and their maintenance for a period of two years after completion is expected to occur.

Section 3: Site Plan Review

A. Definitions. As used in this chapter, the following term shall have the meaning indicated:

SITE PLAN - A single or group of renderings, drawings, or sketches prepared by a licensed professional, i.e., an architect, landscape architect, engineer, land surveyor or planning consultant, which shows the arrangement, layout and design of the proposed use of an individual parcel of land as shown on said plan.

B. Initial conference. An initial conference may be held between the applicant and the Code Enforcement Officer prior to the preparation and submission of a formal site plan. The intent of such a conference is to enable the applicant to inform the Code Enforcement Officer of the proposal prior to the preparation of a detailed site plan; and for the Code Enforcement Officer to review the basic site design concept, advise the applicant as to potential problems and concerns and to generally determine the information to be required on the site plan. In order to accomplish these objectives, the applicant should provide the following:

3. A statement and rough sketch showing the locations and dimensions of principal and accessory structures, parking areas, access signs (with descriptions), existing and proposed vegetation, buffer strips (where required), and other planned features; anticipated changes in the existing topography and natural features; and, where applicable, measures, and features to address flood hazards.

4. A sketch or map of the area which clearly shows the location of the site with respect to nearby street rights-of-way, properties, easements and other pertinent features; and

5. A topographic or contour map of adequate scale and detail to show site topography.

C. Application for site plan approval. An application for site plan approval shall be made in writing to the Code Enforcement Officer and shall be accompanied by information contained on the following checklists. (Where the initial conference was held, the accompanying information shall be drawn from the following checklists as determined necessary by the Code Enforcement Officer at the initial conference.) The number of copies of all drawings and other written and graphic materials included in the application shall be determined by the Code Enforcement Officer. All applications shall be accompanied by an application fee in such amount as may be determined from time to time by the Nation Representative(s) or a designee. Additional information integral to the proposed development may be required as considered necessary by the Code Enforcement Officer.

D. Project information site plan checklist:

1. Title of drawing, including name and address of owner/applicant, type of application, Tax Map sheet, block and lot, and street location.

2. Name, signature, license number, seal and address of engineer, land surveyor, architect, and/or landscape architect, as applicable, involved in preparation of the site plan.
3. Location map showing location and boundaries of the tract with reference to surrounding properties, existing and proposed streets, municipal boundaries within 500 feet, date of current survey.
4. North arrow, scale, and date, including date of original and all revisions.
5. Boundaries of the property plotted to scale, acreage of tract to the nearest tenth of an acre, and area of lots in square feet.
6. Location, design, type of construction, proposed use, and exterior dimensions of all buildings, existing and proposed.
7. Include number of dwelling units by type, square footage of living area in dwelling units, and proposed method of ownership.
8. Location and proposed development of all buffer areas, including existing vegetative cover.
9. Location, design, type of construction, of all parking and truck loading areas, showing access and egress.
10. Location of outdoor storage.
11. Provision for pedestrian access.
12. Location of fire and other emergency zones, including the location of fire hydrants.
13. An estimated project construction schedule.
14. Copy and delineation of any existing or proposed deed restrictions or covenants (including proposed covenants concerning ownership and maintenance of common lands).
15. Any existing or proposed easement or land reserved for or dedicated to public use.
16. Record of application for and approval status of all necessary permits from state and county officials, and identification of any additional state or county permits required for the project's execution.
17. List of variances required or requested.

E. Environmental information site plan checklist:

1. Property owners and lines of all parcels within 200 feet identified on most recent Tax Map sheets; names of adjoining subdivisions.

2. All existing watercourses.
3. Other significant environmental features within 400 feet of any part of the site.
4. Copy of a soil survey indicating project boundaries, with a table listing soil features affecting development for each soil type in the project.
5. Existing and proposed contour intervals based on USGS data as follows: for areas having a slope of 10% and less, contour lines at two-foot intervals; and for areas having a slope of greater than 10%, contour lines at five-foot intervals.
6. Boundary, limits, nature and extent of wooded areas and specimen trees.
7. Existing system of drainage of subject site and of any larger tract or basin of which it is a part.
8. Location and results of percolation test sites if subsurface sewage disposal is proposed
9. Completed environmental assessment form or such other information as is required by the Nation.
10. Proposed storm water management and erosion control measures.

F. Improvements and construction site plan checklist

1. Location and design, and construction materials of all existing or proposed site improvements, including drains, culverts, retaining walls and fences.
2. A storm water management plan, including a report describing storm drainage peak flows for the subject property before and after development, the effects of the development on downstream facilities, and the basis of design of any proposed detention areas.
3. Description of the method of sewage disposal and location, design, and construction materials of such facilities.
4. Description of the method of securing public water and location, design and construction materials of such facilities.
5. Soil erosion and sediment control plan (if soil disturbance over 5,000 square feet or if the Code Enforcement Officer requires it due to severe topography);
6. Spot and finished elevations at all property corners, corners of all structures or dwellings, existing or proposed first-floor elevations.
7. Location, size, and design and type of construction of all proposed signs, including site identification signs, traffic control signs, and directional signs.

8. Location and design of outdoor lighting facilities.
 9. Special attention to the adequacy and impact of structures, roadways and landscaping in areas with susceptibility to ponding, flooding and/or erosion.
 10. General landscaping plan and planting schedule.
 11. Parking plan showing spaces, size and type, aisle width, curb cuts, drives, driveways, and all ingress and egress areas and dimensions.
 12. Preliminary architectural plan and elevations.
 13. A storm water pollution prevention plan.
- G. General standards and consideration. The Code Enforcement Officer's resolution shall specify his findings, if any, based on the criteria that he shall deem applicable. The Code Enforcement Officer's review of the site plan and supporting documents shall include, as appropriate, but is not limited to, the following general considerations:
1. Location, arrangement size, design and general site compatibility of buildings, lighting, and signs.
 2. Adequacy and arrangement of vehicular traffic access and circulation, including intersections, road widths, pavement surfaces, dividers and traffic controls.
 3. Location, arrangement, appearance and sufficiency of off-street parking and loading.
 4. Adequacy and arrangement of pedestrian traffic access and circulation, walkway structures, control of intersections with vehicular traffic and overall pedestrian convenience.
 5. Adequacy of storm water and drainage facilities.
 6. Adequacy of water supply and sewage disposal facilities.
 7. Adequacy, type and arrangement of trees, shrubs and other landscaping constituting a visual and/or noise buffer between the applicant's and adjoining lands, including the maximum retention of existing vegetation.
 8. Adequacy of fire lanes and other emergency zones and the provision of fire hydrants.
 9. Special attention to the adequacy and impact of structures, roadways and landscaping in areas with susceptibility to ponding, flooding and/or erosion.
 10. Overall impact on the neighborhood, including compatibility of design considerations.

H. Site Plan Procedure. The Code Enforcement Officer shall issue a decision on an application for site plan approval within 60 days after the application is complete, as determined by the Code Enforcement Officer. The decision of the Code Enforcement Officer shall be reduced to writing and shall set forth the reasons for a disapproval or any conditions imposed on an approval. A copy of the written decision shall be provided to the applicant within a reasonable time after the determination. A copy shall be provided to the Nation's Legal Department. The Code Enforcement Officer shall maintain a copy of any approved site plan.

Section 4: Variances

- A. The Nation Representative(s) may create a Variance Board, which shall have the authority to vary or modify, in whole or in part, any provision or requirement of these Standards in cases where strict compliance with a provision or requirement of these Standards would entail practical difficulties or unnecessary hardship, or would otherwise be unwarranted; provided, however, that any such variance or modification shall not substantially adversely affect provisions for land use, environmental protection, health, safety, and security prescribed in these Standards. In addition, the Variance Board also shall have authority to hear and decide appeals from any order or determination by the Code Enforcement Officer (or another Nation Enforcement Officer), or the Nation Enforcement Officer's failure to make an order or determination.
- B. The Variance Board may issue a variance which excuses compliance with a provision or requirement of these Standards when the party or parties seeking the variance have shown by the weight of evidence that in a particular case before the Variance Board strict compliance with the particular provision or requirement:
1. would create an excessive and unreasonable economic burden;
 2. would not achieve these Standards intended objective;
 3. would inhibit achievement of some other important public policy;
 4. would be physically or legally impractical;
 5. would be unnecessary in light of alternatives which ensure the achievement of these Standards intended objective or in light of alternatives which, without a loss in level of safety, health or security, achieve these Standards intended objective more efficiently, effectively, or economically; or
 6. would result in a de minimums violation of these Standards.
- C. In cases before the Variance Board, the Variance Board may fashion suitable remedies so as to do justice among the parties while fulfilling the objectives of these Standards to the fullest extent practicable including, but not limited to:

1. when an order or determination has been made, sustaining, reversing, or modifying, in whole or in part such order or determination; and
 2. when an order or determination has not been made within a reasonable time, making any such order or determination or directing that any orders, determinations, permits or authorizations be issued.
- D. The Variance Board shall be composed of at least three members. The members of the Variance Board shall be appointed by the Nation Representative(s) to serve staggered three year terms. An appointment to fill a vacancy shall be made in the manner of the original appointment for the unexpired term. A member of the Variance Board may be re-appointed at the expiration of his or her term. The Nation Representative(s) shall designate a Chairperson. Any member of the Variance Board may be removed by, and at the discretion of, the Nation Representative(s). If a member of the Variance Board is temporarily unavailable to attend upon his or her duties, the Nation Representative(s) may designate a corresponding member to perform those duties during the period of unavailability.
- E. The Variance Board shall secure the assistance of the Nation Legal Department for legal counsel and representation in carrying out powers, duties and responsibilities authorized by these Standards, and shall not retain or engage outside legal counsel without prior written approval from the Nation's General Counsel.
- F. Any person may petition the Variance Board for relief under this part. The petition shall consist of an application on a form prescribed by the Nation's Legal Department and all information provided by the petitioner in support of it. The petition shall be delivered to the appropriate Nation Enforcement Officer together with four copies, and shall be accompanied by payment as specified by the Variance Board.
- G. A petition shall be deemed received only after the Chairperson of the Variance Board has determined that the information contained within it is minimally sufficient to state matters within the jurisdiction of the Variance Board. The Chairperson of the Variance Board shall review the petition to determine that it is complete. To be complete, the petition shall state the nature of the grievance and the relief sought in sufficient detail as would permit the Variance Board to make a determination on the basis of the information contained within the petition. Such detail shall include as appropriate architectural drawings, site plans, descriptions of buildings and their histories, and an explanation of facts supporting the criteria upon which the petitioner relies as a basis for relief. If complete, the Chairperson of the Variance Board shall transmit the petition and any materials responsive to the petition to the members of the Variance Board for a decision on the written record or for a decision after a hearing. If incomplete, the Chairperson of the Variance Board shall notify the applicant of the information required for completeness. If, after notice that the petition is incomplete, no additional information is forthcoming and the file has remained inactive for a period exceeding ninety (90) days, the Chairperson of the Variance Board may dismiss the matter for Neglect to Proceed, but without prejudice to any subsequent petition.

- H. A hearing shall be at the discretion of the Variance Board. If a hearing is to be held, the Variance Board shall provide notice thereof to the parties, such interested persons as the Variance Board shall have been able to determine, and any other persons who have requested the same. The Variance Board may regulate the course of the hearing, and require the presentation of evidence in such manner and order as may be most beneficial to the Variance Board.
- I. Whether or not a hearing is held and regardless of the form of evidence and manner of its presentation, the burden of proof shall be on the Petitioner to show that Petitioner is entitled to any relief. The Petitioner shall provide the Variance Board with facts which demonstrate the burden imposed by strict compliance and with facts as to the safety and propriety to any alternative to strict compliance.
- J. The decision of the Variance Board shall be reduced to writing, subscribed to by the Chairperson, and shall set forth the Variance Board's findings and conclusion and relief granted, if any. Petition shall be decided within sixty (60) days of completeness unless a longer period is needed for good cause showing. Copies of the written decision shall be provided to parties within a reasonable time after the determination. A copy shall be provided to the Nation's Legal Department.
- K. A routine case is one determined by the Chairperson of the Variance Board to involve de minimus variance or modification that does not substantially affect these Standards provision for land use, environmental protection, health, safety and security. If the Chairperson of the Variance Board determines to treat a case as a routine case under this Section, he or she, rather than the Variance Board, shall make the decision and shall consider the evidence offered, making findings of fact and conclusions of law and render its decision in writing. Unless objected to by the Petitioner or Respondent in a writing received by the Chairperson of the Variance Board, the decision shall become final after fifteen (15) days receipt of the decision by the parties. A decision shall be filed and distributed in the same manner as the decision of the Variance Board.
- L. An appeal of the denial of a variance by the Variance Board or the Chairperson of the Variance Board, as the case may be, shall be filed with the Court within ten (10) business days of receipt of the decision from the Variance Board or Chairperson of the Variance Board, as the case may be, in accordance with the Nation Rules of Appellate Procedure. The decision of the Court is final and no further appeal shall be allowed.

Section 5: Special Use Permit Review

- A. Intent. The intent of this section is to set forth additional requirements which shall apply to certain land uses and activities which, due to their characteristics, or the special characteristics of the area in which they are to be located, require special consideration so that they may be properly located and planned with respect to the objectives of this chapter and their effect on the surrounding properties and community character. The primary purpose of special use permit review is to ensure compatibility with the

surrounding neighborhood and to ensure the long-term benefit of the use to the Nation and the public.

- B. Special use permit procedure. All special use permit review and approval shall occur as a part of the site plan review. The Code Enforcement Officer shall issue a decision on an application for a special use permit in connection with the decision on an application for site plan approval for a project.
- C. The Code Enforcement Officer shall not issue a special use permit unless it makes a recorded finding that the proposed use will satisfy the standards set forth herein. In order to reach positive findings in support of the special use permit, the Code Enforcement Officer may require conditions on, and/or modifications to, the project. Such conditions must relate to the impact of the project. If the Code Enforcement Officer does not make a positive finding in support of the special use permit, it shall deny the special use permit. In issuance of such a denial, the record of the Code Enforcement Officer must address the standards outlined below and include the facts and reasons upon which such denial was based:
 - 1. Compatibility of the proposed use with the principles of the district and the purposes set forth in these Standards.
 - 2. Compatibility of the proposed use with adjoining properties and with the natural and man-made environment.
 - 3. Adequacy of parking, vehicular circulation and infrastructure for the proposed use, and its accessibility to fire, police, and emergency vehicles.
 - 4. The overall impact on the site and its surroundings, considering environmental, social and economic impacts of traffic, noise, dust, odors, release of harmful substances, solid waste disposal, glare, or any other nuisances.
 - 5. Restrictions and/or conditions on design of structures or operation of the use necessary either to ensure compatibility with the surrounding uses or to protect the natural or scenic resources of the Nation.
 - 6. Consistency of the location of the proposed use with the goal of creating a healthy mix of uses that enhances the commercial viability of the surrounding areas.
 - 7. Compatibility with the historic character and use of the structure or structures and the historic character of the site in the surrounding area
 - 8. Consistency with the requirements for site plan approval.

Section 6: Special Use Permit Expiration, Revocation, and Enforcement

- A. A special use permit shall be deemed to authorize only the particular special use or uses specified therein.

- B. A special use permit will expire if the applicant fails to obtain a building permit or fails to comply with the conditions of the special use permit (unless other provisions are set forth by the Code Enforcement Officer in connection with its approval) 18 months after approval.
- C. A special use permit will expire if the special use or uses shall cease for any reason for more than 24 consecutive months.
- D. A special use permit may be revoked by the Code Enforcement Officer if the conditions of the special use permit are violated.
- E. Any violation of the conditions of a special use permit or a violation of any applicable performance criteria of this chapter shall be deemed a violation of this chapter and shall be subject to enforcement action as provided herein.
- F. All special use permits shall run with the land and will be transferred to successive property users, provided the permit has not expired and it is not revoked for failure to meet the permit conditions.

Section 7: Violations

- A. Any person or corporation, whether as owner, lessee, agent or employee, who or which shall violate any of the provisions of these Standards or who or which fails to comply with any order or regulation made hereunder; or who or which erects, alters, moves or uses any building or uses any land in violation of any detailed statement of plans submitted and approved under the provisions of these Standards shall be in violation of these Standards.
- B. Any such person or corporation, whether as owner, lessee, agent or employee, who or which shall violate, disobey, omit, neglect, or refuse to act in compliance with any order or regulation shall be deemed in violation of a separate offense for each day of such violation. Where the person committing such violation is a partnership, association or corporation, the principal executive officer, partner, agent or manager may be considered to be the "person" for the purpose of this section. The Code Enforcement Officer shall have the authority to issue a citation to persons who are in violation of this chapter.

Section 8: Penalties for Offenses

A violation of these Standards is hereby declared to be an offense punishable by a fine not exceeding \$350 for a first offense. A second offense, both of which were committed within a period of five years, is punishable by a fine of not more than \$700. A third or subsequent offense, all of which were committed within a period of five years, is punishable by a fine of not more than \$1,000. Each week that a violation continues constitutes a separate offense.

Section 9: Restraint and Reparation

- A. In the event any building or structure is erected, constructed, reconstructed, altered, dismantled, converted or maintained, or any building, structure or land is used, or any land is divided into lots, blocks, or sites in violation of these Standards, or conditions imposed by a building or special use permit, the Nation, in addition to other remedies, may institute any appropriate action or proceedings to prevent such unlawful erection, construction, reconstruction, alteration, conversion, maintenance, occupancy, moving, use or division of land, to restrain, correct or abate such violation, to prevent the occupancy of said building, structure, or land or to prevent any illegal act, conduct, business or use in or about such lot.
- B. Additional penalties. In addition to any other remedies or penalties that may be imposed, a violation of this article shall entitle the Nation to remedy or repair the conditions constituting the violation, at the violator's expense, in order to bring the premises into conformity and compliance with this section. This provision shall be in addition to any other provisions, penalties or powers available to the Nation for enforcement of these Standards.

Section 10: Stop Work Order

- A. The Nation hereby grants the Code Enforcement Officer the administrative responsibility of immediately terminating any actions violating these Standards by posting a stop work order on the premises wherein the alleged violation has occurred.
- B. The stop-work order shall serve notice to the owner, builder, developer, agent and/or any other individual or business on the premises that all actions specified on the stop-work order must be terminated immediately.

Section 11: Misrepresentation

Any permit or approval granted under these Standards that is based upon or is granted in reliance upon any material misrepresentation, or failure to make a material fact or circumstance known, by or on behalf of an applicant, shall be void. This section shall not be construed to affect the remedies available to the Nation under these Standards.

Section 12: Complaints of Violations

Whenever a violation of these Standards is alleged to have occurred, any person may file a complaint in regard thereto. All such complaints shall be filed with the Code Enforcement Officer, who shall ensure that such complaints are properly investigated.

ARTICLE XX: Amendment of Standards

The Nation Representative(s), or a designee of the Nation Representative(s), shall have the authority to interpret and implement these Standards and to promulgate additional and/or amended standards, rules or administrative guidelines as the Nation Representative(s) or such other designee deems appropriate in order to carry out the purposes of these standards. Any such additional and/or amended standard, rule or administrative guideline submitted to the Nation Representative(s) for review and approval will automatically take effect thirty (30) days from the date of its submission unless the Nation Representative(s) informs the General Counsel, or such other designee, in writing, that such additional and/or amended standard, rule or administrative guideline has not been approved.

ARTICLE XXI: Definitions

Abuts; Abutting:

Having a common property line or zoning district line; adjoining; touching.

Accessory Structure:

A structure subordinate to a principal building and used in conjunction with and for purposes customarily incidental to those of the principal building or use.

Accessory Use:

A use customarily incidental and subordinate to the principal use or building and used in conjunction with such principal use or building.

Agriculture:

The production of agricultural products for compensation, including field crops, produce, horticulture, livestock, and dairy products. The term includes the sale of products grown on such land and the necessary buildings and accessory construction such as barns, silos, and fences which are a normal part of agriculture.

Alterations:

As applied to a building or structure, a change or rearrangement in the structural parts, such as bearing wall, columns, beams, or girders, or in the existing facilities or an enlargement, whether by extending on a side or by increasing in height or moving from one location to another.

Animal Day Care, Kennel, Shelter, Hospital or Veterinary Clinic:

A facility that cares for six or more pets or domesticated animals for training, breeding, boarding, grooming or harboring, whether or not for profit. This also includes a facility to diagnose and treat animal disease or disorders or prevent animal disease or disorders, and may include the incidental sheltering of treated animals.

Animal Harboring:

The keeping of five or more cats and/or dogs; or any number of horses, cattle, pigeons, fowl, rabbits, sheep, goats, pigs or other customary farm animals; or beehives; or animals customarily kept in zoos; or the keeping of any animals for sale or hire.

Bar:

An establishment used primarily for the serving of liquor by the drink to the general public and where food may be served or sold only as accessory to the principal use and where entertainment may be provided.

Buffer Strip:

A strip of land, generally adjacent to a property line, in which a screen of plantings is installed and maintained by the owner or occupier of the property.

Building:

A temporary or permanent structure permanently having a roof supported by walls or by columns and intended for the shelter, housing or enclosure of persons, animals or property.

Building, Accessory:

A building detached from, subordinate to, and whose use is incidental to, but consistent with that of the principal building on the same lot.

Building Front:

That side of any building facing a public roadway or shoreline as designated on any application for a permit by the applicant. A building can have more than one front.

Building Height:

The vertical dimension measured from the average elevation of the finished lot grade at the street side of the building to the highest point of the roof for flat roofs; to the deckline of a mansard roof; and to the average height between the plate and ridge of a gable, hip or gambrel roof.

Building Line:

The point from which all yard requirements are measured and which is determined by a line formed by the intersection of a horizontal plane of average grade level and a vertical plane that coincides with the exterior surface of a building on any side. In the case of a cantilevered section of a building, the vertical plane will coincide with the most projected surface.

Building, Principal

A building in which is conducted the main or primary use of the lot on which the building is located.

Categorically Excluded Activity

Means activities that have been determined not to have a Significant Effect on the Environment

Clinic, Health-Related

A building or portion thereof, the principal use of which is for the offices of one or more practitioners for medical, dental or optical examination and the treatment of persons on an outpatient basis; a medical office building.

Commercial or Business

Includes the purchase, sale or transaction involving the disposition of any article, substance, commodity or service, the maintenance or conduct of offices, professions or recreational or amusement enterprises conducted for profit and also includes the renting of rooms, business offices and sales display rooms and premises.

Contractor Yard

Any area used for the outdoor storage of construction equipment and/or heavy machinery.

Convalescent or Nursing Home

Any licensed establishment where aged or infirm persons are provided with shelter, food, and/or health care on a twenty-four-hour basis for compensation. Not included in this definition are establishments for the care of the mentally ill.

Convenience Store:

A retail store, intended to serve motorists and neighbors, generally providing a limited range of packaged food, beverage and other consumable household merchandise often associated with another principal use such as a gasoline service station.

Country Store

The purpose of a country store is to provide opportunities for agricultural enterprises to retail their products directly to consumers. Agricultural products grown or otherwise produced by the owner must constitute a substantial portion of all items sold at a country store. The sale of other related items of an agricultural or country nature is permitted to attract customers and promote the sale of the owner's agricultural products. Such related items include produce, plants, lawn and garden supplies, pet food, baked goods, ice cream, clothing items promoting the store and the like. Prohibited sales include vehicles, petroleum products, hardware, tobacco products, beer and liquor, non-promotional clothing, furniture, sporting goods, farm or garden machinery, and other items not related to and designed to promote the agricultural nature of the establishment. With the exception of serving food composed primarily of ingredients produced on the owner's farm, such facility shall not include an indoor restaurant.

Day-Care Facility

A licensed facility for the care and supervision of persons for less than 24 hours a day.

Dimensional Regulations

Zoning requirements related to such things as lot area and size, yard dimensions, heights, percentage of lot covered and standards other than land use.

Development

Any man-made change to improved or unimproved real estate, including but not limited to construction or alteration of buildings or other structures, as well as mining, grading, dredging, filling, paving, excavations or drilling operations.

Drive-through

An establishment that by design, physical facilities, service or by packaging procedures encourages or permits customers to receive services, obtain goods, or be entertained while remaining in their vehicles.

Drive-Through Use

An establishment that by design, physical facilities, service or by packaging procedures encourages or permits customers to receive services, obtain goods, or be entertained while remaining in their vehicles.

Driveway

A private way providing vehicular access from a public or private road to a residence or to a commercial or noncommercial establishment.

Dwelling, Single-Family

A detached building containing one dwelling unit only.

Dwelling, Multifamily

A single building on a single parcel of land consisting of two or more dwelling units.

Dwelling Unit

A building, or portion thereof, with provision for living, sanitary and sleeping facilities for one family or household.

Farm

A parcel or tract of land having an area of at least **five (5)** acres which is used for the production or raising of agricultural or dairy products.

Farm Stand

An incidental and subordinate activity of a farm, nursery or greenhouse involving a building or lot or portions of a building or lot used for the seasonal retail sale of agricultural products, and may include activities in which retail customers pick or select their own produce from the fields or growing areas. A farm stand sales area may be one or more noncontiguous spaces within a property and shall be greater than 100 square feet. A total sales area of 100 square feet or less does not constitute a farm stand.

Fence

A structure or partition consisting of wood or traditional and commonly accepted fencing materials erected for the purpose of partitioning or enclosing a piece of land or to divide a piece of land into distinct portions or to separate two contiguous estates.

Firewood

Seasoned cordwood, trunks and branches of trees and bushes, but does not include leaves, needles, vines or brush smaller than three inches in diameter.

Floor Area

The sum of the gross horizontal areas of the several floors of the building or buildings, measured from the exterior faces of exterior walls or from the center lines of walls separating two buildings.

Frontage, Building

The length of the outer surface of a building, including the outer and inner surface of windows thereon, which is parallel to, and closest to, a private or public street or highway.

Funeral Home

A building used for the preparation of the dead for services, burial, or cremation. Also known as a mortuary.

Gaming

Gaming means the types of gaming activities referenced in the Indian Gaming Regulatory Act, 25 U.S.C. § 2703(7), as Class III gaming activity, except that Casino Gaming shall not include: (i) charitable gaming conducted pursuant to N.Y. Const. art. I, § 9, cl. 2; (ii) pari-mutuel wagering on horse racing conducted pursuant to N.Y. Const. art. I, § 9, cl. 1; or (iii) the state lottery conducted pursuant to N.Y. Const. art. I, § 9, cl. 1. The foregoing exception for the state lottery shall not include Video Lottery Gaming Devices or Gaming Devices. For the purposes of these Standards, the use of the term Class III gaming activities refers to types of gaming activities, and it shall not matter whether or not such gaming activities are conducted by an Indian or an Indian tribe, within or outside of Indian country or under IGRA or on some other basis.

Glare

Spillover or artificial light beyond the area intended for illumination in a manner which either impairs vision or beams light onto adjoining properties or toward the sky.

Hotel/Motel

A building or structure used primarily for the furnishing of lodging and meals to transient guests, for compensation.

Special Hunting Preserve

An area used for hunting on a commercial basis, with access for hunting controlled by the proprietor. A hunting preserve is not a wildlife management area.

Industry or Industrial

Includes the storage, manufacture, preparation, processing or repair of any article, substance or commodity and the conduct of an industrial trade.

Junkyard

Any area used for accumulating and storage of unlicensed automobiles, machinery, scrap metal, junk, rubbish, scrap paper, or parts of buildings.

Landscape

Living or nonliving materials used to augment or accentuate the aesthetics or usability of an area. Landscape amenities may include, but are not limited to: vegetation, flower gardens, rain gardens, tables, sculptures, monuments, benches, banners, bollards, enhanced, textured or colored pavements, pedestrian areas, and planters.

Loading Area

An unobstructed, hard surfaced area, no part of which is located in any street or public right-of-way and the principal use of which is for the standing, loading or unloading of trucks and trailers.

Lot

A single and contiguous parcel of land considered as a unit, occupied or capable of being occupied by a principal building or use and accessory buildings or uses, or by a group of buildings and uses united by a common use.

Lot Area

The total area included within front, side and rear lot lines.

Lot, Corner

A parcel of land at the junction of and abutting two or more intersecting streets.

Lot Line

The boundary lines that bound a lot as defined herein.

Lot, Through

An interior lot having frontage on two parallel or approximately parallel streets.

Manufacturing/Industrial

The transformation of raw materials into finished goods for sale, or intermediate processes involving the production or finishing of semi-manufactures. It is usually accomplished by means of a large-scale industrial operation with the use of industrial machines.

Marina

A waterside property where multiple boats are stored and/or serviced, including boats not owned by the owner or the operator of the marina.

Motor Vehicle

Any vehicle propelled or drawn by power other than muscular power, originally intended or constructed to be for use on the public highways.

Motor Vehicle Service

The service or repair of motor vehicles.

Motor Vehicle Service Station

A structure or property used for dispensing or selling automobile fuels or oils.

Nation Environmental Manager or Environmental Manager

The individual with general supervision over the Nation's Department of Environmental Protection and the general responsibility for implementing the provisions of the Nation's Environmental Protection Ordinance.

Nation Environmental Review (NER)

The process required by these Standards to determine whether a project will have a Significant Effect on the Environment.

Nation Land

All land possessed by the Nation within the exterior boundaries of the Nation's Reservation (as defined in the Intergovernmental Agreement between the Nation, the State of New York, the County of Madison, and the County of Oneida, with an effective date of March 4, 2014), but not including (a) the 32 acres (more or less) of state tax-exempt land held to be tribal land retained by the Nation in *Boylan v. United States*, 256 F.165 (2d Cir. 1920), (b) the 104 acres (more or less) of state tax-exempt land retained by the Nation as Lots 2 and 3 in the June 25, 1842 Orchard Party treaty, or (c) land that has been transferred to the United States Department of Interior to be held in trust for the Nation.

Nonconforming Structure

A structure, including buildings, which does not satisfy the dimensional requirements of these Standards for the district in which it is located, but which was not in violation of applicable requirements when constructed.

Nonconforming Use

A building, structure or lot occupied by a use at the time of enactment of these Standards or any amendment which does not conform with the Standards applicable in the district in which it is located.

Office

A use that is devoted exclusively to business, nonprofit or professional services.

Outdoor Furnace

Any equipment, device or apparatus, or any part thereof, which is installed affixed or situated outdoors for the primary purpose of combustion to produce heat or energy used as a component of a heating system providing heat for any interior space or to transfer heat via liquid to indoor spaces.

Outdoor Storage

Storage of any materials, merchandise, stock, supplies, machines and the like that are not kept in a structure having at least four walls and a roof, regardless of how long such materials are kept on the premises. "Outdoor storage" shall not include junk and salvage yards, auto wrecking yards or the like.

Parking Area

Any land area used or intended to be used for the temporary parking of licensed motor vehicles.

Parking Space

The net area needed for parking one automobile.

Personal Services Use

A business where personal services such as a dry cleaning, laundry, barber or beauty shop, tailor, health spa, shoe repair and similar activities are offered to the public for profit.

Premises

A lot, together with all the structures and uses thereon.

Principal Building

A building or buildings in which is conducted the main or principal use of the lot on which said building is situated.

Principal Use

The main purpose for which a building or lot is to be used.

Public

means the enrolled members of the Nation in good standing.

Public Utilities

Distribution points, transmission stations, substations, storage yards, garages and other central building and/or related uses for the operation and provision of public and semipublic natural gas, electrical and telephone service licensed by the Public Service Commission.

Restaurant

A building wherein food or beverages are available for on-site consumption whether or not this constitutes the principal use.

Retail

A business or commercial activity involving primarily the sale of merchandise or stock-in-trade to the public, which business or commercial activity shall be conducted from within a permanently situated building.

Right-Of-Way Line

The line determining the limit of ownership of land or rights for purposes such as streets and highways, utilities, easements and other necessary access or egress.

Road, Street

A public or private way for pedestrian and vehicular traffic, including an avenue, lane, highway or other way, and excluding a driveway or common driveway.

Screen, Screening

The location of objects or structures in such a manner that they are not visible from a public road or any other public place during the summer months and no more than partially visible in winter. Objects or structures may be screened by topography, vegetation or other permitted structures not required to be screened.

Senior Housing

Living accommodations designed for and restricted to individuals who are aged and where specific age limits are prescribed.

Setback

The distance in feet from a property line to a structure on a lot.

Shopping Center

A group of commercial, retail and service establishments planned, designed, constructed and managed as a total entity, with customer and employee parking on-site, and separate loading facilities.

Significant Effect on the Environment mean

Substantial adverse change in the environment, including land, water, minerals, flora, fauna, ambient noise, cultural areas, and objects or areas of historic, cultural, or aesthetic significance.

Stable

An accessory building where horses and/or donkeys are kept.

Street Line

The deeded right-of-way of any public or private street.

Structure

A combination of materials which form an object constructed, installed, erected or permanently placed above or below the surface of the land or water.

Story

That portion of a building included between the surface of any floor and the surface of the floor next above it, or if there is no floor above it, then the space between any floor and the ceiling next above it.

Theater

A building or part of a building devoted to showing motion pictures, or for dramatic, musical or live performances, which may include dinner theaters.

Transmission Towers

Any tower used for transmitting or retransmitting of radio, television, cellular telephone, telecommunications, common carriers, two-way radio, fixed-point microwave or any other signal.

Untreated Lumber

Dry wood which has been milled and dried but which has not been treated or combined with any petroleum product, chemical, preservative, glue, adhesive, stain, paint or other substance.

Use

The purpose for which any premises may be arranged, designed, intended, maintained or occupied, or any occupation, activity or operation conducted or intended to be conducted on a premises.

Use, Accessory

A use customarily incidental and subordinate to the principal use of any premises and consistent in use with the permitted principal use.

Use Principal

The main or primary purpose or activity conducted on any premises.

Warehouse

A structure or structures in which materials, goods, or equipment are stored.

Wildlife Management Areas

Lands primarily intended for the preservation of wildlife habitat, the unrestrained propagation of wildlife, the enjoyment of wildlife, and the pursuit of traditional hunting and fishing within a natural and unrestrained environment.

Wind Energy Conversion Systems: A machine that converts the kinetic energy in the wind in a usable form (commonly known as a "wind turbine" or "windmill"). The wind energy conversion system or "WECS" includes all parts of the system.

Yard

An open, unoccupied space on the same lot with a building or structure.

Yard, Front

An open space extending across the full width of a lot between the front building line and the street line.

Yard, Rear

An open space extending across the full width of a lot between the rear lot line and the rear of the principal building or structure nearest the rear lot line.

Yard, Required

That portion of any yard required to satisfy minimum yard setbacks. No part of such yard can be included as part of a yard required for structures on another lot.

Yard, Side

An open space on the same lot with a principal building or structure between the principal building or structure and the side line of a lot and extending from the front yard to the rear yard.
