

**HO-CHUNK NATION CODE (HCC)
TITLE 8 – HOUSING, REAL ESTATE AND PROPERTY CODE
SECTION 4 –ZONING & LAND USE ORDINANCE**

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**CHAPTER I
INTRODUCTION**

1. AUTHORITY.

- a. The Ho-Chunk Nation (“Nation”) is a federally recognized Indian Tribe, organized pursuant to the Indian Reorganization Act of 1934.
- b. The Legislature of the Ho-Chunk Nation (“Legislature”) is the duly constituted governing body of the Nation pursuant to the Constitution of the Nation.
- c. Article V, Section 2(a) of the Ho-Chunk Nation Constitution (“Constitution”) grants the Legislature the power to make laws, including codes, ordinances, resolutions, and statutes.
- d. Article V, Section 2(b) of the Constitution authorizes the Legislature to establish Executive Departments, and to delegate legislative powers to the Executive Branch to be administered by such Departments, in accordance with law; any Department established by the Legislature shall be administered by the Executive; the Legislature reserves the power to review any action taken by virtue of such delegate powers.
- e. Article V, Section 2(h) of the Constitution grants the Legislature the power to enact all laws prohibiting and regulating conduct, and imposing penalties upon all persons within the jurisdiction of the Nation.
- f. Article V, Section 2(l) of the Constitution grants the Legislature the power to enact laws to manage, lease, permit, or otherwise deal with the Nation’s lands, interests in lands or other assets.

- g. Article V, Section 2(o) of the Constitution grants the Legislature the power to enact laws to regulate and zone any lands within the jurisdiction of the Ho-Chunk Nation.
 - h. Article V, Section 2(r) of the Constitution grants the Legislature the power to protect and foster Ho-Chunk religious freedom, culture, language, and traditions.
 - i. Article V, Section 2(t) of the Constitution grants the Legislature the power to enact laws governing law enforcement on lands within the jurisdiction of the Nation.
 - j. Article V, Section 2(w) of the Constitution grants the Legislature the power to enact laws to regulate hunting, fishing, trapping, recreation and all other related activities on lands within the Nation's jurisdiction.
 - k. Article VI, Section 2(a) of the Constitution provides that the President shall have the power to administer all Departments, boards, and committees created by the Legislature.
 - l. Article VI, Section 2(d) of the Constitution provides that the President shall have the power to administer all Departments, boards, committees created by the Legislature.
 - m. Article VII, Section, Section 5(a) of the Constitution grants the Trial Court original jurisdiction over all cases and controversies, both criminal and civil, in law or equity arising under the Constitution, laws, customs, and traditions of the Ho-Chunk Nation.
 - n. The Ho-Chunk Traditional Court is empowered to resolve matters, provide leadership and make recommendations on issues unique to Tribal customs and traditions.
 - o. The Constitution reserves to the Legislature the power of oversight, but daily operations and management is the responsibility of the Executive Branch, so long as the actions of the executive departments are not contrary to the laws created by the Legislature.
 - p. The Legislature on behalf of the Nation directed the delegation of the power of administration over Ho-Chunk Lands to the Ho-Chunk Nation Department of Heritage Preservation and the Ho-Chunk Nation Division of Natural Resources in Ho-Chunk Resolution 11-20-01B.
2. **PURPOSE.** The purpose of this Ordinance is to promote the health, safety and general welfare of the Ho-Chunk Nation.

- 3. INTENT.** It is the general intent of this Ordinance to regulate and control the use of all structures and lands, regulate and restrict lots, population distribution and density, and the size and location of all structures so as to lessen congestion in and promote the safety and efficiency of the streets and highways; secure safety from fire, flooding, panic and other dangers; provide adequate light, air sanitation and drainage; prevent overcrowding; avoid undue population concentration; facilitate the adequate provision of public facilities and utilities; stabilize and protect property values; further the appropriate use of land and conservation of natural resources; preserve and promote the beauty of the Nation; preserve and protect the cultural property of the Nation; and implement the Nation's comprehensive plan or plan components. It is further intended to provide for the administration and enforcement of this Ordinance and to provide penalties for its violation.
- 4. ABROGATION AND GREATER RESTRICTIONS.** It is not intended by this Ordinance to repeal, abrogate, annul, impair or interfere with the express terms of any existing easements, covenants, deed restrictions, agreements, Ordinances, rules, regulations or permits previously adopted or issued pursuant to the laws of the Ho-Chunk Nation or Department of Interior. However; wherever this Ordinance imposes general restrictions, the provisions of this Ordinance shall govern.
- 5. INTERPRETATION.** Interpretation and application of the provisions of this Ordinance shall be minimum general requirements and shall be liberally construed in favor of the Ho-Chunk Nation and shall not be deemed a limitation or repeal of any other power granted by the Ho-Chunk Nation Legislature.
- 6. SEVERABILITY.** If any section, clause, provision or portion of this Ordinance is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Ordinance shall not be affected thereby.
- 7. REPEAL.** All other Ordinances or parts of Ordinances of the Nation inconsistent or conflicting with this Ordinance to the extent of inconsistency only are hereby repealed.
- 8. TITLE.** This Ordinance shall be known as, referred to or cited as the "Zoning Ordinance, Ho-Chunk Nation."
- 9. EFFECTIVE DATE.** This Ordinance, upon adoption by the Ho-Chunk Nation Legislature shall be effective on Ho-Chunk Nation trust and allotted lands when approved by the Land Development Team and when a certified copy of the approving resolution is filed with the Ho-Chunk Nation Register of Deeds.
- 10. DEFINITIONS.** For the purpose of this Ordinance, the following definitions shall be used. Words used in the present tense include the future; the singular number includes the plural number; and the plural number includes the singular number. The word "shall" is mandatory and not directory in nature.

- a. "ACCESSORY USE OR STRUCTURE" means a use or detached structure subordinate to the principal use of a structure, land or water and located on the same lot or parcel serving a purpose customarily incidental to the principal use of the principal structure.
- b. "AIRCRAFT" means a machine or device capable of atmospheric flight.
- c. "AIRPORT" means a cleared and leveled area where aircraft can take off and land, usually having hard surfaced landing strips, a control tower, hangars, passenger terminals, and accommodations for cargo.
- d. "ALLEY" means a special public right-of-way affording only secondary access to abutting properties.
- e. "ALLOTMENT" means lands held in trust for individual Indians by the United States Department of Interior.
- f. "ANTENNA" means any device or equipment used for the transmission or reception of electromagnetic waves, which may include omni-directional antenna (rod), directional antenna (panel) or parabolic antenna (disc).
- g. "APPROVED" means acceptable to the Land Development Team, based on its determination as to conformance with this Ordinance and good public health practices.
- h. "ARTERIAL STREET" means a public street or highway used or intended to be used primarily for fast or heavy through traffic. Arterial streets and highways shall include freeways and expressways as well as arterial streets, highways and parkways.
- i. "BASEMENT" means that portion of any structure located partly below the average adjoining lot grade.
- j. "BOARDING HOUSE" means a building other than a hotel or restaurant where meals or lodging are regularly furnished by prearrangement for compensation for 4 or more persons not members of a family, but not exceeding 12 persons and not open to transient customers.
- k. "BUFFER ZONE" means a land area situated between surrounding land uses and property that is used for the purpose of preservation and protection of fishing; hunting; cultural property; historic, scenic, and scientific areas; public fish hatcheries; soil and water conservation; sustained yield forestry; stream bank and lakeshore protection; water retention; floodplain; wildlife preserves; and public parks and campgrounds.

- l. "BUILDING" means any structure having a roof supported by columns or walls used or intended to be used for the shelter or enclosure of persons, animals, equipment, machinery or materials.
- m. "BUILDING AREA" means the total living area bounded by the exterior walls of a building at the floor level, but not including basements, utility rooms, garages, porches, breezeways and unfinished attics.
- n. "BUILDING HEIGHT" means the vertical distance measured from the mean elevation of the finished lot grade along the street yard face of the structure to the highest point of flat roofs; to the mean height level between the eaves and ridges of gable, gambrel, hip and pitch roofs; or to the deck line of mansard roofs.
- o. "BUSINESS" means the occupation, work or trade in which an individual or group of individuals are engaged.
- p. "CENTERLINE" means a line equidistant from the edges of the median separating the main traveled ways of an existing or planned divided road or highway or the centerline of the main traveled way of an undivided road or highway.
- q. "CHARITABLE INSTITUTION" means an organization that is described in Section 501 (c) (3) of the Internal Revenue Code and that is exempt from taxation under Section 501 (a) of the Internal Revenue Code.
- r. "CLINIC" means a health care facility in which physicians examine and treat patients.
- s. "CLOTHING REPAIR SHOP" means a shop where clothing is repaired, such as shoe shops, seamstress or tailor shops, shoe shine shops, clothes pressing shops, but none employing over 5 persons.
- t. "CLOTHING STORES" means retail stores where clothing is sold, such as department stores, dry goods and shoe stores, dress, hosiery and millinery shops.
- u. "COLLEGE" means a school of higher learning that grants the bachelor's or associate's degree or both.
- v. "COMMERCIAL" means designated products, often unrefined, made and distributed in large quantities for industrial or retail use.
- w. "COMMERCIAL BUILDING" means buildings designed and built for use other than residential and agriculture.
- x. "COMMUNICATION TOWER" or "CELLULAR TOWER" means any structure that is designed and constructed primarily for the purpose of supporting one or

- more antennas, including guy towers, monopole towers and self-supporting lattice towers.
- y. “CONDITIONAL USES” means uses of a special nature as to make impractical their predetermination as a principal use in a district.
 - z. “CORNER LOT” means a lot abutting 2 or more streets at their intersection provided that the corner of such intersection shall have an angle of 135 degrees or less, measured on the lot side.
 - aa. “CORRECTIONAL INSTITUTE” means an institution that confines individuals convicted of crimes.
 - bb. “CULTURAL PROPERTY” means property used as sites of cultural significance for religious observance by Ho-Chunk Nation members, including curtilage and areas used for gathering and harvesting of materials used for traditional practices, in addition to all areas recognized by other laws as cultural property or sacred sites.
 - cc. “CURTILAGE” means the land immediately surrounding a dwelling, structure, or ceremonially site that is habitually used for family or traditional purposes.
 - dd. “DIRECTORY SIGN” means a sign which displays the name of a person, home, farm, community, area or kind of business or service at a specific location more conspicuously than all general brands, trade names, products or services.
 - ee. “DRIVEWAY” means a private road connecting a building, as a house or garage, with the street.
 - ff. “DWELLING” means a detached building designed or used exclusively as a residence or sleeping place, but does not include boarding or lodging houses, motels, hotels, tents, cabins or mobile homes.
 - gg. “EMERGENCY SHELTER” means a public or private enclosures designed to protect people from aerial, radiological, biological or chemical warfare, fire, flood, windstorm, riots and invasions.
 - hh. “END OF TAPER” means the point of intersection between the outer edges of the ramp pavement and the mainline pavement.
 - ii. “ESSENTIAL SERVICES” means services provided by public and private utilities necessary for the exercise of the principal use or service of the principal structure. These services include underground, surface or overhead gas, electrical, steam, water, sanitary sewerage, storm water drainage and communication systems and accessories, thereto; such as poles, towers, wires, mains, drains, vaults, culverts, laterals, sewers, pipes, catch basins, water storage tanks, conduits,

- cables, fire alarm boxes, police call boxes, traffic signals, pumps, lift stations and hydrants, but not including buildings.
- jj. “EXPRESSWAY” means a divided arterial street or highway with full or partial control of access and with or without grade separated intersections.
- kk. “FAMILY” means all of the customary family relationships recognized by the laws of the Nation, including extended family relationships recognized by Tradition and Custom. Immediate family is defined as parent, grandparent, sibling, child, step relative, spouse, or cohabitant.
- ll. “FEE SIMPLE” means land subject to taxation but that are outside the boundaries of Ho-Chunk Nation trust lands.
- mm. “FREEWAY” means an expressway with full control of access and with fully grade separated intersections.
- nn. “FRONTAGE” means the smallest dimension of a lot abutting a public street measured along the street line.
- oo. “GIFT STORES” means retail stores where items such as art, antiques, jewelry, books and notions are sold.
- pp. “HARDWARE STORES” means retail stores where items such as plumbing, heating and electrical supplies, sporting goods and paints are sold.
- qq. “HIGHWAY” means a main public road, especially one connecting towns and cities.
- rr. “HO-CHUNK LANDS” means all lands held in trust for the Ho-Chunk Nation by the United States, including all additions to such trust lands holdings from time to time, and all allotted trust and restricted lands of which a majority in interest of the allotted are members of the Ho-Chunk Nation.
- ss. “HOME-BASED BUSINESS” means any occupation for gain or support conducted entirely within buildings by resident occupants, which is customarily incidental to the principal use of the premises, does not exceed 25% of the area of any floor, uses only household equipment and no stock in trade is kept or sold except that made on the premises. A household occupation may include, but is not limited to, baby-sitting, millinery, dressmaking, canning, laundering and crafts, but does not include the display of any goods, nor such occupations as barbering, beauty shops, dance schools, real estate brokerage or photographic studios.
- tt. “HOSPITAL” means an institution providing medical or surgical care and treatment for the sick and injured.

- uu. “HOTEL” means an establishment that provides lodging and usually meals, entertainment, and various personal services for the public.
- vv. “INDUSTRY” The commercial production and sale of goods and services.
- ww. “INTERCHANGE” means a grade separated intersection on a State trunk highway with one or more turning roadways for travel between intersection legs.
- xx. “INTERSECTING HIGHWAY” means a highway of any political jurisdiction, which forms one or more legs of an interchange and to which access is not fully controlled.
- yy. “JURISDICTION” as established by the Constitution of the Ho-Chunk Nation, the Ho-Chunk Nation Code, and applicable federal law, means the provisions of this Ordinance shall apply to all lands held in trust for the Ho-Chunk Nation by the United States, including all additions to such trust lands holdings, all heirship lands, and all allotted trust and restricted lands where majority of beneficial owners are members of the Ho-Chunk Nation.
- zz. “LAND DEVELOPMENT TEAM” means the entity charged with providing independent regulatory authority, oversight, and enforcement of the real property of the Nation and its members under the Nation’s laws.
- aaa. “LAND USE PERMIT/ ZONING PERMIT” means the required permit issued by the Ho-Chunk Nation Land Development Team for any regulated building activity or land use.
- bbb. “LIVING ROOMS” means all rooms within a dwelling, except closets, foyers, storage areas, utility rooms and bathrooms.
- ccc. “LOADING AREA” means a completely off-street space or berth on the same lot for the loading or unloading of freight carriers having adequate ingress and egress to a public street or alley.
- ddd. “LOT” means a parcel of land having frontage on a public street, occupied or intended to be occupied by a principal structure or use and sufficient in size to meet the lot width, lot frontage, lot area, yard, parking area and other open space provisions of this Ordinance. For this Ordinance, the following applies:
 - 1) If a lot is divided by a section or forty lines, for the purpose of this Ordinance, it will be considered as one lot.
- eee. “LOT LINES AND AREA” means the peripheral boundaries of a parcel of land on the total area lying within such boundaries.

- fff. "LOT WIDTH" means the width of a parcel of land measured at the rear of the specified street yard.
- ggg. "MACHINE SHOPS" means shops where lathes, presses, grinders, shapers and other wood and metal working machines are used, such as blacksmith, tinsmith, welding and sheet metal shops, plumbing, heating and electrical repair and overhaul shops.
- hhh. "MANUFACTURED HOME" means a manufactured or mobile home structure Certified and Labeled as a Manufactured Home under 42 U.S.C. Section 5401 to 5426 which, when placed on the site:
- 1) Conforms to the HUD code.
 - 2) Is properly connected to all utilities.
 - 3) Has the tongue and wheel apparatus removed.
- iii. "MINOR STRUCTURES" means any small, movable accessory erection or construction, such as birdhouses, tool houses, pet houses, play equipment, arbors and walls and fences less than 4' in height.
- jjj. "MODULAR HOME" means a factory-built home that does not rest on a steel chassis and is delivered to the site and assembled on a fixed foundation.
- kkk. "MOTEL" means an establishment which provides lodging and parking and in which the rooms are usually accessible from an outdoor parking area.
- lll. "NATION" means the Ho-Chunk Nation of Wisconsin
- mmm. "NONCONFORMING USES OR STRUCTURES" means any structure, land or water lawfully used, occupied or erected at the time of the effective date of this Ordinance or amendments thereto, which does not conform to the regulations of this Ordinance or amendments thereto. Any such structure conforming in respect to use, but not in respect to frontage, width, height, area, yard, parking, loading or distance requirements, shall be considered a nonconforming structure and not a nonconforming use.
- nnn. "PARCEL" means a portion or plot of land usually a division of a larger area.
- ooo. "PARKING LOT" means a structure or premises containing 10 or more parking spaces open to the public.
- ppp. "PARKING SPACE" means a graded and surfaced area of not less than 280 sq. ft. in area either enclosed or open for the parking of a motor vehicle having adequate ingress and egress to a public street or alley.

- qqq. "PARTIES IN INTEREST" means all abutting property owners, all property owners within 100' and all property owners of opposite frontages.
- rrr. "PERSON" means any individual, firm, trust, partnership, association or corporation.
- sss. "PRIVATE SCHOOL" means a secondary or elementary school run and supported by private individuals or a corporation instead of by a government or public agency.
- ttt. "PROFESSIONAL HOME OFFICES" means residences of doctors of medicine, practitioners, dentists, clergymen, architects, landscape architects, professional engineers, registered land surveyors, lawyers, artists, teachers, authors, musicians or other recognized professions used to conduct their professions where the office does not exceed 1/2 the area of only one floor of the residence and only one nonresident person is employed.
- uuu. "PROTECTIVE COVENANT" means a binding agreement or formal contract made by two or more individuals to keep from harm, loss or injury of property.
- vvv. "PUBLIC SCHOOL" means an elementary or secondary school supported by public funds and providing free education for children of a community or district.
- www. "REAR YARD" means a yard extending across the full width of the lot, the depth of which shall be the minimum horizontal distance between the rear lot line and a line parallel thereto through the nearest point of the principal structure. This yard shall be opposite the street yard or one of the street yards on a corner lot.
- xxx. "RELIGIOUS SITE" means a location of particular significance for Ho-Chunk members to practice their religious or spiritual beliefs.
- yyy. "RESIDENCE" means a dwelling in which one lives.
- zzz. "RESORT" means a place providing recreation and entertainment to vacationers.
- aaaa. "RETAIL" means the sale of goods in small quantities to consumers.
- bbbb. "RURAL RETAIL" includes, but is not limited to, the production and processing of items including but not limited to: baked goods, quilting, crafts, flooring production, furniture making, sawmilling, and produce stands.

- cccc. "SIDE YARD" means a yard extending from the street yard to the rear yard of the lot, the width of which shall be the minimum horizontal distance between the side lot line and a line parallel thereto through the nearest point of the principal street.
- dddd. "SIGNS" means any words, letters, figures, numerals, phrases, sentences, emblems, devices, designs, trade names or trademarks by which anything is made known and which are used to advertise or promote an individual, firm, association, corporation, profession, business, commodity or product and which is visible from any public street or highway.
- eeee. "SPACE" means a plot of ground within a mobile home park designed for the accommodation of one unit.
- ffff. "STREET" means a public right-of-way not less than 50' wide providing primary access to abutting properties.
- gggg. "STREET YARD" means a yard extending across the full width of the lot, the depth of which shall be the minimum horizontal distance between the setback line and a line parallel thereto through the nearest point of the principal structure. Corner lots shall have 2 such yards.
- hhhh. "STRUCTURAL ALTERATIONS" means any change in the supporting members of a structure, such as foundations, bearing walls, columns, beams or girders.
- iiii. "STRUCTURE" means any erection or construction such as buildings, towers, masts, poles, booms, signs, decorations, carports, machinery and equipment.
- jjjj. "SUBDIVISION" means the governmentally approved division of a tract of land into smaller parcels using ordinary and legally recognized methods for surveying and platting land and publicly recording the results.
- kkkk. "SUBSTANDARD LOT" means a parcel deviating from the norm that has a quality lower than that prescribed by the minimum requirements set forth by law.
- llll. "TRAVEL TRAILER" or "CAMPING UNIT" means any portable device used as a temporary dwelling, including but not limited to a camping trailer, motor home, bus, van, pick-up truck or tent.
- mmmm. "TRUST LAND" means lands or interests within the jurisdiction of the Ho-Chunk Nation, title to which is held by the United States in trust for the Nation or an individual, or which is held by the Ho-Chunk Nation or individual subject to a restriction by the United States against alienation.

- nenn. “TURNING LANES” means an existing or proposed connecting roadway between 2 arterial streets or between an arterial street and any other street. Turning lanes include grade separated interchange ramps.
- oooo. “UNIVERSITY” means an institution of higher learning having facilities for teaching and research and comprising an undergraduate division that awards bachelor’s degrees and graduate and professional schools that award master’s degrees and doctorates.
- pppp. “UNIT” means a separate structure designed to be an individual living facility and is either a mobile home or a manufactured home.
- qqqq. “UTILITIES” means public and private facilities, such as water wells, water and sewage pumping stations, water storage tanks, power and communication transmission lines, electrical power substations, static transformer stations, telephone and telegraph exchanges, microwave radio relays and gas regulation stations, but not including sewage disposal plants, municipal incinerators, warehouses, shops and storage yards.
- rrrr. “WASTE” means a worthless or useless by-product.
- ssss. “YARD” means an open space on the same lot with a structure unoccupied and unobstructed from the ground upward except for vegetation. The street and rear yards extend the full width of the lot.

CHAPTER II GENERAL PROVISIONS

- 11. JURISDICTION.** The jurisdiction of this Ordinance shall include all lands held in trust for the Ho-Chunk Nation by the United States, including all additions to such trust lands holdings, all heirship lands, and all allotted trust and restricted lands where majority of beneficial owners are members of the Ho-Chunk Nation.
- 12. COMPLIANCE.** No structure or land shall hereafter be used and no structure or part thereof shall hereafter be located, erected, moved, reconstructed, extended, enlarged, converted or structurally altered without full compliance with the provisions of this Ordinance and all other applicable Ho-Chunk Nation, local, state, and federal regulations.
- 13. ZONING PERMIT.** A Zoning Permit (Land Use Permit) shall be required for all structures except for those in Sub (c).
 - a. Applications for a zoning permit shall be made in duplicate to the Planning Administrator on forms furnished by the Planning Administrator and shall include the following where applicable:

- 1) Names and address of the applicant, owner of the site, architect, professional engineer or contractor.
 - 2) Description of the subject site by lot, block and recorded subdivision or by metes and bounds; address of the subject site; type of structure; existing and proposed operation or use of the structure or site; number of employees; and the zoning district within which the subject site lies.
 - 3) Plat of survey prepared by a registered land surveyor showing the location, boundaries, dimensions, elevations, uses and size of the subject site; existing and proposed structures; existing and proposed easements, streets and other public ways; off-street parking, loading areas and driveways; existing highway access restrictions; and existing and proposed street, side and rear yards. In addition, the plat of survey shall show the location, elevation and the use of any abutting lands and their structures within 40' of the subject site.
 - 4) When municipal sewerage service is not available, the petitioner shall provide a statement from a licensed contractor that shall certify in writing that satisfactory, adequate and safe water and sewage disposal is possible on the site in accordance with applicable Nation, local, state, and federal regulations.
 - 5) Additional information as may be required by the appropriate body of the Land Development Team.
- b. A zoning permit shall be granted or denied in writing by the Planning Administrator within 30 days. The permit shall expire within 6 months unless substantial work has commenced. Any permit issued in conflict with the provisions of this Ordinance shall be null and void.
- 1) The fee for the Land Use Permit is established by the Land Development Team and can be amended from time to time.
 - 2) The appropriate Ho-Chunk Nation staff shall have access to property during reasonable business hours for the purpose of performing on-site verifications for the issuance of the Land Use Permit.
- c. A zoning permit shall not be required.
- 1) For any accessory building which is 125 sq. feet or less in size.

14. SITE RESTRICTIONS. No land shall be used or structure erected where the land is held unsuitable for such use or structure by the Land Development Team by reason of flooding, concentrated runoff, inadequate drainage, adverse soil or rock formation, unfavorable topography, low percolation rate or bearing strength, erosion susceptibility or any other feature likely to be harmful to the health, safety, prosperity,

aesthetics and general welfare of the Nation. The Land Development in applying the provisions of this section shall in writing recite the particular facts upon which it bases its conclusion that the land is not suitable for certain uses. The applicant shall have an opportunity to present evidence contesting such unsuitability if she/he so desires. Thereafter, the Land Development Team may affirm, modify or withdraw its determination of unsuitability.

- a. All lots shall abut upon a public street and shall have a minimum street frontage as stated in the Zoning Ordinance, except for Substandard Lots and in the section of Performance Standards under Compliance.
- b. All principal structures shall be located on a lot and only one principal structure shall be located, erected or moved onto a lot.
- c. No zoning permit shall be issued for a lot, which abuts a public street, dedicated to only a portion of its proposed width and located on that side thereof from which the required dedication has not been secured.
- d. In any district where public sewerage service is not available, all lots shall be sufficient to permit the use of an on-site sewage disposal system designed in accordance with Chapter SPS 383, Wisconsin Administrative Code.
- e. Lots abutting more restrictive district boundaries shall provide side and rear yards not less than those required in the more restrictive abutting district. The street yards on the less restrictive district shall be modified for a distance of not more than 60' from the district boundary line so as to equal the average of the street yards required in both districts.

15. USE RESTRICTIONS. The following use restrictions and regulations shall apply:

- a. **PRINCIPAL USES.** Only those principal uses specified for a district, their essential services and the uses provided for in subs. (b.) through (f.) shall be permitted in that district.
- b. **ACCESSORY USES AND STRUCTURES.** Accessory uses and structures are permitted in any district, but not until their principal structure is present or under construction. Residential accessory uses shall not involve the conduct of any business, trade or industry. Accessory uses include incidental repairs; storage; parking facilities; gardening; agricultural laborer's quarters; private swimming pools and private emergency shelters.
- c. **CONDITIONAL USES.** Conditional uses and their accessory uses are considered as special uses requiring review, public hearing and approval by the Land Development Team. Any development within 660' of the existing or proposed rights-of-way of freeways, expressways, interstate and controlled access traffic ways and within 1,500' of their existing or proposed interchange or turning lane

rights-of-way shall be deemed to be to be conditional uses. Such development shall be specifically reviewed and approved by the Land Development Team as provided in the Conditional Use section of this Ordinance.

- d. Conditional uses approved for accessory structures not meeting all terms of this Ordinance are approved for a maximum of two (2) years. Reapplication is required, if all terms of this Ordinance are not met after the initial two year period.
- e. UNCLASSIFIED OR UNSPECIFIED USES. Unclassified or unspecified uses may be permitted by the Land Development Team after a Public Hearing has been held, provided that such uses are similar in character to the principal uses permitted in the district and are not prohibited.
- f. TEMPORARY USES. Temporary uses, such as real estate sales field offices or shelters for materials and equipment being used in the construction of a permanent structure, may be permitted by the Land Development Team.
- g. PERFORMANCE STANDARDS. The section on Performance Standards shall be complied with by all uses in all districts.

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

- a. Application.
 - 1) The applicant shall present a statement and adequate evidence, in such form as the Land Development Team may require, showing that:
 - i. There are special circumstances or conditions applying to the land, building, or use referred to in the application; and that due to these special practical difficulty or unnecessary hardship.
 - ii. The granting of the variance is necessary for the preservation and enjoyment of substantial property rights.
 - iii. The granting of the variance will neither materially nor adversely affect the health or safety of persons residing or working in the neighborhood of the proposed use and will not be materially detrimental to the public welfare or injurious to property or improvements in the neighborhood.

- iv. The granting of the variance will neither materially nor adversely affect any cultural property of the Nation. The Land Development Team shall require that the applicant submit additional materials, including any effects of the proposed use upon any neighboring Resource Conservancy District.
- b. A variance may only be issued subsequent to notification to neighbors located within one thousand two hundred (1,200) feet of the outer boundaries of the property and the approval of the Land Development Team. The notification shall be mailed to all applicable neighbors and shall include the time, place and date when the Land Development Team will determine whether to approve the variance.
- c. A variance shall be applicable solely to the project described or the issue in question and shall not amend this law nor establish precedence for lesser restrictions. Where a variance does not continue in conformity with the conditions of the original approval, the variance shall be terminated by the Land Development Team.
- d. Approval of variances from the terms of this law shall not be in conflict with the public interest.
- e. The Land Development Team may attach conditions to variances to further the purposes of this law. These conditions would be in addition to those required elsewhere in this law. Non-conformance with any of these conditions shall be deemed a non-conformance with the provisions of this law.
- f. The determination of the Land Development Team on each variance shall be based on the effect of the proposed project with respect to the spirit of this law. The Land Development Team shall state in writing the grounds for refusing a variance. In every case where a variance from the regulations of this law has been granted by the Land Development Team, the minutes of the Land Development Team shall affirmatively show that an unnecessary hardship exists, and the records of the Land Development Team shall clearly show in what particular and specific respects an unnecessary hardship is created. In addition, the record shall show any recommendations made by parties of interest. Variances shall only be granted when strict conformity with the regulations of this law are unnecessarily burdensome or unreasonable in light of the special circumstances of a specific location or use, and of the purposes and intent of this law.
- g. Separate variances shall not be required for the same project if such a project involves two (2) or more elements which require variances. However, before a variance may be granted, all elements for which variances are requested shall be addressed. If a variance(s) and a permit(s) are required for the same project, only the variance need be issued. However, all elements for each request shall be addressed.

- h. In all cases in which variances are granted under the provisions of this section, the Land Development Team shall require such evidence and guarantee as it may deem to be necessary that the conditions designated in connection therewith, are being and will be complied with.
- i. The Land Development Team shall not have the power to:
 - 1) Approve the establishment of a non-conforming use according to the district regulations.
 - 2) Alter the applicable requirements for the height, setback, yard, frontage, lot area, and floor area standards by more than ten (10) percent of the distance or area specified elsewhere in this Ordinance, except upon a showing by the applicant that:
 - i. it is necessary to alter the requirements by more than ten (10) percent due to the special circumstances or conditions that apply to the situation; and
 - ii. the alteration is of a specific nature; and
 - iii. the other requirements of this section, variances, have been met.
 - 3) Grant a variance that will materially and adversely affect the health or safety of persons residing or working in the neighborhood of the proposed use and will be materially detrimental to the public welfare or injurious to property or improvements in the neighborhood.
 - 4) Grant a variance that will materially and adversely affect the cultural property of the Nation.

17. REDUCTION OR JOINT USE. No lot, yard, parking area, building area or other space shall be reduced in area or dimension so as not to meet the provisions of this Ordinance. No part of any lot, yard, parking area or other space required for a structure or use shall be used for any other structure or use.

18. AIRPORT APPROACH PROTECTION. No structure shall hereafter be constructed, altered or located and no trees shall be allowed to grow to a height exceeding 35' in the area surrounding an airport located on the Nation's lands, defined as a circle having its center-point at the crossing of the runways and measured outward to a distance of 1/2 mile. Furthermore, no use may be made of land in any zone which creates electrical radio interference, makes it difficult to distinguish airport lights, impairs visibility in the vicinity of the airport or otherwise endangers the landing, taking off or maneuvering of aircraft.

19. SEWAGE TREATMENT FACILITY ISOLATION. In order to minimize any potential odor, noise and nuisances caused by sewage treatment facilities and to

enhance plant security and reliability, sewage treatment facilities shall be isolated from commercial establishments and from buildings occupied or intended for residential use, and from land, which is actively being developed for commercial or residential use. The following separation distances shall be maintained:

- a. 500 feet for mechanical treatment facilities, effluent holding and polishing ponds;
- b. 500 feet for seepage cells, ridge and furrow systems and overland flow systems;
- c. 750 feet for aerated lagoons;
- d. 1,000 feet for off-site sludge holding facilities and spray irrigation systems; and
- e. 1,500 feet for stabilization lagoons.

20. VIOLATIONS.

- a. It shall be unlawful to construct or use any structure, land or water in violation of any of the provisions of this Ordinance. In case of any violation, the Land Development Team, Planning Administrator, or any property owner who would be specifically damaged by such violation may institute appropriate action or proceeding to enjoin a violation of this Ordinance.
- b. The Planning Administrator or assignee is authorized to post an order stopping work upon land, which has had a permit revoked or on land currently undergoing activity in violation of this Ordinance. Notice is given by both posting upon the land where the violation occurs with a stop work placard and by mailing a copy of the order by certified mail to the person whose activity is in violation of this Ordinance. The order shall specify that the activity must cease or be brought into compliance immediately.

21. PENALTIES.

- a. Any person, firm or corporation who fails to comply with the provisions of this Ordinance shall upon conviction thereof be subject to one, or more of the following penalties:
 - 1) Forfeit not more than \$200 and costs of prosecution for each violation, and in default of payment of such forfeiture and costs may be imprisoned in the Nation jail until payment thereof, but not exceeding 30 days. Each day a violation exists or continues shall constitute a separate offense. Such fines and costs shall be considered debt subject to collection by the Nation under the Claims Against Per Capita ordinance, 2 HCC § 8.
 - 2) Community service, the number of hours and location of such service to be determined by the Court.

- b. Any person who begins work on a structure or relocates a structure prior to obtaining the required Land Use Permit shall be compelled to pay a penalty of ten (10) times the effective permit fee. The penalty shall be considered Debt to the Nation under the Claims Against Per Capita ordinance, 2 HCC § 8.

**CHAPTER III
ZONING DISTRICTS**

22. ESTABLISHMENT OF DISTRICTS.

- a. Nine zoning districts are provided as follows:
 - 1) Residential (R-1).
 - 2) Residential (R-2).
 - 3) Recreational (R-3).
 - 4) Business (B-1).
 - 5) Industrial (M-1).
 - 6) Industrial Extractive (M-2).
 - 7) Agriculture (A-1).
 - 8) Resource Conservancy (C-1).
 - 9) Open Use District (O-1)
- b. Boundaries of these districts shall be established as shown on the map entitled "Zoning Map of the Ho-Chunk Nation," which shall accompany and be incorporated as a part of this Ordinance by a separate act of the Legislature. Such boundaries shall, to the extent possible, be construed to follow corporate limits; U.S. public land survey lines; lot or property lines; centerlines of streets, highways, alleys, easements and railroad rights-of-way or such lines extended; unless otherwise noted on the zoning map.
- c. Vacation of public streets and alleys shall cause the land vacated to be automatically placed in the same district as the abutting side to which the vacated land reverts.

23. ZONING MAP.

- a. A certified copy of the zoning map shall be adopted and approved by a separate act of the Legislature, and shall be treated as part of this Ordinance. Once enacted it shall bear upon its face the attestation of the Land Development Team, and shall be available to the public in the office of the Register of Deeds.
- b. Changes thereafter to the districts shall not be effective until entered and attested on this certified copy.

24. RESIDENTIAL DISTRICTS.

a. R-1 RESIDENTIAL DISTRICT.

- 1) Principal Use. One family dwellings, including Conventional stick built and Modular homes on permanent foundations.
- 2) Conditional Uses. See 31 and 32.
- 3) This district does not allow for the keeping of livestock or poultry unless specific conditions are met, and after going through a conditional use hearing. Examples of livestock are: cattle, horses, pigs, sheep, goats, chickens, pheasants, geese, roosters, etc.
- 4) Lot.
 - i. Road frontage minimum – 80'.
 - ii. Average width minimum – 80'.
 - iii. Area minimum:
 - (a) Sewered Lot – 9,600 square feet.
 - (b) Unsewered Lot – 2 acres.
- 5) Yards.
 - i. Street minimum - Setback line as required by 37.
 - ii. Rear minimum - 20'.
 - iii. Side minimum - 10'.
- 6) Maximum Building Height. 35' or 2-1/2 stories.

b. R-2 RESIDENTIAL DISTRICT.

- 1) Principal Use. One and two family dwellings, including Conventional stick built and Modular homes.
- 2) Conditional Uses. See 31 and 32.
- 3) This district does not allow for the keeping of livestock or poultry unless specific conditions are met, and after going through a conditional use hearing.

Examples of livestock are: cattle, horses, pigs, sheep, goats, chickens, pheasants, geese, roosters, etc.

- 4) Lot.
 - i. Road frontage minimum – 160'.
 - ii. Average width minimum – 160'.
 - iii. Area minimum:
 - (a) Sewered Lot – 9,600 square feet.
 - (b) Unsewered Lot – 2 acres.
 - 5) Yards.
 - i. Street minimum – Setback line as required in 37.
 - ii. Rear minimum – 25'.
 - iii. Side minimum – 25'.
 - 6) Maximum Building Height. 35' or 2-1/2 stories.
- c. R-3 RECREATIONAL DISTRICT.
- 1) Principal Uses. Commercial recreational developments including but not limited to, the development and operation of motels, hotels, one family dwellings, condominiums, town houses, clubhouses, restaurants, bars, cocktail lounges, service stations, sporting goods stores, barbershops, beauty shops, financial and business offices, clothing stores, gift shops, theaters, grocery stores, beverage stores, and such other business as may be necessary for the operation and servicing of any recreational development and any accessory facilities, structures or buildings required for recreational activities, including swimming pools, saunas, ski lifts and tows, garages, golf courses, riding trails, ski runs, tennis courts, hiking and snowmobile trails, archery and firearms ranges, sports fields and gymnasiums.
 - 2) Conditional Uses. Such accessory buildings and structures as may be reasonable, necessary and desirable for any commercial recreational development.

3) Lot and Yards.

- i. All structures in any such commercial recreational development shall be set back at least 100' from any district boundary and 100' from the setback line as required by the Highway Setbacks section.
- ii. All residential development within the commercial recreational development shall comply with the minimum lot size and setbacks set forth in the section on Establishment of Districts and all business development within the commercial recreational development shall comply with the minimum lot size set forth in Business Districts.

25. BUSINESS DISTRICT.

a. B-1 BUSINESS DISTRICT.

- 1) Principal Uses. Automotive dealerships; bakeries; barbershops; bars; beauty shops; bowling alleys; broadcasting studios; business offices; car washes, casinos, clinics; clothing stores; clubs; cocktail lounges; confectioneries; convenience stores with gasoline; delicatessens; drugstores; eating and drinking establishments, fish markets; florists; fraternities; fruit stores; furniture stores; gas stations; gift stores; grocery stores; hardware stores; house occupations; hobby shops; hotels; lodges; meat markets; optical stores; package beverage stores; professional, governmental and business offices; restaurants; self-service and pickup laundry and dry cleaning establishments; soda fountains; sporting goods; supermarkets; tobacco stores; vegetable stores; appliance stores; caterers; clothing repair shops; crockery stores; department stores; electrical supply; financial institutions; food lockers; furniture stores; furniture upholstery shops; heating supply; hotels; laundry and dry cleaning establishments employing not over 7 persons; lawn and garden shops; liquor stores; lumber yards; marine sales and service; motels; motorcycle sales and service; music stores; newspaper offices and press rooms; nightclubs; office supplies; outdoor storage; pawnshops; personal service establishments; pet shops; places of entertainment; photographic supplies; plumbing supplies; printing; private clubs; private schools; professional offices, publishing; restaurants; secondhand stores; skating rinks; snowmobile sales and service; sporting goods stores; theaters; trade and contractor's offices; upholsterer's shops; variety stores; and vehicle service shops. Existing residences shall comply with all the provisions of the R-1 District.
- 2) Conditional Uses. See 31, 32 and 35.
- 3) Lot
 - i. Road frontage minimum – 80'.

- ii. Average width minimum – 80’.
 - iii. Area minimum – 9,600 sq. feet.
- 4) Yards.
- i. Street Minimum - Setback line as required in 37.
 - ii. Rear - 20’.
 - iii. Side - 10’.
- 5) Maximum Structure Height. 45' or 3 stories.

26. INDUSTRIAL DISTRICTS.

a. M-1 INDUSTRIAL DISTRICT.

- 1) Principal Uses. Manufacture, repair, fabrication, packing, packaging and assembly of products; warehousing, wholesaling, freight terminals and transshipment depots.
- 2) Conditional Uses. See 31 and 34.
- 3) Lot.
 - i. Frontage Minimum:
 - (a) Sewered Lot – 80 feet
 - (b) Unsewered Lot – 200 feet
- 4) Area Minimum:
 - i. Sewered Lot – 9600 sq. feet
 - ii. Unsewered Lot – 2 acres
- 5) Yards.
 - i. Street minimum - 30' from setback line as required in 38.
 - ii. Rear minimum - 40’.
 - iii. Side minimum - 40’.

6) Maximum Structure Height. 45' or 3 stories.

b. M-2 INDUSTRIAL EXTRACTIVE.

1) Principal Uses. Operations for conversion of biofuels to biomass, non-metallic mineral extraction operations and concrete products manufacturing.

2) Conditional Uses. Extension of legally existing Non-metallic mineral extraction operations and the manufacturing of asphalt, concrete and concrete products or the creations of such new extraction or manufacturing operations.

3) Yards. Minimum of 200' from any right-of-way or property lines. Minimum of 100' for accessory uses such as offices, parking areas and stockpiles.

4) Maximum Structure Height. 45'.

5) PROHIBITION OF METALLIC MINERAL AND FRAC SAND EXPLORING, PROSPECTING AND MINING. Metallic mineral exploration, prospecting, and mining are prohibited on all Ho-Chunk lands. Additionally, under no circumstances shall the operation of silica and quartz sand mines (also known as frac sand mines) be permissible within the jurisdiction of this ordinance in accordance with Ho-Chunk Resolution 12-04-12J. The areas include both the above ground portion and the underground portion extending vertically from the site boundaries.

i. DEFINITIONS. In Section Prohibition of Metallic Mineral and Frac Sand Exploring, Prospecting and Mining, unless the context dictates otherwise, the following definitions shall be used.

(a) DNR shall mean the Ho-Chunk Nation Division of Natural Resources

(b) EXPLORATION shall mean the onsite geological examination from the surface of an area by core, rotary, percussion, or other drilling, where the diameter of the hole does not exceed 18 inches, for the purpose of searching for metallic minerals or establishing the nature of a known metallic mineral deposit and includes associated activities such as clearing and preparing sites or constructing roads for drilling. For the purposes of the definition of exploration, geological examination does not include drill holes constructed for the purpose of collecting soil samples or for determining radioactivity by means of placement of radiation-sensitive devices.

(c) FRAC SAND MINING means silica and quartz sand mining.

- (d) METALLIC MINERAL MINING and MINING ACTIVITIES shall include all exploration, prospecting and mining or mining operation activities as defined herein.
- (e) MINING or MINING OPERATION shall mean all or part of the process in the mining of metallic minerals or frac sand other than for exploration or prospecting, including commercial extraction, agglomeration, beneficiation, construction of roads, removal of overburden, and the production of refuse, and the disposal of mining waste.
- (f) MINING WASTE means any refuse, sludge, or other discarded material, including solid, liquid, and semisolid or contained gaseous material, resulting from or used for metallic mineral or frac sand prospecting or mining, or from the cleaning or preparation of metallic minerals or frac sand during prospecting or mining operations. Typical mining wastes include, but are not limited to, tailings, waste rock, mine overburden, and waste treatment sludge.
- (g) ORE shall mean minerals of all types of geological origin, which contain a valuable component, such as a metal, this is extracted there from and is worked accordingly for such value.
- (h) PROSPECTING shall mean engaging in the examination of an area for the purpose of determining the quality and quantity of minerals, other than for exploration but including the obtaining of an ore sample, by such physical means as excavating, trenching, construction of shafts, ramps and tunnels and other means, other than exploration, which the DNR, by rule, identifies, and the production of prospecting refuse and other associated activities. "Prospecting" shall include such activities when the activities, are, by themselves, intended for and capable of commercial exploitation of the underlying ore body.
- (i) PROSPECTING SITE shall mean an identified lot or parcel of land on which prospecting is proposed to take place under the jurisdiction of Ho-Chunk lands.
- (j) SULFIDE ORE BODY, "Ore body" is a continuous well-defined mass of material containing enough ore to make extraction economically feasible. "Sulfide" is a mineral compound characterized by the linkage of sulphur with a metal such as galena, Pbs, or pyrite, FeS₂.

27. AGRICULTURAL DISTRICTS.

a. A-1 AGRICULTURE.

- 1) Principal Uses. Apiculture, dairying, floriculture, fishing and hunting wildlife preserve, forestry, general farming, grazing, greenhouses, hatcheries, horticulture, livestock raising, nurseries, orchards, paddocks, pasturage, poultry raising, public parks and campgrounds, stables, truck farming, water retention, utilities, viticulture, farm dwellings for those resident owners and laborers actually engaged in the principal permitted uses, and wild crop harvesting including marsh hay, ferns, moss, berries, fruit trees and seeds.
- 2) Conditional Uses. See 31, 24(c.) and 34.
- 3) Residential Lot.
 - i. Dwellings and mobile homes whose resident owners and laborers actually engaged in the principal permitted uses are accessory uses and shall comply with all the provisions of the R-1 Residential District.
 - ii. Road frontage minimum – 160'.
 - iii. Average width minimum – 160'.
 - iv. Area minimum – 2 acre.
- 4) Yard.
 - i. Street minimum - 25' from setback line required by 37.
 - ii. Rear minimum - 40'.
- 5) Side minimum - 40' for all buildings.
- 6) Maximum Structure Height. 60'.

28. RESOURCE CONSERVANCY DISTRICT.

a. C-1 RESOURCE CONSERVANCY.

- 1) Principal Uses. Fishing; hunting; buffer zone for preservation of cultural property and historic, scenic, and scientific areas; public fish hatcheries, soil and water conservation; sustained yield forestry; stream bank and lakeshore protection; water retention; floodplain; wildlife preserves; public park and campground.

- 2) Conditional Uses. Drainage; water measurement and control facilities; grazing; accessory structures, such as hunting or fishing lodges; orchards, truck farming, utilities and wild crop harvesting. These uses shall not involve the dumping, filling, cultivation, mineral, soil or peat removal or any other use that would disturb the natural fauna, flora, watercourses, water regimen or topography.
 - 3) Structures. None permitted, except those housing essential services accessory to the principal or conditional uses. No temporary or permanent residence shall be permitted.
- b. HO-CHUNK TRADITIONAL COURT TO RESOLVE DISPUTES. The Department of Heritage Preservation has the ability to designate areas as cultural property. In the event of a dispute as to whether a site is cultural property or of historical significance to the Ho-Chunk Nation, the matter shall be referred to the Ho-Chunk Traditional Court for its final determination.

29. OPEN USE DISTRICTS.

- a. O-1 OPEN USE DISTRICT
 - 1) Principle Uses. Zoning and Use has yet to be determined. However, in no instance shall it be permissible to use in a manner already prohibited by this ordinance. Additionally, any use must be in compliance with Ho-Chunk Nation, municipal, or state ordinances and regulations.

CHAPTER IV CONDITIONAL USES

30. REVIEW AND APPROVAL.

- a. The Land Development Team shall review the site, existing and proposed structures, architectural plans, neighboring uses, parking areas, driveway locations, highway access, traffic generation and circulation, drainage, sewerage and water systems and the proposed operation.
- b. Any development within 660' of the existing or proposed rights-of-way of freeways, expressways, interstate and controlled access traffic ways and within 1,500' of their existing or proposed interchange or turning lane rights-of-way shall be specifically reviewed by the highway agency that has jurisdiction over the traffic way. The Land Development Team shall request such review and await the highway agency's recommendations for a period not to exceed 60 days before taking final action. After which the Nation or the Land Development Team shall negotiate with such agency.

- c. Conditions, such as landscaping, architectural design, type of construction, construction, commencement and completion dates, sureties, lighting, fencing, planting screens, operational control, hours of operation, improved traffic circulation, deed restrictions, highway access restrictions, increased yards or parking requirements may be required by the Land Development Team upon its finding that these are necessary to fulfill the purpose and intent of this Ordinance.
- d. Compliance with all other provisions of this Ordinance, such as lot width and area, yards, height, parking, loading, traffic, highway access and performance standards shall be required of all conditional uses.
- e. Any use listed, as a conditional use in this Ordinance shall be permitted only upon application to the Planning Administrator and issuance of a special use permit by the Land Development Team. A special use permit shall be issued only upon satisfaction of the requirements listed herein in addition to all other requirements of this Ordinance. All such uses are hereby declared to possess such unique and special characteristics that each specific use shall be considered as an individual case. Before issuing a special use permit, the Land Development Team shall hold a public hearing.

31. PUBLIC AND SEMIPUBLIC USES. The following public and semipublic uses shall be conditional uses and may be permitted as specified.

- a. Airports, airstrips and landing fields in the A-1 District, providing that these facilities meet the regulations contained in Ch. 114 and 135 and 136, Wis. Stats.
- b. Governmental and public uses, such as fire and police stations, community centers, libraries, public emergency shelters, parks, playgrounds and museums in all residential, business and industrial districts.
- c. Utilities in all districts provided all principal structures and uses are not less than 50' from any residential district lot line.
- d. Public passenger transportation terminals, such as heliports, bus and rail depots, except airports, airstrips and landing fields, in the B-1 Business District and the M-1, M-2 Industrial Districts provided all principal structures and uses are not less than 100' from any residential district boundary.
- e. Public, parochial, private elementary and secondary schools and churches in the R-1, R-2, A-1 Districts, provided the lot area is not less than one acre and all principal structures and uses are not less than fifty (50) feet from any residential district boundary.
- f. Colleges; universities; hospitals; sanitariums; religious, charitable, penal and correctional institutions; cemeteries and crematories in the A-1 District, provided all principal structures and uses are not less than 50' from any lot line.

32. RESIDENTIAL USES. The following residential and quasi-residential uses shall be conditional uses and may be permitted as specified:

- a. Planned residential developments, such as cluster developments, garden apartments, manufactured or mobile homes, row housing and group housing in the R-1 and R-2 Residential Districts.
- b. The proper preservation, care and maintenance by the original and all subsequent owners of the exterior design; all common structures, facilities, utilities, access and open spaces shall be assured by deed restrictions enforceable by the Nation.
- c. Clubs, fraternities, lodges and meeting places of a noncommercial nature in the R-1 and R-2 Residential Districts provided all principal structures and uses are not less than 25' from any lot line.
- d. Rest homes, nursing homes, homes for the aged, clinics and children's nurseries in the R-1 or R-2 Residential Districts provided all principal structures and uses are not less than 50' from any lot line.
- e. Home occupations and professional home offices in the R-1 and R-2 Residential Districts, unless the operation of the home occupation or professional office alters the existing structure or structures on the property. Such alteration for the purpose of operating a home business is prohibited.
- f. Two family and multiple family dwellings in the R-1 and R-2 Residential Districts.
- g. Manufactured/mobile homes and travel trailers in the R-1, R-2, R-3, and A-1 Districts provided that such homes comply with IHS guidelines and meet the following additional requirements:

1) REQUIREMENTS

- i. Maximum number of mobile home sites. – 2 per acre.
- ii. Minimum width of a mobile home site. – 40'.
- iii. Maximum height of a mobile home trailer. – 15'.
- iv. Minimum distance between mobile home trailers. – 20'.
- v. Minimum distance between mobile home and service road. – 10'.
- vi. Minimum side yard setback. 40' at all front, side and rear lot lines.

vii. DRAINAGE. Every manufactured/mobile home and travel trailer shall be located on a well-drained area, and the premises shall be properly graded so as to prevent the accumulation of storm or other waters. No unit shall be located in an area that is situated so that drainage of contaminated liquids or solids can be deposited on its location or adjacent property.

viii. SPACE AND SETBACKS.

(a) Each space for which a manufactured/mobile home is located shall be of an area of not less than 4000 square feet. The unit shall not occupy in excess of one-third of the area of the site, and the unit including all accessory structures shall not occupy more than one-half of the area of the site.

(b) No manufactured/mobile home or accessory structure shall be located closer than 5' to any other space. No unit shall be located closer than the permitted setback, as established by statute, Ordinance, or local jurisdiction, to the right-of-way line of a public street.

ix. PARKING.

(a) For each manufactured/mobile home there shall be a graveled or paved parking area of at least 350 square feet.

(b) Parking areas shall be maintained in good condition and have adequate drainage. Unlicensed vehicles and collection of personal property, junk or debris shall not be permitted on manufactured/mobile home sites.

(c) There shall be no parking on the lawn in front of the mobile home.

x. OTHER USES PROHIBITED.

(a) Operation of any business activity is prohibited on sites where manufactured or mobile home are located.

xi. WATER SUPPLY.

(a) Public supply. When a public water supply is available to the manufactured/mobile home, connection and use are required.

(b) Private wells. A private owned well is permitted as a source of water when a public water facility is not available to the manufactured/mobile home. The well shall be located on the premises and shall be constructed and the pump installed in accordance with applicable Nation, state, and federal law governing well drilling and

pump installation. Whenever safe water cannot be obtained consistently from a well constructed in apparent compliance such law, as evidenced by unsafe laboratory reports, the well must be reconstructed or a new well constructed in accordance with the requirements of the Division of Natural Resources. However, if the reconstruction or new construction is determined to be impractical or is found to be ineffective, the use of the well shall be discontinued. The water supply shall be sampled at least quarterly for microbial contamination. Chemical samples shall be analyzed according to Ch. 109 of Wis. Adm. Code. Water sample results must be supplied to the Division.

- (c) Water Connection. A separate valve water service shall extend to each site.

xii. SEWAGE DISPOSAL.

- (a) Public System. When public sewage facilities are available to the manufactured/mobile home, connection and use are required.
- (b) Private System. Private sewage disposal system as defined in S. 145.01 (12) Stats. are permitted when a public sewer facility is not available to the premises. The system shall be located on the premises and shall be designed, constructed, and operated in accordance with S. 144.245 Stats. And Chs. DCOMM 82 and 83. Plans and installation details covering the design and construction, alteration, or extension of private sewage disposal systems shall be approved by the Ho-Chunk Nation Division of Environmental Health and Land Development Team. Prior to construction, sanitary permits are required for any work done to a private sewage system.

xiii. MISCELLANEOUS PROVISIONS.

- (a) USE OF SETBACK ZONES. No occupied or unoccupied manufactured/mobile home, or recreational vehicle, shall be located between the established setback lines for the zoning district in which such structure is located and the street, highway, lot line, stream or lake.
- (b) SKIRTING. Skirting, specifically designed for mobile homes or other material to enclose the area between the ground and the bottom of the home, is to be done within two weeks after parking.
- (c) FIRES. Open fires on the premises, except charcoal fires used for cooking, are prohibited. Burning barrels are prohibited.

xiv. TEMPORARY LOCATION.

- (a) Manufactured/mobile homes and travel trailers shall be permitted in the R-1, R-2, R-3, and A-1 Districts without a Conditional Use Permit for a period not to exceed twenty-five (25) total days within a one year period.
- (b) Travel trailers or camping units shall be permitted in the R-1, R-2, R-3, and A-1 Districts without a principal structure being present under the following conditions:
 - (i) Travel trailers or camping units are allowed on property as long as each unit is registered with the Register of Deeds.
 - (ii) Travel trailers/camping units must be registered with the Register of Deeds and the appropriate registration fee as established by the Land Development Team must be paid by January 31 of each year.
 - (iii) Arrangements are to be made for the proper handling and removal of all garbage and trash.
 - (iv) Occupation of a travel trailer/camping unit by a person having no other primary residence or abode at the time the unit is so occupied is prohibited.

xv. REMOVAL. Any abandoned, dilapidated, unsafe or unsanitary manufactured/mobile home or travel trailer will be ordered removed by the Ho-Chunk Nation Trial Court. The removal will be expected within thirty (30) days from the notice received from the Court. Any person, firm, or corporation who fails to comply with a removal order shall be in violation of this Ordinance and will be subject to Section 21(a)(1) of the Penalties section and fined \$200 per day that the manufactured/mobile home or travel trailer is not removed.

xvi. STORAGE. Travel trailers/camping units may be stored or parked on property under the following conditions:

- (a) The property contains a principal structure being a dwelling or residence, which is occupied by the owner of the travel trailer/camping unit at least 51% of the year.
- (b) The property is correctly zoned for the principal structure.

(c) The travel trailer/camping unit cannot be connected to utilities nor can it be leveled and skirted. The wheels and tongue apparatus must remain on the unit.

xvii. The Division of Natural Resources staff has the right to access property during reasonable business hours for the purpose of verifying registration of travel trailers/camping units and for visual checks on the maintenance or upkeep of the property and the units.

33. HIGHWAY ORIENTED USES. The following commercial uses shall be conditional uses and may be permitted as specified:

- a. Drive-in theaters in the B-1 Business District, provided that a planting screen at least 25' wide is created along any side abutting a residential district and no access is permitted to or within 1,000' of an arterial street.
- b. Drive-in establishments serving food or beverages for consumption outside the structure in the B-1 Business District.
- c. Motels in the B-1 Business District.
- d. Funeral homes in the B-1 Business District, provided all principal structures and uses are not less than 25' from any lot line.
- e. Drive-in banks in the B-1 Business District.
- f. Tourist homes in the B-1 Business District.
- g. Vehicle sales, service, washing and repair stations, garages, taxi stands and public parking lots in all business districts, provided all gas pumps are not less than 30' from any side or rear lot line and 20' from any existing or proposed street line.
- h. Any development within 660' of the existing or proposed rights-of-way of freeways, expressways, interstate and controlled access traffic ways and within 1,500' of their existing or proposed interchange or turning lane rights-of-way shall be deemed to be conditional uses. No structures shall be erected closer than 100' to their rights-of-way.

34. INDUSTRIAL AND AGRICULTURAL USES. The following industrial and agricultural uses shall be conditional uses and may be permitted as specified:

- a. Animal hospitals in the A-1 District, provided the lot area is not less than 3 acres and all principal structures and uses are not less than 100' from any residential district.

- b. Dumps, disposal areas, incinerators and sewage disposal plants in the A-1 Districts.
- c. Commercial butchering or rendering of animals or fowl and commercial raising or propagating of mink, dogs and fox in A-1 District. Pea vineries and dairy plants in the A-1 District.
- d. Outside storage, manufacturing, junk and salvage yards in any District:
 - 1) Permit Required: No person shall use any building or premises for the buying, selling, gathering, delivery, shipping, storing or salvaging of old iron, bottles, paper, rags, vehicles or other materials commonly included in the term "junk" without obtaining a land use permit for the operation of a junk yard and salvage yard. Storage of three (3) or more unlicensed or inoperable vehicles on the same premises shall be prima facie evidence of operation of a junk or salvage yard.
 - 2) Application: Application for a permit hereunder shall be made in writing to the Planning Administrator stating:
 - i. The location and description of the premises to be permitted.
 - ii. The nature of the business to be conducted on the premises.
 - iii. The type of construction of any buildings to be used in connection with the business.
 - iv. The applicant's name and address; and if a firm or corporation, the names and addresses of all officers thereof.
 - 3) Permit Fee and Term: The fee for a permit issued hereunder shall be in the amount set by the Land Development Team. Permits shall expire if the use of the property is discontinued for twelve (12) consecutive months. The permit may then be renewed only upon approval by the Land Development Team and after holding a public hearing.
 - 4) Location: No junk or salvage yard shall be located within seven hundred fifty (750) feet of any residence, other than the owner of the premises, or any residential or business district; and within one hundred fifty (150) feet from a lake, river or stream. No junk or salvage yard shall be carried on within five hundred (500) feet of any Ho-Chunk Nation, federal, state or Nation highway right-of-way; or within one hundred fifty (150) feet of any town road, highway or street right-of-way.
 - 5) Screening Requirements: Junk and salvage yards shall be surrounded by a solid fence which is conducive to the surrounding area or an evergreen

planting screen completely preventing a view from any other property or public right-of-ways.

- 6) Operation: The operation of the yards shall comply with Section Use Restrictions of this Ordinance and also with Sections 84.31 and 175.25 of the Wisconsin Statutes. The nonconforming yards shall comply with Section 84.31(4) of the Wisconsin Statutes.
- 7) Commercial service facilities, such as restaurants and fueling stations in the M-1 District.
- 8) Rural retailing, processing and production are allowed in the A-1 District as a conditional use.

35. RECREATION USES.

- a. The following public recreational facilities shall be conditional uses and may be permitted as specified: archery ranges, bathhouses, beaches, boating, camps, conservatories, driving ranges, firearm ranges, golf courses, gymnasiums, hunting, ice boating, marinas, music halls, polo fields, pools, riding academies, skating rinks, sport fields, stadiums, swimming pools and zoological and botanical gardens in any district provided that the lot area is not less than 3 acres and all structures are not less than 50' from any district boundary.
- b. Commercial recreation facilities, such as arcades, bowling alleys, driving ranges, gymnasiums, lodges, miniature golf, physical culture, pool and billiard halls, race tracks, rifle ranges, skating rinks and theaters are conditional uses and may be permitted in the B-1 Business District.
- c. Commercial entertainment facilities such as exotic and cabaret-type dance halls, Turkish baths, adult entertainment, and massage/masseuse facilities are conditional uses and may be permitted in the B-1 District.

36. COMMUNICATION/CELLULAR TOWERS. Communication/Cellular towers, which are greater than 100 feet in height including all ancillary equipment, are allowed in the A-1, B-1, M-1, M-2, O-1 Districts as a conditional use provided all of the following are met:

- a. Federal Aviation Administration (FAA) and Federal Communications Commission (FCC) approval of a proposed site and town construction plans shall be made part of the application.
- b. Documentation, from the applicant and verified by an independent consultant designated by the Nation and paid for by the applicant, that co-location on existing towers at standard market rates within a ten (10) mile radius of the proposed site is not possible. Documentation may be in the form of letters from

- existing tower owners that the existing towers are not structurally capable of handling additional equipment nor of an acceptable height to accommodate the needs of the applicant. Monopole and stealth tower design shall be utilized when possible and will also be evaluated for feasibility by the consultant designated by the Nation and paid for by the applicant. All current and future legal fees associated with this Ordinance shall be the sole responsibility of the applicant or future owners.
- c. A map showing a proposed grid of any future towers in the applicant's current phase or project.
 - d. A statement from the owner/operator that shall say that the tower will be constructed to accommodate at least three (3) additional carriers in addition to the anchor tenant. The tower cannot be constructed in a manner that allows only partial carrier installation and not full broadband systems. Additional carrier space shall be made available to commercial users at competitive rates.
 - e. A plan for abandonment, included in the leasing arrangement, and a bond or letter of surety as required by the Land Development Team shall be part of the application to cover the cost of abandonment should the applicant default. Notification shall be made to the Ho-Chunk Nation Register of Deeds whenever transfer in ownership of the facility or appurtenant equipment is made. A performance bond or letter of surety shall be required of all future owners, heirs or assignees in the event an owner defaults, so that the Nation will recover costs associated with abandonment of the tower. An engineered study assigning a value of the abandonment shall be made part of the initial application process.
 - f. Lighting and painting of towers shall conform to all Federal Aviation Administration (FAA) standards. Flashing or strobe lights shall be installed only if required by FAA regulations and if specified in the application. Strobe lights shall not be used during hours of darkness unless required by FAA standards.
 - g. Auxiliary uses and structures associated with the tower such as receivers, transmitters, sheds, buildings, guy wires, lighting, fences and other equipment shall be depicted on the application. All structures, towers and guy wires shall be fenced and properly maintained so as to protect the property owner as well as against the liability of damage that could affect the tower, structures, fencing and guy wires. Wisconsin Statutes 66.96 shall apply to the control of noxious weeds on the premises.
 - h. There shall be no change in the height of the tower, lighting, or light intensity, facility use or other changes in a tower or appurtenant structure unless modification of the original conditional use permit is obtained from the Nation's Land Development Team, through the regular conditional use permit process.

- i. Setbacks from all property lines, residential structures and highway right-of-ways for all towers, except non-commercial towers less than 100 feet in height, shall be a minimum of fifty (50) feet plus the height of the tower. All guy wires, supports, anchors or structures associated with a communication tower under this section shall be located a minimum of fifty (50) feet from any property boundary. The height of the tower shall include all antennas, lighting rods and other equipment.
- j. Access to the site/facility shall be constructed and maintained in a manner designed to provide maneuverability for service and emergency response vehicles. Inability to access the tower or equipment site(s) because of poor road construction and/or poor road maintenance shall be at the discretion of the responding agency(s) for that jurisdictional area.
- k. This list of standards shall in no way limit additional conditions or requirements that the Nation's Land Development Team may require prior to acting on an application.

CHAPTER V TRAFFIC, PARKING AND ACCESS

37. HIGHWAY SETBACKS. For the purpose of determining the distance buildings and other structures shall be set back from the streets and highways of the Nation, the highways of the Nation are divided into the following classes:

- a. **CLASS A HIGHWAYS.**
 - 1) All Ho-Chunk Nation, state and federal highways are hereby designated as Class A highways.
 - 2) The setback line for Class A highways shall be 110' from the centerline of the highway or 50' from the right-of-way line, whichever is greater.
 - 3) Service roads to Class A highways shall be considered as Class C highways for the purpose of determining the setback along such service roads.
- b. **CLASS B HIGHWAYS.**
 - 1) All Nation trunks are hereby designated as Class B highways. For the purpose of this subchapter, any road will be considered as a Nation trunk after it has been placed on the Nation trunk systems approved by Bureau of Indians Affairs (BIA) Roads Division.
 - 2) The setback for Class B highways shall be 75' from the centerline of such highway or 42' from the right-of-way line, whichever is greater.
- c. **CLASS C HIGHWAYS.**

- 1) All town roads, streets and highways not otherwise classified are hereby-designated Class C highways.
 - 2) For all Class C highways setback lines are hereby established parallel to and distant
 - 3) 63' from the centerline of such highway or 30' from the right-of-way line, whichever is greater.
- d. **LESSER SETBACKS.** Lesser setbacks on Class A and Class B highways can only be allowed by the Nation's BIA Roads Division, even if there is an established building line by an adjacent structure. On Class C highways lesser setbacks can be allowed in cases of unusual topography or existing patterns of development, as long as the adjacent structures are main buildings (ex. house, cabin, etc.).

38. VISION CLEARANCE AT INTERSECTIONS. In each quadrant of every highway intersection or intersection of a road with a railroad there shall be a vision clearance triangle bounded by a straight line connecting them 150' from their intersection.

39. OBJECTS PERMITTED WITHIN HIGHWAY SETBACK LINES AND VISION TRIANGLES. No structure shall be permitted within a setback line, except:

- a. Open fences.
- b. Telephone, telegraph and power transmission poles, lines and portable equipment and livestock housings that are readily removable in their entirety.
- c. The planting and harvesting of field crops, shrubbery and trees, except that no trees or shrubbery shall be planted within a vision clearance triangle so as to obstruct the view.
- d. Those signs, which are, permitted elsewhere in this Ordinance.

40. LOADING REQUIREMENTS. In all districts adequate loading areas shall be provided so that all vehicles loading, maneuvering or unloading are completely off the public ways and all vehicles need not back out on any public way.

41. PARKING REQUIREMENTS. In all districts and in connection with every use there shall be provided at the time any use or building is erected, enlarged, extended or increased off-street parking stalls for all vehicles in accordance with the following:

- a. Size of each parking space shall be not less than 180 sq. ft. exclusive of the space required for ingress and egress.

- b. Location to be on the same lot as the principal use or not over 400' from the principal use. No parking stall or driveway except in residential districts shall be closer than 25' to a residential district lot line or a street line opposite a residential district.
- c. All off-street parking areas shall be graded and surfaced so as to be dust free and properly drained. Any parking area for more than 5 vehicles shall have the aisles and spaces clearly marked.
- d. Curbs or barriers shall be installed so as to prevent the parked vehicles from extending over any lot lines.
- e. Number of parking stalls required is shown in the following table:

<u>Use</u>	<u>Minimum Parking Required</u>
Single family dwellings and mobile homes	2 stalls for each dwelling unit
Multi-family dwellings	1.5 stalls for each dwelling unit
Hotels, motels	1 stall for each guest room plus 1 stall or each 3 employees
Hospitals, clubs, lodges, sororities, dormitories, lodging and boarding houses	1 stall for each 2 beds plus 1 stall for each 3 employees
Sanitarium, institutions, rest and nursing homes	1 stall for each 5 beds plus 1 stall for each 3 employees
Medical and dental clinics	3 stalls for each doctor
Churches, theaters, auditoriums, community centers, vocational and night schools and other places of public assembly	1 stall for each 5 seats
Colleges, secondary and elementary schools	1 stall for each 2 employees
Restaurants, bars, places of entertainment, repair shops, retail of floor space and service stores	1 stall for each 150 sq. ft.
Manufacturing and processing plants,	1 stall for each 3 employees

laboratories, warehouses

Financial institutions, business,
government and professional offices of floor area 1 stall for each 300 sq. ft.

Funeral homes 1 stall for each 4 seats

Bowling alleys 3 stalls for each alley

- f. In the case of structures or uses not mentioned, the provision for a use, which is similar, shall apply.
- g. Combinations of any of the above uses shall provide the total of the number of stalls required for each individual use.

42. DRIVEWAYS. All driveways installed, changed, replaced or extended after the effective date of this Ordinance shall meet the following requirements:

- a. Driveways/Access. Any area where travel occurs from a public road over land, whether by ownership or easement, not considered being part of the public road for the purpose of gaining access to land or improvements.
- b. All new driveways proposed to be installed shall be subject to an inspection and approval by the Land Development Team. Any existing driveway serving open land without improvements and proposed to be converted to a driveway to serve one or more structures also must be approved by the Land Development Team prior to the Building Permit being issued.
- c. The applicant who may be the owner, agent, or contractor shall submit a location plan with their Land Use or Building Permit application. The plan must show the width, length, slope and erosion control measures, if required.
- d. Authorization for a driveway is subject to Land Development Team approval wherein located. Land Development Team reserves the right to charge a fee for the inspection and issuance of permits for the proposed driveway. The Land Development Team may require culverts to be installed at specific locations. If culverts are required, the minimum diameter shall be 12". The BIA Roads Division must be consulted on the installation of any culverts. Illegal culverts will be removed at the owner's expenses.
- e. The following specifications apply:
 - 1) Minimum of 6' from property lines
 - 2) Minimum of 15' between all driveways

- 3) Minimum road surface width 12' for one and two family dwellings.
- 4) Minimum road surface width of 24' for all commercial or business operations.
- 5) Openings for vehicle ingress and egress shall not exceed 24' at the street line and 30' at the roadway.
- f. Vehicular entrances and exits to drive-in theaters, banks, and restaurants; motels; funeral homes; vehicular sales, service, washing and repair stations; garages; or public parking lots shall be not less than 200' from any pedestrian entrance or exit to a school, college, university, church, hospital, park, playground, library, public emergency shelter or other place of public assembly.
- g. Authorization for shared driveways, which would run along property lines can be granted by the Nation's Land Development Team in cases where access may be limited due to topography, limited highway accesses, etc.

43. HIGHWAY ACCESS REQUIREMENTS. No direct private access shall be permitted to the existing or proposed rights-of-way of expressways, or to any controlled access arterial street without permission of the highway agency that has access control jurisdiction. No direct public or private access shall be permitted to the existing or proposed rights-of-way of the following:

- a. Freeways, interstate highways and their interchanges or turning lanes, nor to intersecting or interchanging streets within 1,500' of the most remote end of the taper of the turning lanes.
- b. Arterial streets intersecting another arterial street within 100' of the intersection of the right-of-way lines.
- c. Streets intersecting an arterial street within 50' of the intersection of the right-of-way lines. Access barriers, such as curbing, fencing, ditching, landscaping or other topographic barriers shall be erected to prevent unauthorized vehicular ingress or egress to the above specified streets or highways.
- d. Temporary access to the above rights-of-way may be granted by the Land Development Team after review and recommendation by the highway agencies having jurisdiction. Such access permit shall be temporary, revocable and subject to any condition required and shall be issued for a period not to exceed 12 months.

44. INTERCHANGE AREA OVERLAY ZONE.

- a. **PURPOSE.** To supplement the controls of the underlying primary zoning districts by providing special regulations as required by the unique characteristics of land development, traffic generation and movement in interchange area.

- b. APPLICATION. The general standards set forth hereunder apply to all lands within the delineated areas surrounding any existing or planned highway interchange and shall be overlaid upon the primary zoning districts already applied to the same lands. In the event of conflicting standards between the underlying zoning and the interchange overlay regulations, the more restrictive will apply.
- c. DELINEATION. Minimum coverage shall extend one mile on each side of the interchange; i.e., 2 corridors one mile long and 1/2 mile wide, one along each side of the intersecting highway measured from the center of the interchange.

45. STANDARDS FOR INTERCHANGE AREA OVERLAY ZONING.

- a. ACCESS CONTROL ON INTERSECTING HIGHWAY.
 - 1) Dual lane highway or free flowing ramp, no access within 1,000' of most remote end of taper.
 - 2) Other intersection highways, no access within 500' minimum, with 1,000' desirable.
 - 3) No access point closer than 1,000' to another, 600' minimum.
 - 4) Access on opposite sides of the highway shall be:
 - i. Directly opposite each other or opposite a median crossover; or
 - ii. Separated by at least 300' of lateral distance.
 - 5) Frontage roads shall be utilized wherever practicable, particularly in nonresidential areas, to minimize the number of direct access points to the intersection highway.
 - 6) In residential areas lots shall back on the intersecting highway to minimize direct access thereto, wherever practicable.
- b. SETBACKS.
 - 1) From an intersecting highway, 160' from the centerline or 80' from the right-of-wayline, whichever is greater.
 - 2) From a frontage road, 30' from the right-of-way.

c. VISION TRIANGLES.

- 1) At public street openings and railroad crossings on the intersecting highway, preservation of area bounded by intersecting right-of-way lines and a vision setback line connecting points on each right-of-way line which are located 250' from the intersection of the centerline of the nearer roadways.
- 2) No structure, growth, parked vehicle or other obstruction shall be permitted within the vision triangle between 2-1/2 and 10' above the highway centerline elevation.

d. PARKING AND LOADING.

- 1) All truck loading areas shall be completely off the public streets and so designed that trucks need not park, back into or back from a public way, nor block or endanger pedestrian or vehicular traffic on streets, sidewalks or private property.
- 2) Off-street parking areas should be sufficient to accommodate all foreseeable parking demands. Parking areas shall be designed to allow on-site temporary storage areas for vehicles entering and desiring to park, thus eliminating use of highway rights-of-way by vehicles awaiting entrance to the site.

e. SIGNS.

- 1) All non-directory signs shall be prohibited.
- 2) The size and number of off-premises directory signs per establishment shall be limited to 150 sq. ft. and one per quadrant.
- 3) The size and number of on-premises directory signs shall be limited to 300 sq. ft. and 2 per premises.
- 4) Sale or lease signs located on the property referred to shall be permitted up to 8 sq. ft. per sign.
- 5) No sign shall be permitted which:
 - i. Obstructs traffic visibility.
 - ii. Resembles a traffic sign.
 - iii. Has a flashing light.
 - iv. Contains moving parts.
 - v. Exceeds 300 sq. ft. in size.

CHAPTER VI MODIFICATIONS

46. HEIGHT. The maximum height limitations provided elsewhere in this Ordinance may be exceeded in accordance with the following standards:

- a. Agricultural structures, such as barns, silos and windmills shall not exceed in height twice their distance from the nearest lot line. A Land Use Permit is not required for the construction of corn cribs, silos or grain bins. The height restriction however does apply.
- b. Public or semipublic facilities, such as schools, churches, hospitals, monuments, sanitariums, libraries, governmental offices and stations may be erected to a height of 60', provided all required yards are increased not less than one foot for each foot the structure exceeds the district's maximum height requirement.

47. YARDS. The yard requirements stipulated elsewhere in this Ordinance may be modified as follows:

- a. Uncovered stairs, landings and fire escapes may project into any yard, but not to exceed 6' and not closer than 3' to any lot line.
- b. Architectural projections, such as chimneys, flues, sills, eaves, belt courses and ornaments may project into any required yard, but such projection shall not exceed 2'.
- c. Residential fences are permitted on the property lines in residential districts, but shall not in any case exceed a height of 6', shall not exceed a height of 4' in the street yard and shall not be closer than 2' to any public right-of-way. A Land Use Permit is not required.
- d. Security fences are permitted on the property lines in all districts except residential districts, but shall not exceed 10 feet in height and shall be of an open type similar to woven wire or wrought iron fencing. They must be 2 feet to any public right-of-way and a Land Use Permit is not required.
- e. Accessory uses and detached accessory structures are allowed as per this Ordinance. They shall not be closer than 10 feet to the principal structure, exceed 20 feet in height, and occupy no more than 20% of the yard area. The setbacks for an accessory structure are as follows:
 - 1) 5 feet to a lot line or alley line for lots under 1.5 acres in size.
 - 2) 25 feet to a lot line for lots 1.5 acres to 20 acres in size.
 - 3) 50 feet to a lot line for lots greater than 20 acres in size.

- f. Off-street parking is permitted in all yards of the B-1 District, but shall not be closer than 25' to any public right-of-way.
- g. Essential services, utilities, electric power and communication transmission lines are exempt from the yard and distance requirements of this Ordinance.
- h. Landscaping and vegetation are exempt from the yard requirements of this Ordinance.
- i. Manufactured Homes or Travel Trailers may not be used as Accessory Structures, as Additions to existing structures, as Additions to existing Mobile Homes, or as Storage Buildings. Manufactured Homes and Mobile Homes are only to be utilized as dwelling units.
- j. Semi-trailers may not be used for accessory buildings, storage units, or for the advertising of any trade, business or occupation.

48. ADDITIONS. Additions in the street yard of existing structures shall not project beyond the average of the existing street yards on the abutting lots or parcels.

49. AVERAGE STREET YARDS. The required street yards may be decreased in any residential or business district to the average of the existing street yards of the abutting structures on each side, but in no case less than 15' in any residential district and 5' in any business district.

50. NOISE. Sirens, whistles and bells, which are maintained and utilized solely to serve a public purpose, are exempt from the sound level standards of this Ordinance.

51. REQUIRED MINIMUM LOT AREA. The required minimum lot areas are listed in the Zoning District Section of this Ordinance. If an individual wants to reduce the minimum lot area, they would need to apply for a Variance through the Nation's Land Development Team. This would follow standard Public Hearing procedure.

CHAPTER VII SIGNS

52. PURPOSE. This Ordinance is established to protect and promote health, safety, general welfare and order through the establishment of comprehensive, uniform standards and procedures governing the construction, used and style of signs or symbols serving as a visual communication media, aimed at persons upon public rights-of-ways or private properties. Hereafter, no sign shall be erected, constructed, altered or modified except as regulated herein.

53. GENERAL SIGN PROVISIONS.

- a. Hazardous Signs. No sign shall, by reason of its shape, location, lighting, size, color or intensity, create a hazard to the safe, efficient movement of vehicular or pedestrian traffic. No private sign shall contain words, which might be construed as traffic controls, such as "stop", "caution", or "warning", unless such sign is intended to direct traffic on the premises.
- b. Sign Maintenance. All signs and sign structures shall be properly maintained in a safe, orderly condition, and parts and supports shall be properly painted at all times. Signs or sign structures which are rotted, unsafe, or which have otherwise deteriorated or have been defaced, shall be repainted, repaired, or replaced by the owner of the property upon which the sign is located, or by his licensee.
- c. Interference. No signs, or any guides, stays or attachments thereto shall be erected, placed or maintained upon rocks, fences or trees, or in such a manner to interfere with fire-fighting equipment or personnel, or any electric light, power, telephone or cable wires or supports thereof.
- d. Signs Within Right-of-Way. No signs or other than governmental signs shall be erected or temporarily placed within any public right-of-way.
- e. Ingress and Egress. No sign or sign structure shall be erected or maintained so as to prevent or deter free movement from any door, window or fire escape. No sign or sign structure shall impede the vision triangle of a driveway access to a property based on the type of public road being accessed.
- f. Required by Law. All signs required by law shall be permitted in all districts.
- g. Obsolete Signs. An obsolete sign or a sign which advertises an activity, product, or service, which is no longer being produced or conducted, shall be removed within ninety days from the last date upon which the activity or service was produced or conducted. Responsibility for the removal shall be vested in the owner of the real property.
- h. Illumination. All externally illuminated signs shall direct the source of light away from adjacent properties.
- i. Flashing Lights. Flashing, revolving and intermittently lighted signs are strictly prohibited.
- j. Shoreland. No permanent sign shall be located closer than 75' from the normal high water mark of any navigable or perennial body of water, in the floodway of any stream, river, etc., or in any Shoreland-wetland.

- k. Vehicle Signs. All vehicles, whether operable or inoperable are prohibited from being used for the placement of signs for any kind of advertisement.

54. TYPES OF SIGNS.

- a. Type 1. Directory signs advertising a business or activity conducted, an area of interest or a service available at a specific location. Such signs shall be not more than 32 sq. ft. in gross area. There shall not be more than 2 such signs relating to any one such use in the approaching direction along any one highway. No such sign shall be more than 10 miles away from the location to which it relates. Such signs may be placed at the right-of-way line of the highway. A larger number of signs may be permitted by Land Development Team if the Land Development Team shall find it necessary for directing the traveling public. Type 1 signs are allowed in the B-1, M-1, M-2, A-1, District.
- b. Type 2. Signs advertising a customary home occupation or professional office. Such signs shall not exceed 6 sq. ft. in gross area, shall be attached to the building, and if illuminated, shall be indirectly lighted. Type 2 signs are allowed in the R-1, R-2, R-3, B-1, M-1, M-2, and A-1 Districts. A permit is not required for Type 2 signs.
- c. Type 3. The following signs are to be placed in the front yard of the effected properties, and are allowed without a permit.
 - 1) Government signs. Signs of a public, non-commercial nature, including, but not limited to, safety signs, trespassing signs, traffic control signs, scenic or historical signs, memorial plaques, and community service signs. Signs shall not exceed 6 sq. ft.
 - 2) Integral signs. Signs attached to buildings or structures, which name the building, date of construction and commemorative actions.
 - 3) Campaign signs. Election campaign or referendum signs may be placed on the first day for circulation of nomination papers or the period beginning on the day on which the questions to be voted upon are submitted to the electorate and shall be removed within 24 hours after the day of election or vote on a referendum. In residential districts, no sign may be electrical, mechanical or have an audio auxiliary. Signs shall not exceed 6 sq. ft.
 - 4) Nameplates. One sign, which states the owner's name, address, and a home occupation or farm, related business. Sign shall not exceed 20 sq. ft.
 - 5) Holiday signs. Signs or displays which contain or depict only a message pertaining to a National or State Holiday, displayed for a period of not to exceed sixty days.

- 6) Construction signs. Non-illuminated signs naming the architects, engineers, contractors, and other individuals or firms included with the construction, alteration or repair of a structure and the future use of the site. Such signs shall be confined to the construction site and shall be removed when the project is completed or occupancy of the structure, whichever comes first. Sign shall not exceed 64 sq. ft.
- 7) Real Estate signs. Signs advertising the sale or rent of the property upon which the sign is placed. In the event of a sale or rental agreement, the sign must be removed within 10 days. Such sign shall not measure more than 6 sq. ft. in the R-1, R-2, and R-3 Districts, nor more than 20 sq. ft. in all other districts.
- 8) Trespassing signs. Signs which indicate the allowed use of private property, such as No Trespassing; No Hunting; or Hunting by Permission only; per terms of Ho-Chunk Law as to frequency and size.
- 9) Seasonal Agricultural Product signs.
- 10) Agricultural Test Plot Signs. Agricultural test plot signs shall be allowed under the following conditions:
 - i. One sign facing each direction,
 - ii. Sign shall not exceed 32 sq. ft. and are permitted during the growing season and shall be removed after harvest, and
 - iii. Row markers and variety markers permitted as necessary.
- 11) Occasional Yard Sale sign. One sign is allowed, shall not exceed 6 sq. ft., and shall not be placed more than one day prior to the sale and removed at the end of the sale.
- 12) Subdivision signs. Signs are allowed for tracts containing 10-50 or more lots. Signs shall be 32 sq. ft. in size or less, and each subdivision can have a maximum of 2 such signs. The sign can be placed after the final plat has been recorded and must be removed after 90% of the lots are sold.
- 13) Community events. Such as banners, which are printed by groups, including Chamber of Commerce, local governments, church groups, etc., are permitted and must conform to State Administrative Code.
- 14) Type 3 signs are allowed in all zone districts.

- d. Type 4. Signs/Billboards advertising a general brand or product, an area of interest, a business conducted or a service available. Such signs shall be erected outside and parallel to the right-of-way line, and meet the following:
 - 1) Back-to-back signs that are parallel to each other and within 3 feet are considered as one sign and one face.
 - 2) If the faces are not parallel, the angle shall not exceed 45 degrees, and one point of both sides must be within the 3-foot distance. If the angle is greater than 45 degrees, the boards will be considered separate for total area calculations. The sign must be orientated on the site so that only one face is visible from the approaching right-of-way.
 - 3) Advertising signs shall not exceed 288 sq. ft. per face or 576 sq. ft. of total area, nor shall the height exceed 35'. No advertising sign shall exceed 45' in length.
 - 4) There shall be a minimum of 300 feet of separation between signs on the same street facing the traffic flow.
 - 5) No part of an advertising sign shall be closer than five (5) feet to the property lines.
 - 6) Only includes side yard and rear yard setbacks.
 - 7) No advertising sign shall be erected or maintained within 100 feet of a residential, agricultural or forestry district boundary, or within 500 feet of a public park.
 - 8) Type 4 signs are allowed in the B-1, M-1, and M-2 districts.
- e. Type 5. Signs attached to commercial and industrial advertising a business conducted or a service available on the premises. No sign shall exceed 40 sq. ft. in gross area; be higher than 4 feet above the top of the roofline, or exceed the maximum height limitation permitted in the district.
 - 1) Type 5 signs are allowed in the B-1, M-1, M-2, and A-1 districts.
- f. Type 6. On-premises signs. Advertising a public or semi-public use. Such signs shall not exceed 32 sq. ft. in gross area. There shall be no more than one sign for each highway upon the property faces. Such signs may be placed at the right-of-way line of the highway.
 - 1) Type 6 signs are allowed in all the districts.

g. Type 7. Recreational directory signs indicating the direction to a cottage, resort, residence or similar use. Such signs shall be not more than 4 sq. ft. in gross area. Where a common posting standard is provided, all such signs shall be attached to the standard recreational directory signs and may be placed at the right-of-way line of the highway.

1) Type 7 signs are allowed in all districts except the R-1 or R-2 district.

55. PERMITS. Unless specifically stated in this Ordinance, permits are required for all signs erected, constructed, enlarged or otherwise modified. Application for a Sign Permit shall be made to the Land Development Team. Permits shall be issued if the proposed sign meets the requirements of this Ordinance.

56. CONDITIONAL USE. Any proposed sign which does not meet the provisions of this Ordinance, will only be approved by following the Conditional Use process in Section Conditional Uses of this Ordinance.

57. NON-CONFORMING SIGNS.

- a. Legal non-conforming signs may not be structurally altered or enlarged except in accordance with this Ordinance or reestablished after being brought into compliance.
- b. Nothing in this Ordinance shall be construed as relieving the owner of a legal non-conforming sign from the provisions of this Ordinance regarding safety, maintenance, and repair of signs. However, no change in the sign structure or copy shall be made which makes it more nonconforming.

**CHAPTER VIII
NONCONFORMING USES**

58. CONDITIONS. The existing lawful use of a structure or premises which is not in conformity with the provisions of this Ordinance at the time of its adoption or amendment may be continued subject to the following conditions:

- a. No such use shall be expanded or enlarged, except in conformity with the provision of this Ordinance and upon granting of a variance by the Land Development Team.
- b. No structure alteration or repair to any such existing structure as long as such use continues shall exceed 50% of its equalized value, except upon granting of a variance by the Land Development Team.
- c. If such use is discontinued for 12 consecutive months, any future use of the structure and premises shall conform to this Ordinance. The assessor shall notify

the Planning Administrator in writing of all instances of nonconforming uses, which have been discontinued for a period of 12 consecutive months.

59. SUBSTANDARD LOTS.

- a. **USE OF SUBSTANDARD LOTS FOR A DWELLING.** A lot which does not contain sufficient area to conform to the dimensional requirements of this Ordinance, but which is at least 60' wide and 7,200 sq. ft. in area for the R-1 District and at least 100' wide and 20,000 sq. ft. in the R-2 District, may be used as a building site for a single family dwelling upon issuance of a zoning permit subject to the conditions listed in sub. (b).
- b. **CONDITIONS ATTACHED TO USE OF SUBSTANDARD LOTS.**
 - 1) Such use is permitted in the zoning district.
 - 2) The lot is of record in the Nation Register of Deeds' office prior to the effective date of this Ordinance.
 - 3) The lot is leased to separate leaseholders of abutting lands. If abutting lands and the substandard lot are leased by the same owner, the substandard lot shall not be sold or used without the full compliance with the terms of this Ordinance.
 - 4) All the district requirements are complied with insofar as practical.
- c. **USE OF SUBSTANDARD LOTS FOR OTHER PURPOSES.** All other uses of substandard lots shall require a variance from the Land Development Team subject to the conditions listed in sub. (b).

**CHAPTER IX
PERFORMANCE STANDARDS**

60. COMPLIANCE. This Ordinance permits specific uses in specific districts and these performance standards are designed to limit, restrict and prohibit the effects of those uses outside their premises or district. No structure, land or water shall hereafter be used, except in compliance with their district regulations and with this Chapter.

61. AIR POLLUTION. No activity shall emit any fly ash, dust, fumes, vapors, mists or gases in such quantities as to cause soiling or danger to the health of persons, animals, vegetation or other forms of property.

62. FIRE AND EXPLOSIVE HAZARDS. All permanent activities involving the manufacturing, utilization, processing or storage of inflammable and explosive materials shall be provided with adequate safety devices against the hazard of fire and explosion and with adequate fire fighting and fire suppression equipment and devices

that are standard in the industry. All materials that range from active to intense burning shall be manufactured, utilized, processed and stored only in completely enclosed buildings which have incombustible exterior walls and an automatic fire extinguishing system.

63. GLARE AND HEAT. No activity shall emit glare or heat that is visible or measurable outside its premises, except activities in the M-2 District, which may emit direct or sky reflected glare which shall not be visible outside their district. All operations producing intense glare or heat shall be conducted within a completely enclosed building. Exposed sources of light shall be shielded so as not to be visible outside their premises.

64. LIQUID OR SOLID WASTES. No activity shall discharge at any point onto any land or into any water or public sewer any materials of such nature, quantity, noxiousness, toxicity or temperature which can contaminate, pollute or harm the quantity or quality of any water supply, cause the emission of dangerous or offensive elements, overload the existing municipal utilities or injure or damage persons or property.

65. NOISE. All noise shall be so muffled or otherwise controlled as not to become objectionable due intermittence, duration, beat frequency, impulse character, periodic character or shrillness.

66. ODORS. No activity shall emit any odorous matter of such nature or quantity as to be offensive, obnoxious or unhealthful outside their premises.

67. RADIOACTIVITY AND ELECTRICAL DISTURBANCES. No activity shall emit radioactivity or electrical disturbances outside its premises that are dangerous or adversely affect the use of neighboring premises.

68. VIBRATION. No activity in any district, except the M-2 District, shall emit vibrations, which are discernible without instruments outside its premises.

CHAPTER X ADMINISTRATION

69. CREATION, POWERS AND DUTIES.

a. PLANNING ADMINISTRATOR.

- 1) The duties shall be to administer, supervise and enforce the provisions of this Ordinance.
- 2) The Administrator shall make an annual report of activities to the Land Development Team.

- 3) The Administrator shall provide permit application forms, assist the applicant in preparing his application, advise the applicant as to the provisions of this Ordinance, inspect each project for which a permit has been granted and report any apparent violation to the Ho-Chunk Nation Attorney General.
- 4) The Administrator shall grant or deny permits in accordance with the procedures set forth in 13.

b. LAND DEVELOPMENT TEAM.

- 1) The Land Development Team shall enforce the administration of this ordinance until the establishment of the Ho-Chunk Nation Land Planning Commission.
- 2) POWERS OF THE LAND DEVELOPMENT TEAM. The Land Development Team shall have the following duties and powers:
 - i. It shall apply the provisions of this Ordinance, establish suitability of uses, review conditional and accessory uses, hold public hearings, approve temporary uses, review and approve conditional uses, and may post an order to stop work.
 - ii. It shall hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by an administrative official in the enforcement or administration of this Ordinance.
 - iii. It may authorize upon appeal in specific cases a variance from the terms of this Ordinance as will not be contrary to the public interest, where owing to special conditions a literal enforcement of the provisions of this Ordinance will result in unnecessary hardship and so that the spirit of this Ordinance shall be observed and substantial justice done. No variance shall have the effect of allowing in any district uses prohibited in that district.

70. APPEALS FROM PLANNING ADMINISTRATOR DECISION. Appeals to the Land Development Team may be taken by any person aggrieved or by an officer, department, board or department of the Nation affected by a decision of the Planning Administrator. Such appeal shall be taken within a reasonable time as provided by the rules of the Land Development Team by filing with the officer from whom the appeal is taken and with the Land Development Team a notice of appeal specifying the grounds thereof.

a. HEARING APPEALS.

- 1) The Land Development Team shall fix a reasonable time for hearing of the appeal and publish a date, time and place of hearing and the matters to come

before the Land Development Team, as well as give due notice of hearing to such party at the last known address and decide the same within a reasonable period of time. Upon the hearing, any party may appear in person, by agent or by attorney.

2) The Land Development Team shall adopt such rules, as it deems necessary for the conduct of business and may exercise all of the powers and is vested with all of the duties conferred upon it by Ho-Chunk Nation law.

b. **APPEALS FROM LAND DEVELOPMENT TEAM DECISION.** Any party of interest may appeal a decision of the Land Development Team to the Ho-Chunk Nation Trial Court. Upon appeal, the Ho-Chunk Nation Trial Court may decide any question involving the interpretation of a provision of this law, including the location of a district boundary if there is uncertainty with respect thereto.

71. CHANGES AND AMENDMENTS. The Land Development Team may from time to time amend, supplement or change by Ordinance the boundaries of the districts or regulations herein established. Any proposed change shall first be submitted to the Land Development Team, which shall hold a public hearing thereon. Notice of the time and place of such hearing shall be given by publication in the Hocak Worak according to the Nation's Open Meetings Act and copy of each notice shall be mailed by registered mail to the individual or entity affected by the proposed amendment at least 10 days prior to the date of such hearing.

CHAPTER XI EASEMENTS

72. EASEMENTS.

- a. There shall be dedicated public utility and drainage easements of not less than ten (10) feet in width for poles, wires, conduits, storm or sanitary sewers, gas, cable TV, water or other utility pipes or lines along the rear of each lot, and five (5) feet alongside lot lines where necessary. The easements shall be laid out so that a proper continuity may be developed for such utilities from lot to lot and block to block. Where necessary, in the Nation's discretion, additional easements shall be provided for utilities and other municipal services in order to provide proper operation and maintenance of such facilities.
- b. Driveways may be permitted to encroach within any easement located within any front or corner side yard building setback area parallel to the public right-of-way or public street.
- c. Except as provided by this Subsection, no buildings, driveways, or structures as defined in this Code shall be constructed within any interior side or rear lot line easements.

- d. At the Nation’s discretion, encroachments into a dedicated public utility or any other easement granted to the Nation may be permitted for the construction of buildings, driveways or structures including brick, stone, or masonry walls or fences; or structures which are wired for electricity, where:
 - 1) A written encroachment agreement approved by the Administrator is executed by the owner of the property, and
 - 2) A building permit for the proposed construction is issued by the Land Development Team. Such permits shall be issued only after approval of complete plans for said construction by the Land Development.
- e. At the Nation's discretion, encroachments into a dedicated public utility or any other easement granted to the Nation may be permitted for the construction and installation of all other fences, provided a fence permit for the proposed construction is issued and all required fees are paid to the Nation's transportation, engineering and development business group. Where any easement is designated for drainage or storm water purposes, a fence permit shall be issued only after approval by the Land Development Team.
- f. Any encroachment permitted by this Section shall not be construed as a waiver of any of the other requirements of this Code, including, without limitation, the Zoning Code, the subdivision regulations or the building codes.
- g. Under no circumstances shall the Nation be liable to any property owner or third party for any damage to real or personal property or personal injury that may result from or arise out of the construction of any encroachment permitted by this Section.

Legislative History:

02/19/13	Legislature establishes Zoning and Land Use Ordinance Workgroup by resolution 02.19.13H.
09/03/13	Legislature places draft Zoning and Land Use Ordinance out for 45 day public review by resolution 09.03.13F.
11/19/13	Legislature adopts and enacts Zoning and Land Use Ordinance by resolution 11.19.13C.