

SISSETON-WAHPETON SIOUX TRIBE

CHAPTER 18

ZONING ORDINANCE

S.W.S.T. CODE

Amendment

New Adoption

Judicial Approved

08-08-84

Council Adopted

08-08-84

ARTICLE 1 - SHORT TITLE

Section 101 This Ordinance may be known and may be cited and referred to as "The Zoning Ordinance of Sisseton-Wahpeton Sioux Tribe, Lake Traverse Reservation," to the same effect as if the full titles were stated.

ARTICLE 2 - JURISDICTION

Section 201 Jurisdiction

The provisions of this Ordinance shall apply within the unincorporated areas of Sisseton-Wahpeton Sioux Tribe, Lake Traverse Reservation, as established on the map entitled "The Official Zoning Map of Sisseton-Wahpeton Sioux Tribe, Lake Traverse Reservation."

Section 202 Provisions of the Ordinance Declared to be Minimum Requirements

In their interpretation and application, the provisions of this Ordinance shall be held to be minimum requirements, adopted for the promotion of the public health, safety, morals, or general welfare. Whenever the provisions of this ordinance require a greater width or size of yards, courts, or other spaces, or require a lower height of building or less number of stories or require a greater percentage of lot to be left unoccupied, or impose other higher standard than are required, in any other ordinance, the provisions of this Ordinance shall govern. Wherever the provisions of any other ordinance require a greater percentage of lot to be left unoccupied, or impose other higher standards than are required by the provisions of this Ordinance, the provisions of such ordinance shall govern.

ARTICLE 3 - OFFICIAL ZONING MAP AND BOUNDARY INTERPRETATION

Section 301 General

The Tribe is hereby divided into zones, or districts, as shown on the Official Zoning Map which, together with all explanatory matter thereon, is hereby adopted by reference and declared to be a part of this Ordinance. The Official Zoning Map shall be identified by the signature of the Chairman of the Tribal Council, attested by the \_\_\_\_\_, and bearing the seal of the Tribe under the following words: "This is to certify that this is the Official Zoning Map referred to in Section 301 of Resolution date \_\_\_\_\_, of Sisseton- Wahpeton Sioux Tribe, Lake Traverse Reservation.

Section 302      Zoning Map Changes

If, in accordance with the provisions of this Ordinance, changes are made in the district boundaries or other matter portrayed on the Official Zoning Map, such changes shall be entered on the Official Zoning Map promptly after the amendment has been approved by the Tribal Council with an entry on the Official Zoning Map as follows: "On/date/, by official action of the Tribal Council, the following/change(s)/ were made in the Official Zoning Map: / brief description of nature of change/," which entry shall be signed by the Chairman of the Tribal Council attested by the No amendment to this Ordinance which involves matter portrayed on the Official Zoning Map shall become effective until after such change and entry has been made on said map.

No changes of any nature shall be made in the Official Zoning Map or matter shown thereon except in conformity with the procedures set forth in this Ordinance.

Any unauthorized change of whatever kind by any person or persons shall be considered a violation of this Ordinance and punishable as provided under Section 2402.

Regardless of the existence of purported copies of the Official Zoning Map which may, from time to time, be made or published, the Official Zoning Map, which shall be located in the office of the , shall be the final authority as to the current zoning status of land and water areas, building, and other structures of the Tribe.

Section 303      Zoning Map Replacement

In the event that the Official Zoning Map becomes damaged, destroyed, lost, or difficult to interpret because of the nature or number of changes and additions, the Tribal Council may, by resolution, adopt a new Official Zoning Map which shall supersede the prior Official Zoning Map. The new Official Zoning Map may correct drafting or other errors or omissions in the prior Official Zoning Map, but no such correction shall have the effect of amending the original Official Zoning Map or any subsequent amendment thereof. The new Official Zoning Map shall be identified by the signature of the Chairman of the Tribal Council attested by the, and bearing the seal of the Tribe under the following words: "This is to certify that this Official Zoning Map supersedes and replaces the Official Zoning Map adopted / date of adoption of zoning map being replaced / as part of the Resolution No. \_\_\_\_\_ of Sisseton-Wahpeton Sioux Tribe, Lake Traverse Reservation.

Section 304      Rules for Interpretation of District Boundaries

Where uncertainty exists as to the boundaries of districts as shown on the Official Zoning Map, the following rules shall apply:

1. Boundaries indicated as approximately following the center lines of streets, highways, or alleys shall be construed to follow such center lines;
2. Boundaries indicated as approximately following platted lot lines shall be construed as followings such lot lines;
3. Boundaries indicated as approximately following city limits shall be construed as following such city limits;
4. Boundaries indicated as following railroad lines shall be construed to be midway between the main tracks;
5. Boundaries indicated as following shore lines shall be construed to follow such shore lines and in the event of change in the shore line shall be construed as moving with the actual shore line; boundaries indicated as approximately following the center line of streams, rivers, canals, lakes, or other bodies of water shall be construed to follow such center lines;
6. Boundaries indicated as parallel to or extensions of features indicated in subsections 1 through 5 above shall be so construed. Distances not specifically indicated on the Official Zoning Map shall be determined by the scale of the map;
7. Where physical or cultural features existing on the ground are at variances with those shown on the Official Zoning Map or in other circumstances not covered by subsections 1 through 6 above, the Reservation Planning Commission/Board of Zoning Adjustment shall interpret the district boundaries;
8. Where district line divides a lot which was in single ownership at the time of passage of this Ordinance, the Reservation Planning Commission may permit, as a special exception, the extension of the regulations for either portion of the lot not to exceed fifty (50) feet beyond the district line into the remaining portion of the lot.

#### ARTICLE 4 - APPLICATION OF DISTRICT REGULATIONS

##### Section 401    General

The regulations set forth by this Ordinance within each district shall be minimum regulations and shall apply uniformly to each class or kind of structure or land and particularly, except as hereinafter provided.

**Section 402**    **Zoning Affects Every Building and Use**

No building, structure, or land shall hereafter be used or occupied; and no building or structure or part thereof shall hereafter be erected, constructed, reconstructed, moved or structurally altered except in conformity with all of the regulations herein specified for the district in which it is located.

**Section 403**    **Performance Standards**

No building or other structure shall hereafter be erected or altered:

1. To exceed the height or bulk;
2. To accommodate or house a greater number of families;
3. To occupy a greater percentage of lot area;
4. To have narrower or smaller rear yards, front yards, side yards, or other open spaces;

than herein require; or in any other manner contrary to the provisions of this Ordinance.

**Section 404**    **Open Space or Off-Street Parking or Loading Space**

No part of a yard or other open space or off-street parking or loading space required about or in connection with any building for the purpose of complying with this ordinance shall be included as a part of a yard, open space, or off-street parking or loading space similarly required for any other building.

**Section 405**    **Yard and Lot Reduction Prohibited**

No yard or lot existing at the time of passage of this Ordinance shall be reduced in dimension or area below the minimum requirements set forth herein. Yards or lots created after the effective date of this Ordinance shall meet at least the minimum requirements established by this Ordinance.

**ARTICLE 5 - ESTABLISHMENT OF DISTRICTS**

**Section 501**    **Planning Commission Recommendations**

It shall be a purpose of the Reservation Planning Commission to recommend the boundaries of the various original districts and appropriate regulations to be enforced therein. The Planning Commission shall make a preliminary report and hold public hearings thereon before submitting its final reports, and the Tribal Council shall not public hearings or take action until it has received the final reports of the Reservation Planning Commission.

Section 502     Districts Created

For the purposes of this Ordinance, there are hereby created ten (10) types of districts which the jurisdictional area defined in Article 2 shall be divided:

- (AG)     Agricultural
- (R-1)    Residential
- (R-2)    Mobile Home
- (R-3)    Lake Front
- (R-4)    Residential-Multipurpose
- (C)      Commercial
- (HC)     Highway Commercial
- (I)      Industrial
- (CN)     Conservation
- (FP)     Flood Plain

**ARTICLE 6 - AGRICULTURAL DISTRICT (AG)**

Section 601     Statement of Intent

The intent of Agricultural Districts is to protect agricultural lands and lands consisting of natural growth from incompatible land uses in order to preserve land best suited to agricultural uses and land in which the natural environment should be continued and to limit residential, commercial, and industrial development to those areas where they are best suited for reasons of practicality and municipal fiscal integrity.

Section 602     Permitted Principal Uses and Structures

The following principal uses and structures shall be permitted in Agricultural Districts:

1. Any form of agriculture including the raising of crops, horticulture, animal husbandry, and poultry husbandry;
2. Dwellings and their normal accessory buildings including mobile homes (MH not to exceed five (5) units);
3. Railroad track right-of-way;
4. Wildlife propagation; and
5. Farm labor accommodations.

Section 603     Permitted Accessory Uses and Structures

The following accessory uses and structures shall be permitted in Agricultural Districts:

1. Roadside produce stands in conjunction with a bona fide farm operation on the premises;

2. Artificial lake(s); and
3. Home Occupations.

**Section 604**      **Special Exceptions**

After notice and appropriate safeguards, the Planning Commission/Board of Zoning Adjustment may permit the following special exceptions in the Agricultural District (AG), providing no facility is closer than three thousand nine hundred sixty (3,960) feet from any occupied dwelling unless written permission is granted by owner or owners of such dwelling:

1. Fairgrounds, racetracks, and amusement parks;
2. Utility substations;
3. Airports;
4. Cemeteries;
5. Golf courses, country clubs, and golf driving ranges;
6. Amphitheaters, stadiums, drive-in movies, arenas, and field houses;
7. Go-cart tracks, riding stables, play-fields, athletic fields, bowling, swimming pools, and automobile parking;
8. Public parks, public recreational areas, churches and schools;
9. Commercial feedlots;
10. Operation and maintenance terminal for truck and other equipment;
11. Sanitary landfills; and
12. Junkyards and salvage yards, provided they are screened, and if they are not, they must be one thousand (1,000) feet from road right-of-way or not visible to main traveled way.
13. Mineral extraction operations, including, but not limited to, coal, oil, rock, gravel, and the related processing operations, storing, and sale of such minerals.

**Section 605**      **Minimum Lot Requirements**

The minimum area and lot area per dwelling unit shall be forty three thousand five hundred sixty (43,560) square feet (1 acre), providing EPA requirements are met, including special exceptions as determined by the Planning Commission. The minimum lot width shall be two hundred

(200) feet.

**Section 606 Minimum Yard Depth**

There shall be a front yard of not less than eighty (80) feet along all road and highway rights-of-way.

**Section 607 Minimum Setbacks of Shelterbelts**

Shelterbelts consisting of one or more rows when parallel to the right-of-way shall be set back a minimum of three hundred (300) feet from the right-of-way line. Field belts consisting of one or two rows perpendicular of the right-of-way shall be set back a minimum one hundred (100) feet from the right-of-way line. Shelterbelts for existing farmstead purposes are exempt from minimum shelterbelt setback requirements.

**Section 608 Maximum Number of Approaches**

There shall be no more than one (1) access approach on a public road or highway per one-quarter (1/4) mile.

**ARTICLE 7 - RESIDENTIAL DISTRICTS (R-1)**

**Section 701 Intent**

The intent of Residential District (R-1) is to provide for residential uses of varying types and other compatible uses in a pleasant and stable environment.

**Section 702 Permitted Principal Uses and Structures**

1. Single-family dwellings;
2. Horticulture uses.

**Section 703 Permitted Accessory Uses and Structures**

1. Home occupations and professional offices;
2. Accessory uses and structures normally appurtenant to the permitted uses and structures when established within space limits of this district.

**Section 704 Special Exceptions**

After the provisions of this Ordinance relating to special exceptions have been fulfilled, the Reservation Planning Commission may permit as special exceptions in Residential District (R-1):

1. Multiple-family dwelling;
2. Colleges, universities and vocational schools;
3. Churches, synagogues and temples;

4. Nursery, primary, intermediate and secondary schools;
5. Public recreational and park facilities;
6. Golf courses and country clubs;
7. Cemeteries;
8. Utility substations conforming to surrounding area;
9. Convalescent, nursing and rest homes;
10. Medical and other health facilities; and
11. Governmental services.

**Section 705 Minimum Lot Requirements**

The minimum lot area shall be seven thousand (7,000) square feet for single and multifamily dwellings. The minimum lot area for a multifamily dwelling shall be three thousand five hundred (3,500) square feet for two dwelling units. Larger multifamily dwellings shall have lot areas as determined by the Reservation Planning Commission. The minimum lot width shall be fifty (50) feet.

**Section 706 Minimum Yard Requirements**

There shall be a front yard of not less than a depth of thirty (30) feet. There shall be a rear yard of not less than a depth twenty-five (25) feet. Each side yard shall not be less than seven (7) feet.

**ARTICLE 8 - PLANNED MOBILE HOME DISTRICT (R-2)**

**Section 801 Intent**

This District is created to preserve and enhance property values on the Reservation by providing designated, distinctive areas of not less than two (2) acres having a minimum of three hundred (300) feet in width in which mobile homes may be situated for residential dwelling purposes. It is the intent that this District be a desirable, prominent area providing adequate open space and essentially the same considerations given to citizens of other Residential Districts.

**Section 802 Permitted Principal Uses and Structures**

The following principal uses and structures shall be permitted in Planned Mobile Home Park District(s) (R-2):

1. Mobile home dwellings;
2. Laundromat including facilities for coin-operated dry cleaning machines; and



3. Parks and playgrounds.

**Section 803 Permitted Accessory Uses and Structures**

Only those accessory uses and structures customarily incidental to principal uses and structures.

**Section 804 Minimum Lot Requirements**

The minimum lot area for individual mobile homes shall be four thousand (4,000) square feet. The overall density of any mobile home park shall not exceed eight (8) units per gross acre, and the net density of any particular acre shall not exceed ten (10) units per acre.

**Section 805 Minimum Yard Requirements**

The minimum distance required for the separation of a mobile home from any other mobile home shall be ten (10) feet from side to side, ten (10) feet from side to rear, and ten (10) feet from rear to rear; front setback from private drive of ten (10) feet.

**Section 806 Mobile Homes**

No mobile home shall be parked and occupied in any unauthorized district for more than forty-eight (48) hours except upon a special permit issued by the Zoning Administrator. Such permit shall be issued for a period not to exceed thirty (30) days and shall not be renewable within the same calendar year. Provided, however, a permit may be issued for parking and occupying a mobile home on land owned by the occupant or occupants during the construction of a house thereon or for a period not exceeding one hundred eighty (180) days and which shall be renewable for an additional period not exceeding one hundred eighty (180) days. However, if material progress with house construction is not made within forty-five (45) days from the issuance of a permit, or if construction work ceases for a consecutive period of forty-five (45) days, said permit shall become void.

**Section 807 Mobile Home Parks (R-2)**

A mobile home park may be established by following the Rezoning Process for the Residential Mobile Home (R-2) District provided:

1. A request for a change in Zoning Districts to Residential (R-2) Mobile Home shall set forth the topography, legal description of the proposed mobile home park property, and a sketch of the proposed mobile home park, showing dimensions, driveways, proposed locations of mobile homes, the location of sanitary conveniences and other buildings and improvements;

2. Certification of compliance with all ordinances and regulations regards mobile homes park licensing and zoning, health, plumbing, electrical, building, fire prevention and all other applicable ordinances and regulations shall be a prior requirements; and
3. Property line, easements, and right-of-ways will also be shown.

Section 808 Mobile Home Regulations Within a Mobile Home Park

Planned mobile home development;

1. Planned mobile home development are permitted as a matter of right in districts zoned as Planned Mobile Home Districts (R-2). However, to implement the Statement of Intent for this district, the following standards shall be met by any applicant:

- a. The proposed property shall be located so that it shall not be necessary for excessive traffic movement from the park to pass through an existing single-family residential area or areas suitable for future single-family residential development.
- b. The property is not within an area used nor planned for industrial development, nor will the occupants of the proposed park be in any way adversely affected by nearby existing or planned industrial uses.
- c. The property shall be convenient to schools, parks, and shopping facilities.

2. Access and Street Requirements:

- a. All mobile home spaces must be served from internal private streets within the mobile home park, and there shall be no direct access from a mobile home space to a public street or alley. These streets must be at least graveled.
- b. A minimum of two (2) off-street parking spaces shall be provided for each mobile home space; guest parking in the ratio of one parking space per five (5) mobile home spaces shall be interspersed throughout the mobile home park.
- c. No internal private street access to public streets shall be closer than one hundred (100) feet to any public street intersection.
- d. All streets shall be lighted in accordance to the standards of the Districts.

- e. Stop signs shall be placed at all public street intersections. Yield signs placed appropriately on internal private streets.
  - f. Entrance to mobile home parks shall have direct connections to a public road and shall be designed to allow free movement of traffic on such adjacent public roads.
  - g. Streets should be of adequate widths to accommodate the contemplated parking and traffic load in accordance with the type of street with ten (10) feet minimum moving lanes for collector streets, nine (9) feet minimum moving lanes for minor streets, and seven (7) feet minimum lanes for parallel parking.
3. Fencing Require: Except for connection of internal private street to public street, a wall, hedge, or fence of a minimum of four (4) feet in height shall be constructed along all public streets.
  4. Other requirements:
    - a. Applicants shall comply with appropriate requirements of the Subdivision Regulations.
    - b. Each mobile home park shall provide screened areas for refuse disposal of an adequate size for the number of units served and shall provide for the disposal of such refuse on a regularly scheduled basis.
    - c. Additional development requirements may be prescribed as conditions when such requirements are determined to be necessary to ensure the protection of the character of the neighboring properties, the compatibility of land uses, and the health and safety of mobile home park occupants.

**SPECIAL NOTE:** Also refer to Appendix B for further mobile home regulations and mobile home standards.

## **ARTICLE 9 - LAKE FRONT RESIDENTIAL (R-3)**

### **Section 901 Intent**

The intent of the Lake Front Residential District (R-3) is to provide for residential uses of shoreline land without altering natural surrounding of the District.

### **Section 902 Permitted Principal Uses and Structures**

1. Single family residential usage including mobile homes but excluding mobile home parks.

**Section 903 Permitted Accessory Uses and Structures**

1. Home occupations;
2. Accessory uses and structures normally appurtenant to the permitted uses and structures when established within space limits of this district.

**Section 904 Special Exceptions**

After the provisions of this Ordinance relating to special exceptions have been fulfilled, the Planning Commission/Board of Zoning Adjustment/ may permit as special exceptions in Lake Front Residential District:

1. Golf courses and country clubs;
2. Resorts;
3. Grocery stores; and
4. Sporting goods stores.

**Section 905 Minimum Lot Requirements**

Each lot shall have a depth of not less than one hundred fifty (150) feet and shall have a shoreline frontage width of not less than seventy-five (75) feet. The minimum lot road frontage shall not be less than fifty (50) feet in width. Each additional tier of lots shall have a width of not less than fifty (50) feet and no less than one hundred fifty (150) feet in depth.

**Section 906 Minimum Setback Requirements**

Each building shall be set back not less than fifty (50) feet from the normal high water mark. The road setback shall be fifty (50) feet from federal and state highways and thirty (30) feet from other roads. Each side yard shall not be less than seven (7) feet.

**Section 907 Building or Structure Depth**

Any building or structure except boat-houses, piers and docks shall be placed at an elevation such that the lowest floor, including a basement, is three (3) feet above the highest known water level. In locations here sufficient data on known high water levels are not available, the elevation of the line of permanent terrestrial vegetation shall be used as the estimated high water elevation. When fill is required to meet this elevation, the fill shall allowed to stabilize before construction is begun.

Section 908 Private Sewage Disposal Systems

All private sewage disposal systems will comply with Department of Environmental Protection Agency regulations and their updates as promulgated in Chapter 34; 04; 01; General Authority 46-25-107; Law Implemented; 46-25-38 through 46-25-47.

**ARTICLE 10 - RESIDENTIAL DISTRICT (R-4)**

Section 1001 Intent

The intent is to provide for residential uses of all types and other compatible uses in a pleasant and stable environment.

Section 1002 Permitted Principal Uses and Structures

1. Single-family dwellings;
2. Multi-family dwellings;
3. Mobile homes; and
4. Noncommercial horticultural uses.

Section 1003 Permitted Accessory Uses and Structures

1. Home occupations and professional offices; and
2. Accessory uses and structures normally appurtenant to the permitted uses and structures when established within space limits of this district.

Section 1004 Special Exceptions

After notice and appropriate safeguards, the Planning Commission may permit as conditional uses:

1. Churches, synagogues, temples;
2. Nursery, primary, intermediate, and secondary schools;
3. Public recreational and park facilities;
4. Golf courses and country clubs;
5. Medical and other health facilities;
6. Cemeteries;
7. Governmental services;
8. Hospitals, convalescent, nursing, and rest homes;

9. Utility substations; and
10. Commercial uses.

#### Section 1005 Minimum Lot Requirements

The minimum lot area shall be seven thousand (7,000) square feet for single and multifamily dwellings. The minimum lot area per dwelling unit in a multifamily dwelling shall be three thousand five hundred (3,500) square feet for each of the first two dwelling units. Larger multifamily dwellings shall have lot areas as determined by the Reservation Planning Commission. The minimum lot width shall be fifty (50) feet.

#### Section 1006 Minimum Yard Requirements

This shall be a front yard of not less than thirty (30) feet. There shall be a rear yard of not less than a depth of twenty-five (25) feet. Each side yard shall not be less than seven (7) feet.

### ARTICLE 11 - COMMERCIAL DISTRICTS (C)

#### Section 1101 Intent

The intent of the Commercial District (C) is to provide a commercial area for those establishments serving the general shopping needs of the trade area and in particular, those grouping of uses is intended to strengthen the central business area as the urban center of trade, service, governmental and cultural activities, and to provide neighborhood commercial convenience areas.

#### Section 1102 Permitted Principal Uses and Structures

The following principal uses and structures shall be permitted in the Commercial District (C):

1. Retail sales of: auto, implements, sales; groceries, fruits, vegetables, dairy products, meats, poultry products, fish and seafood; baked goods, candies, nuts, confectionery items; beer, wine, and distilled alcoholic beverages; heating and plumbing equipment, paint, glass and wallpaper; electrical supplies, hardware, dry goods and general merchandise; tires, batteries and accessories; marine and aircraft accessories; wearing apparel and accessories; furniture, home furnishings and equipment; household appliances, radios, televisions, and music supplies; drugs and proprietary medicines; antiques and second-hand merchandise; books and stationery, sporting goods and bicycles; jewelry, flowers and other plant materials; cigars and cigarettes, newspapers and magazines, cameras and photographic supplies, gifts, novelties and souvenirs, optical goods:

2. Finance, insurance and real estate services;
3. Laundering, dry cleaning and dyeing services; photographic services; beauty and barber services, apparel repair, alteration, and cleaning pickup service; shoe repair services;
4. Business services, excluding any warehousing and storage services;
5. Automobile washing, electrical repair, radio and television repair, and watch clock, and jewelry repair;
6. Professional services;
7. Governmental services;
8. Educational services;
9. Bus passenger terminals and taxicab transportation;
10. Churches, synagogues, and temples; welfare and charitable services; business associations, professional membership organizations; labor unions and similar labor organizations; and civic, social and fraternal associations;
11. Eating and drinking places;
12. Communication and utility uses;
13. Public buildings and grounds;
14. On-site signs;
15. Automobile service stations;
16. Hotels and motels;
17. Automobile parking;
18. Libraries, museums, art galleries, planetaria, aquariums, historic and monument sites, motion picture theaters, legitimate theaters, auditoriums, exhibition halls, penny arcades, gymnasiums and athletic clubs, ice skating, roller skating, and bowling; and
19. Parks.

**Section 1103 Permitted Accessory Uses and Structures**

The following accessory uses and structures shall be permitted in the Commercial District (c):

1. Accessory uses and structures normally appurtenant to the permitted uses and structures when established within the space limits of this District.

#### Section 1104 Special Exceptions

After the provisions of this Ordinance relating to special exceptions have been fulfilled, the Reservation Planning Commission may permit as special exceptions in the Commercial District (C):

1. Other trade and service uses which are similar to the permitted principal uses and which are in harmony with the intent of this District; and
2. Structures containing both commercial and residential uses, provided, that the residential uses are not on the ground floor.

#### Section 1105 Minimum Lot Requirements

The minimum lot area shall be two thousand four hundred (2,400) square feet. The minimum lot width shall be twenty (20) feet.

#### Section 1106 Minimum Yard Requirements

All buildings located on lots adjacent to a Residential District shall be located so as to conform on the adjacent side with the side yard requirement for the adjacent Residential District.

#### Section 1107 Maximum Lot Coverage

The maximum lot coverage for all buildings shall not be more than ninety (90) percent of the total lot area.

### ARTICLE 12 - HIGHWAY COMMERCIAL DISTRICT (HC)

#### Section 1201 Intent

The intent of the Highway Commercial District (HC) is to provide commercial areas for those establishments which can function most satisfactorily in an area directly related to a major vehicular circulation route due to the nature of the merchandise handled and the display space required, particularly items requiring expansive display area such as motor vehicles, trailers, and farm implements, the method of transport required of the purchases for the merchandise handled, particularly goods customarily traded in bulk such as lumber or feed requiring access for the customer to the sales area, primary dependence upon vehicular, as opposed to pedestrian, access such as drive-in facilities and all types of automotive and farm implement services, or the clientele toward which the establishments are primarily oriented, particularly travelers on the highways.



Section 1202 Permitted Principal Uses and Structures

The following principal uses and structures shall be permitted in Highway Commercial Districts (HC):

1. Retail sales of: Lumber and other building materials, farm equipment, motor vehicles, marine craft, aircraft, mobile homes, trailers, farm and garden supplies, fuel and ice;
2. Wholesale sales of: motor vehicles and automotive equipment, drugs, chemicals and allied products, electrical goods, hardware, plumbing, heating equipment and supplies, machinery, equipment and supplies, beer, wine and distilled alcoholic beverages, paper and paper products, furniture and home furnishings, lumber and construction materials;
3. Funeral and crematory services;
4. Farm products warehousing and storage, excluding stockyards;
5. Refrigerated warehousing;
6. Food lockers, provided, that any slaughtering, killing, eviscerating, skinning, or plucking be done indoors;
7. Household goods warehousing and storage;
8. General warehousing and storage;
9. Automobile repair and service;
10. Reupholstery and furniture repair services;
11. Contract construction services;
12. Bus garaging and equipment maintenance;
13. Motor freight terminals;
14. Motor freight garaging and equipment maintenance;
15. Automobile parking;
16. Libraries, museums, art galleries, planetaria, aquariums, historic and monument sites, auditoriums, exhibition halls, and penny arcades;
17. Miniature golf, gymnasiums and athletic clubs, swimming pools, tennis courts, ice skating, and roller skating;
18. Parks;

19. Amphitheaters, stadiums, drive-in movies, arenas and field houses, race tracks, fairgrounds, amusement parks, golf driving rages, go-cart tracks, golf courses and country clubs, riding stables, play-fields and athletic fields, bowling, and swimming pools; and
20. Motels.

#### Section 1203 Permitted Accessory Uses and Structures

The following accessory uses and structures shall be permitted in Highway Commercial Districts (HC):

1. Accessory uses normally appurtenant to the permitted principal uses and structures when established in conformance within the space limits of this District.

#### Section 1204 Special Exceptions

After proper notice and appropriate safe-guards, the Planning Commission may permit as a special exception:

1. Other trade and service uses which are similar to the permitted principal uses and which are in harmony with the intent of this District;
2. Structures containing both commercial and residential uses, provided, that the residential uses are not on the ground floor; and
3. Industrial.

#### Section 1205 Minimum Lot Requirements

The minimum lot area shall be ten thousand (10,000) square feet. The minimum lot width shall be one hundred (100) feet.

#### Section 1206 Minimum Yard Requirements

There shall be a front yard of not less than a depth of forty (40) feet. There shall be a rear yard of not less than a depth of twenty (20) feet. Each side yard shall be not less than ten (10) feet.

#### Section 1207 Service or Access Roads

Service or access roads may be required at the discretion of the Planning Commission.

### ARTICLE 13 - GENERAL INDUSTRIAL DISTRICT (I)

#### Section 1301 Intent

The intent of the General Industrial District (I) is to provide space for certain types of industrial and/or manufacturing and/or warehousing or storage operations

which are compatible to adjoining district. Such uses generally required open storage of materials or goods either before, during, or after the manufacturing process but are of a low noise or nuisance level. Land designated for this District should be located in relation to the thoroughfare network of the community as well as rail and air if required, and designated so as to not disrupt normal traffic flow. Because of increased technological developments, extensive lists of permitted and prohibited uses is impractical; therefore, to safeguard the public interests, performance standards are established herein as criteria for all permitted uses and as guidance for the Planning Commission in permitting any conditional uses. Planned Industrial Parks are encouraged in this District.

**Section 1302 Permitted Principal Uses and Structures**

There shall be no permitted principal uses and structures.

**Section 1303 Permitted Accessory Uses and Structures**

There shall be no permitted accessory uses and structures.

**Section 1304 Minimum Lot Requirements**

All uses and structures in the General Industrial District shall be by special exception. The Reservation Planning Commission may permit as special exceptions any use which is consistent with the intent of this district. Performance standards found in Appendix A will be used as guidelines in determining special exceptions.

**Section 1305 Minimum Yard Requirements**

There shall be a front yard of not less than a depth of twenty-five (25) feet. There shall be a rear yard of not less than a depth of twenty (20) feet. Each side yard shall be not less than twenty (20) feet, provided, that on lots adjacent to a Residential District, all buildings shall be located so as to provide a minimum side and rear yard of twenty-five (25) feet along that portion of the lot adjacent to the Residential District.

**ARTICLE 14 - FLOODPLAIN DISTRICT (FP)**

**Section 1401 Intent**

The intent of the Floodplain District (FP) is to delineate reasonable high water marks within the jurisdiction of this Ordinance. For the reasons of health, safety, and the general welfare, certain safeguards are needed to :

- (1) protect human life and health;
- (2) minimize the expenditure of public money for costly flood control projects;
- (3) insure that potential lawyers are notified that property is in an area of special flood hazard; and
- (4) ensure that those who occupy the areas of special flood hazard assume responsibility of their actions.

**Section 1402 Dual Districts**

FP districts (zones) will be found in conjunction with another district. Within these dual districts, the permitted uses, special exceptions, yard and lot requirements, etc., will be the same as those in the district found jointly with the FP district. Those districts found jointly are: Floodplain-Agriculture (FP-AG), Floodplain-Lake Front Residential (FP-R-3), and Floodplain-Commercial (FP-C).

The FP designation requires additional standards / requirements within the dual districts because of their proximity in flood prone areas.

**Section 1403 Flood Hazard Boundary Map Utilized as Basis for FP District Designation**

The FHBM is the basis utilized for the FP zone designation. Any shaded areas on the FHBM constitute an FP district which must be cross checked with the zoning map to determine its joint district: AG, C, OR R-3.

**Section 1404 Permitted Principal Uses and Structures**

Only those permitted uses and structures allowed in the district listed jointly with the FP district.

**Section 1405 Special Exceptions**

Only those exceptions that are allowed in the district listed jointly with the FP designation.

**Section 1406 Yard, Lot, and Area Requirement**

Yard, lot, area requirements shall be those that are required in the district that is listed with the FP designation.

**Section 1407 Base Flood Data: Elevations Required**

The Zoning Administrator, in making his determination of the minimum elevation of the dwellings first habitable floor and/or the degree of flood proofing, shall obtain, review, and reasonably utilize any base flood elevation data from Federal, or other sources. Since actual base flood elevations are not available, the Administrator shall require and record:

**Section 1408 General Standards**

In all areas of special flood hazards, the following general standards are required:

1. Anchoring

- a. All new construction and substantial improvements shall be anchored to prevent floatation, collapse, or lateral movements of the structure.
- b. All mobile homes shall be anchored to resist flotation, collapse, or lateral movements by providing over-the-top and frame ties to ground anchors. Special requirements shall be that:
  1. over-the-top ties be provided at each of the four (4) corners of the mobile home with two (2) additional ties per side at intermediate locations with mobile homes less than fifty (50) feet long requiring one (1) additional tie per side;
  2. frame ties be provided at each corner of the home with five (5) additional ties per side at intermediate points, with mobile homes less than fifty (50) feet long requiring four (4) additional ties per side;
  3. all components of the anchoring system be capable of carrying a force of four thousand eight hundred (4,800) pounds; and
  4. any additions to the mobile home be similarly anchored.

## 2. Construction Materials and Methods

- a. All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
- b. All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.

## 3. Utilities

- a. All new and replacement water systems shall be designed to minimize eliminate infiltration of flood waters into the system;
- b. New and replacement sanitary sewage systems shall be designated to minimize or eliminate infiltration of flood waters into the systems and discharge from the systems into flood waters; and
- c. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

## Section 1409 Specific Standard

In all areas of special flood hazards, the following specific standards are required:

1. New construction and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated to or above base flood elevation, as determined by the best available data;
2. New construction and substantial improvement of any commercial, industrial, or other nonresidential or nonagricultural structure shall either have the lowest floor, including basement, elevated to the level of the base flood elevation; or, together with attendant utility and sanitary facilities shall:
  - a. Be flood proof so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water;
  - b. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and
  - c. Be certified by a registered, professional engineer or architect that the standards of this subsection are satisfied.
3. Mobile homes shall be anchored in accordance with Section 1908 (2).

## Section 1410 Floodway Restrictions

There shall be no new construction, substantial improvements, fill, or other developments unless a technical evaluation demonstrates that encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge and all other Federal laws are adhered to.

## Section 1411 Warning and Disclaimer of Liability

The degree of flood protection required by this Ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This Ordinance does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This Ordinance shall not create liability on the part of the Tribe, any officer or employee thereof, or the Federal Insurance Administration, for any flood damages that result from reliance on this Ordinance or any administrative decision made thereunder.

**ARTICLE 15 - CONSERVATION DISTRICT (CN)**

**Section 1501 Intent**

The intent and purpose of Conservation District (CN) is to provide for the retaining of natural growth of a particular area, to preserve the natural environment and resources from destructive land uses, to preserve certain locations which an historic value and to protect natural spawning grounds, feeding grounds, and wildlife habitats.

**Section 1502 Permitted Principal Uses and Structures**

The following principal uses and structures shall be permitted in Conservation Districts (CN):

1. Horticulture uses, agriculture;
2. Public and private parks, recreational ares, hunting and fishing preserves and camps, wildlife refuges, forest preserves, boat docks, piers, landings, and summer camps;
3. Forests and production of woodland products including portable sawmills for cutting timber grown on the premises;
4. Utility lines within right-of-way and within ten (10) feet of public and road rights-of-way; and
5. On-site signs.

**Section 1503 Permitted Accessory Uses and Structures**

The following accessory uses and structures shall be permitted in Conservation Districts (CN):

1. Roadside stands; and
2. Accessory uses and structures normally appurtenant to the permitted uses and structures when established within the space limits of this district.

**Section 1504 Special Exceptions**

After the provisions of this Ordinance relating to special exceptions have been fulfilled, the Reservation Planning Commission may permit as exception in Conservation Districts (CN):

1. Utility substations;
2. Temporary farm labor accommodations necessary for harvesting those agricultural products grown on the premises;

3. Golf courses, country clubs, golf club houses and swimming pools;
4. Commercial outdoor recreation areas that are similar to public recreation areas;
5. Single family dwelling; and
6. Home occupation.

**Section 1505 Minimum Lot Requirements**

the minimum lot area and lot area per dwelling unit shall be eighty-eight thousand (88,000) square feet. The minimum lot width per dwelling unit at the front building line shall be one hundred fifty (150) feet.

**ARTICLE 16 - SUPPLEMENTARY DISTRICT REGULATIONS**

**Section 1601 Visibility at Intersections**

On a corner lot in all residential districts, nothing shall be erected, placed, planted or allowed to grow in such a manner as materially to impede vision between a height of two and one-half (2 1/2) and ten (10) feet above the centerline grades of the intersecting streets in the area bounded by the street lines of such corner lots and a line joining points along said street lines fifth (50) feet from the point of the intersection.

**Section 1602 Erection of More Than One Principal Structure of a Lot**

In any district, more than one structure housing a permitted or permissible principal use may be erected on a single lot, provided, that yard and other requirements of this Ordinance shall be met for each structure as though it were on an individual lot.

**Section 1603 Structures to Have Access**

Every building hereafter erected or moved shall be on a lot adjacent to a street and all structures shall be so located on lots as to provide safe and convenient access for servicing, fire protection and required off-street parking.

**Section 1604 Parking and Storage of Certain Vehicles**

Automotive vehicles or trailers of any kind or type current license plates shall not be parked or stored on any residential zoned property other than in completely enclosed buildings.



### Section 1605 Minimum Off-Street Parking and Loading Requirements

Off-street motor vehicle parking and loading space shall be provided on any lot on which any of the indicated structures and uses are hereafter established. Such space should be provided with vehicular access to a street or alley. For the purpose of computing the number of parking spaces available in a given area, the formula of two hundred fifty (250) square feet per parking space shall be required. A schedule of minimum recommended off-street parking and loading requirements found in Appendix C may be used in all zoning districts to the structures and uses indicated.

### Section 1606 Special Utility Provision

Utilities such as pipelines, underground cables and power and telephone highlines shall be placed along section lines and their right-of-way.

### Section 1607 Sign Requirements

No off-street signs will be permitted along state and federal highways except in commercial, Highway Commercial and Industrial Districts. Tribal Law will prevail along all Federal Aid Primary and Interstate roads. No other signs hereafter may be erected or maintained in the remaining districts except as erected by an official unit of government for the direction of control of traffic, and information to the general public shall conform to the provisions of this Ordinance.

### Section 1608 Mobile Home Regulations

Inhabited mobile homes in all districts shall comply with Civil Defense Preparedness Agency, TR-75, revised June, 1972, by the Department of Defense. TR-75 is a booklet entitled "Protecting Mobile Homes From High Winds" and is available at the Zoning Administrator's Office. See Appendix B.

### Section 1609 Shoreline Alteration

Tree and shrub cutting in a strip paralleling the shoreline and extending thirty-five (35) feet inland from all points along the normal high water mark of the shoreline shall be preserved as far as practicable, and where removed, it shall be replaced with other vegetation that is equally effective in retarding runoff, preventing erosion and preserving natural beauty. The removal of natural shrubbery shall require a permit from the Tribal Zoning Administrator, who prior to issuing the permit, shall require a plan showing work to be accomplished.

ARTICLE 17 - NONCONFORMING LOTS, NONCONFORMING USES OF LAND,  
NONCONFORMING STRUCTURES, NONCONFORMING USES OF STRUCTURES  
AND PREMISES, NONCONFORMING CHARACTERISTIC OF USES

Section 1701 Intent

Within the Districts established by this Ordinance or amendment that may later be adopted there exists:

- a. lots,
- b. structures,
- c. uses of land and structures, and
- d. characteristics of use

Which were lawful before this Ordinance was passed or amended, but which would be prohibited, regulated, or restricted under the terms of this Ordinance or future amendment. It is the intent of this Ordinance to permit these nonconformities to continue until they are removed, but not to encourage their survival. It is further the intent of this Ordinance that nonconformities shall not be enlarged upon, expanded or extended, nor be used as grounds for adding other structures or uses prohibited elsewhere in the same District.

Nonconforming uses are declared by these regulations to be incompatible with permitted uses in the District involved. A nonconforming use of structure, a nonconforming use of land, or a nonconforming use of land and structure in combination shall not be extended or enlarged after passage of this Ordinance by attachment of a building or premises of additional signs intended to be seen from off the premises, or by the addition of other uses of a nature which would be prohibited generally in the District involved.

To avoid undue hardship, nothing in this Ordinance shall be deemed to require a change in the plans, construction, or designated use of any building or which actual construction was lawfully begun prior to the effective date of this adoption or amendment of this Ordinance and upon which actual building construction has been carried on diligently. Actual construction is hereby defined to include the placing of construction materials in permanent position and fastened in a permanent manner. Where excavation or demolition or removal of an existing building has been substantially begun preparatory to rebuilding, such excavation or demolition or removal shall be deemed to be actual construction, provided that work shall be carried on diligently.

Section 1702 Nonconforming Lots of Record

In any District in which single-family dwellings are permitted, a single-family dwelling and customary accessory buildings may be erected on any single lot of record at the effective date of adoption or amendment of this Ordinance, notwithstanding limitations imposed by other provisions of the Ordinance.

Such lot must be in separate ownership. This provision shall apply even though such lot fails to meet the requirements for area or width, or both, that are generally applicable in the District, provided that yard dimensions and requirements other than those applying to area or width, or both, of the lot shall conform to the regulations for the District in which such lot is located. Variance of yard requirements shall be obtained only through action of the Reservation Planning Commission.

In any District, if two (2) or more lots combinations of lots and portions of lots with continuous frontage in single ownership are of record at the time of passage or amendment of this Ordinance, and if all or part of the lots do not meet the requirements established for lot width and area, the lands involved shall be considered to be an individual parcel for the purpose of this Ordinance, and no portion of said parcel shall be used or sold in a manner which diminished compliance with lot width and area requirements established by this Ordinance, nor shall any division of any parcel be made which creates a lot with width or area below requirements stated in this Ordinance.

Section 1703 Nonconforming Uses of Land (Or Land with Minor Structure Only)

Where at the time of passage of this Ordinance lawful use of land exists which would not be permitted by the regulations imposed by this Ordinance, the use may be continued so long as it remains otherwise lawful, provided:

1. No such nonconforming use shall be enlarge or increased, nor extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this Ordinance;
2. No such nonconforming use shall be moved in whole or in part to any portion of the lot or parcel other than that occupied by such use at the effective date of adoption or amendment of this Ordinance;
3. If any such nonconforming use of land ceases for any reason for a period of more than one (1) year, any subsequent use of such land shall conform to the regulations specified by this Ordinance for the District in which such land is located; and

4. No additional structure not conforming to the requirement of this Ordinance shall be erected in connection with such nonconforming use of land.

#### Section 1704 Nonconforming Structures

Where a lawful structure exists at the effective date of adoption or amendment of this Ordinance that could not be built under the terms of this Ordinance by reason of restrictions on area, lot coverage, height, yards, its location on the lot, or other requirements concerning the structure, such structure may be continued so long as it remains otherwise lawful, subject to the following provisions:

1. No such nonconforming structure may be enlarged or altered in a way which increased its nonconformity, but any structure or portion thereof may be altered to decrease its nonconformity;
2. Should such nonconforming structure or nonconforming portion of structure be destroyed by any means to an extent of more than fifty (50) percent of its (reasonable fair market value (replacement cost) at time of destruction, it shall not be reconstructed except in conformity with the provisions of this Ordinance; and
3. Should such structure be moved for any reason for any distance whatever, it shall thereafter conform to the regulations for the District in which it is located after it is moved.

#### Section 1705 Nonconforming Uses of Structures or of Structures and Premises in Combination

If lawful use involving individual structures or of structure and premises in this Ordinance, that would not be allowed in the District under the terms of this Ordinance, the lawful use may be continued so long as it remains otherwise lawful, subject to the following provisions:

1. No existing structure devoted to a use not permitted by this Ordinance in the District in which it is located shall be enlarged, extended, constructed, reconstructed, moved or structurally altered except in changing the use of the structure to a use permitted in the District in which it is located;
2. Any nonconforming use may be extended throughout any parts of a building which are manifestly arranged or designed for such use shall be extended to occupy any land outside such building;

3. If no structural alterations are made, any nonconforming use of a structure, or structure and premises, may as a conditional use be changed to another nonconforming use provided the Reservation Planning Commission either by general rule or by making findings in the specific case, shall find that the proposed use is equally nonconforming use. In permitting such change, the Reservation Planning Commission may require appropriate conditions and safeguards in accord with the provisions of this Ordinance;
4. Any structure, or structures and land in combination, in or on which a nonconforming use is superseded by a permitted use, shall thereafter conform to the regulation for the District, and the nonconforming use may not thereafter be resumed;
5. When a nonconforming use of a structural, or structure and premises in combination, is discontinued or abandoned for nine (9) consecutive months or for twenty-four (24) months during any three-year (3) period (except when government action impeded access to the premises), the structure, or structure and premises in combination, shall not thereafter be used except in conformity with the regulations of the District in which it is located; and
6. Where nonconforming use status applies to a structure and premises in combination, removal or destruction of the structure shall eliminate the nonconforming status of the land. Destruction for the purpose of this subsection is defined as damage to replace cost at time of destruction.

#### Section 1706 Repairs and Maintenance

On any nonconforming structure or portion of a structure containing a nonconforming use, work may be done in any period of twelve (12) consecutive months on ordinary repairs, or on repair or replacement of non-bearing walls, fixtures, wiring, or plumbing of the nonconforming structure or nonconforming portion of the structure, as the case may be, provided that the cubic content existing when it became nonconforming shall not be increased.

If a nonconforming structure or portion of a structure containing a nonconforming use becomes physically unsafe or unlawful due to lack of repairs and maintenance and is declared by any duly authorized official to be unsafe or unlawful by reason of physical condition, it shall not thereafter be restored, repaired, or rebuilt except in conformity with the regulations of the District in which it is located. Nothing in this Ordinance shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by an official charge with protecting the public safety, upon order of such official.

Section 1707 Special Exceptions Shall not be Nonconforming Uses

Any use which is permitted as a special exception in a District under the terms of this Ordinance (other than a change through Reservation Planning Commission action from a nonconforming use to another use not generally permitted in the District) shall not be deemed a nonconforming use in such District but shall without further action be considered a conforming use at the date of adoption of this Ordinance.

**ARTICLE 18 - ADMINISTRATIVE PROCEDURE AND ENFORCEMENT - BUILDING PERMITS**

Section 1801 Administration and Enforcement

An administrative official, who shall be known as the Zoning Administrator and who shall be designated by the Tribal Council, shall administer and enforce this Ordinance. He may be provided with the assistance of such other persons as the Tribal Council may direct.

If the Zoning Administrator shall find that any of the provisions of this Ordinance are being violated, he shall notify the writing the persons responsible for such violations, indicating the nature of the violation and ordering the action necessary to correct it. He shall order discontinuance of illegal use of land, buildings, or structures; removal of illegal buildings or structures or of illegal additions, alterations, or structural changes; discontinuance of any illegal work being done; or shall take any other action authorized by this Ordinance to insure compliance with or to prevent violation of its provisions.

Section 1802 Buildings Permits Required

No building shall be erected, partially erected, moved, added to, or structurally altered without a permit therefor issued by the Zoning Administrator if its value exceeds five hundred (\$500.00) dollars and increases the square footage of a building. No building permit shall be issued by the Zoning Administrator except in conformity with the provisions of this Ordinance, unless he received a written order from the Reservation Planning and Zoning Commission in the form of an administrative review, special exception, or variance as provided by this Ordinance.

Section 1803 Application for Building Permits

All applications for building permits shall be accompanied by plans in duplicate drawn to scale showing the actual dimensions and shape of the lot to be built upon; the

exact sizes and locations on the lot of buildings already existing, if any, and the location and dimensions of the proposed building or alteration, see Appendix D.

The application shall include such other information as lawfully may be required by the Zoning Administrator, including existing or proposed building or alteration; existing or proposed uses of the building and land; and number of families, housekeeping units, or rental units the building is designated to accommodate; conditions existing on the lot; approximate evaluation; and such other matters as may be necessary to determine conformance with and provide for the enforcement of this Ordinance.

One copy of the application for building permit shall be returned to the applicant by the Zoning Administrator after he shall have marked such copy either as approved or disapproved and attested to same by his signature on such copy. If a building permit is refused, the Zoning Administrator shall state the reasons for such refusal in writing. The original shall be retained by the Zoning. The issuance of a building permit shall, in no case, be construed as waiving any provisions of this Ordinance.

#### **Section 1804 Expiration of Building Permit**

If the work described in any building permit has not begun within one hundred twenty (120) days from the date of issuance thereof, said permit shall expire; it shall be cancelled by the Zoning Administrator; and written notice thereof shall be given to the persons affected. A concurrent extension of one hundred twenty (120) days may be obtained upon request.

If the work described in any building permit has not been substantially completed within two (2) years of the date of issuance thereof, said permit shall expire and be cancelled by the Zoning Administrator and written notice thereof shall be given to the persons affected, together with notice that further work as described in the cancelled permit shall not proceed unless and until a new building permit has been obtained.

#### **Section 1805 Construction an Use to be as Provided in Applications, Plans, and Permits**

Building permits issued on the basis of plans and applications approved by the Zoning Administrator authorized only the use, arrangement, and construction set forth in such approved plans and applications and no other use, arrangement, or construction. Use, arrangement, or construction at variance with that authorized shall be deemed a violation of this Ordinance and punishable as provided by Section 2402 hereof.

**ARTICLE 19 - RESERVATION PLANNING COMMISSION - ESTABLISHMENT AND PROCEDURE**

**Section 1901 Proceedings of the Reservation Planning**

The Reservation Planning shall serve as a board of adjustment as provided by law. The Reservation Planning Commission shall adopt rules necessary for the conduct of its affairs and in keeping with the provisions of this Ordinance. The Reservation Planning Commission shall keep a record of all proceedings. Meetings shall be held at the call of the Chairman and at such other times as the Planning Commission may determine. The Chairman or, in his absence, the Acting Chairman, may administer oaths and compel the attendance of witnesses. All meetings shall be open to the public.

The Reservation Planning Commission shall keep minutes of its proceedings, showing the vote of each member upon each question, or, if absent or failure to vote, indicating such fact and shall keep records of its examinations and other official actions, all of which shall be a public record and be immediately filed with the Secretary of the Planning Commission. The Planning Commission shall adopt from time to time, subject to the approval of the Tribal Council, such rules and regulations as it may deem necessary to carry appropriate provisions of this Ordinance into effect.

**Section 1902 Hearings; Appeals; Notices**

Appeals to the Reservation Planning Commission may be taken by any person aggrieved or by any officer, department, board or committee of the Tribe affected by any decision of the Zoning. Such appeal shall be taken within a reasonable time, as provided by the rules of the Reservation Planning Commission by filing with the officer from whom the appeal is taken and with the Reservation Planning Commission a notice of appeal specifying the grounds thereof. The officer from whom the appeal is taken shall forthwith transmit to the Reservation Planning Commission all the papers constituting the record upon which the action appealed from was taken.

The Reservation Planning Commission shall fix a reasonable time for the hearing of the appeal, give public notice thereof, as well as, due notice to the parties in interest and decide the same within a reasonable time. Upon the hearing, any party may appear in person or by agent or by attorney.

**Section 1903 Stay of Proceedings**

An appeal stays all proceedings in furtherance of the action from, unless the officer from whom the appeal is taken certifies to the Reservation Planning Commission,



after the notice of appeal shall have been filed with him, that by reason of facts stated in the certificate, a stay would, in his opinion, cause imminent peril to life or property.

In such case, proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Reservation Planning Commission or by a court of record on application on notice to the officer from whom the appeal is taken and on due cause shown.

## **ARTICLE 20 - RESERVATION PLANNING COMMISSION - POWERS AND DUTIES**

### **Section 2001 Administrative Review**

The Reservation Planning Commission with the appointed status of Zoning Board of Adjustment shall have the power to hear and decide appeals where it is alleged there is error in any order, requirements, decision or determination made by an administrative official or agency based on or made in the enforcement of any zoning regulation relating to the location or soundness of structures or to interpret any map.

### **Section 2002 Special Exceptions, Conditions Governing Applications, Procedures**

The Reservation Planning Commission shall have the power to decide, in accordance with the provisions of this Ordinance, requests for special exceptions or for decisions upon other special questions upon which the Board is authorized by this Ordinance to pass; to decide such questions as are involved in determining whether special exceptions should be granted; and to grant special exceptions with such conditions and safeguards as are appropriate under this Ordinance, or to deny special exceptions when not in harmony with the purpose and intent of this Ordinance. A special exception shall not be granted by the Reservation Planning Commission unless and until:

1. A written application for special exception is submitted, indicating the section of this Ordinance under which the special exception is sought and stating the grounds on which it is requested, see Appendix E;
2. Notice shall be given at least fifteen (15) days in advance of public hearing. The owner of the property for which special exception is sought or his agent shall be notified by mail. See Appendix F. Notice of such hearings shall be posted at the Courthouse and one (1) other public place at least fifteen (15) days prior to the public hearing;

3. The public hearing shall be held. Any party may appear in person, or by agent or attorney;
4. The Reservation Planning Commission shall make a finding that it is empowered under the section of this Ordinance described in the application to grant the special exception and that the granting of the special exception will not adversely affect the public interest.
5. Before any special exception shall be issued, the Board shall make written findings certifying compliance with the specific rules governing individual special exceptions and that specific rules governing individual special exceptions and that satisfactory provision and arrangement has been made concerning the following, where applicable:
  - a. ingress and egress to property and proposed structures thereon with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire or catastrophe;
  - b. off-street parking and loading areas where required, with particular attention to the items in a above and the economic, noise, glare or other effects of the special exception on adjoining properties and properties generally in the District;
  - c. refuse and service areas, with particular reference to the items in a and b above;
  - d. utilities, with reference to locations, availability, and compatibility;
  - e. screening and buffering with reference to type, dimensions and character;
  - f. signs, if any, and proposed exterior lighting with reference to glare, traffic safety, economic effect and compatibility and harmony with properties in the District;
  - g. required yards and other open space; and
  - h. general compatibility with adjacent properties and other property in the District.

**Section 2003 Variances; Conditions Governing Applications, Procedures**

The Reservation Planning Commission shall have the power, where by reason of exceptional narrowness, shallowness or shape of a specific piece of property at the time of the

enactment of this Ordinance or by reason of exceptional topographic conditions or other extraordinary and exceptional situation or condition of such piece of property, the strict application of any regulation under this Ordinance would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardships upon, the owner of such property, to authorize, upon an appeal relating to the property, a variance from such strict application so as to relieve such difficulties or hardship, as such relief may be granted without substantially impairing the intent and purpose of this Ordinance.

1. No such variance shall be authorized by the Board unless it finds that the strict application of the Ordinance would produce undue hardship; such hardship is not shared generally by other properties in the same zoning district and the same vicinity; the authorization of such variance will not be of substantial detriment to adjacent property and the character of the District will not be changed by the granting of the variance; and the granting of such variance is based upon reasons of demonstrable and exceptional hardship as distinguished from variations for purposes of convenience, profit and caprice.
2. No variance shall be authorized unless the Board finds that the condition or situation of the property concerned or the intended use of the property concerned, or the intended use of the property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to this Ordinance.
3. A variance from the terms of this Ordinance shall not be granted by the Reservation Planning Commission unless and until a written application for a variance is submitted demonstration that special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the same district; that literal interpretation of the provisions of this Ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this Ordinance; that the special conditions and circumstances do not result from the action of the applicant; that granting the variance requested will not confer on the applicant any special privilege that is denied by their ordinance to other lands, structures, or buildings in the same district. See Appendix G.

4. No nonconforming use of neighboring lands, structures, or building in same district, and no permitted or nonconforming use of lands, structures, or buildings in other districts shall be considered grounds for the issuance of a variance.
5. Notice of public hearing shall be given as in Section 2002: the public hearing shall be held. Any party may appear in person or by agent or by attorney; the Reservation Planning Commission shall make finding that the requirements of this section have been met by the applicant for a variance; the board shall further make a finding that the reasons set forth in the application justify the granting of the variance, and that the variance is the minimum variance that will make possible the reasonable use of the land, building or structures; the Board shall further make a finding that the granting of the variance will be in harmony with the general purpose and intent of this Ordinance, and will not be injurious to the neighborhood, or otherwise detrimental to the public welfare.
6. In granting any variance, the Reservation Planning Commission may prescribe appropriate conditions and safeguards in conformity with this Ordinance. Violation of such conditions and safeguards, when made a part of terms under which the variance is granted, shall be deemed violation of this Ordinance and punishable under Section 2402 of this Ordinance.
7. Under no circumstances shall the Board of Adjustment grant a variance to allow a use not permissible under the terms of this Ordinance in the district involved or any use expressly or by implication prohibited by the terms of this ordinance in said district.

**Section 2004 Board of Adjustment has Powers of Administrative Officer on Appeals; Reversing Decision of Administrative Officer**

In exercising the above-mentioned power, the Reservation Planning Commission may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appeal from, and may make such order, requirement, decision or determination appeal as ought to be made, and to that end shall have all the powers of the officer from whom the appeal is taken.

**Section 2005 Vote Required to Reverse or to Grant Exception or Variance**

The concurring vote of three-fourths (3/4) of the members of the Board shall be necessary to reverse any order, requirement, decision or determination of any such administrative official or to decide in favor of the applicant on any matter upon which it is required to pass under this Ordinance or to effect any variation in this Ordinance.

ARTICLE 21 - APPEALS

Section 2101 Duties of Administrative Official, Reservation Planning Commission, and Courts on Matters of Appeal.

It is the intent of this Ordinance that all questions of interpretation and enforcement shall be presented first to the administrative official and that such questions shall be presented to the Reservation Planning Commission only in appeal from the decisions of the administrative official, and that recourse from the decisions of the Reservation Planning Commission shall be to the Tribal Council and then to the court as provided by law.

It is further the intent of this Ordinance that the duties of the Tribal Council in connection with this Ordinance shall include hearing and deciding questions of interpretation and enforcement only after appeal from the Reservation Planning Commission. See Appendix H. The procedure for deciding such questions shall be as stated in this section and Ordinance. Under this Ordinance, the Tribal Council shall have the duties: (1) of considering and adopting or rejecting proposed amendments or the repeal of this Ordinance as provided by law, (2) of establishing a schedule of fees and charges as stated in Article 22, and (3) of acting on appeals from the decisions of the Reservation Planning Commission.

Section 2102 Appeals from the Reservation Planning Commission; Procedure of Appeal

Any person or persons or any board, taxpayer, department, board of committee of the Tribe aggrieved by any decision of the Reservation Planning Commission may appeal to the Tribal Council and then seek review by a court of record of such decision in the manner provided by the laws of the Sisseton Wahpeton Sioux Tribe.

ARTICLE 22 - SCHEDULE OF FEES, CHARGES, AND EXPENSES

Section 2202 Schedule of Fees, Charges, and Expenses

The Tribal Council shall establish a schedule of fees, charges, and expenses and a collection procedure for building permits, certificates of zoning compliance, appeals, and other matter pertaining to this Ordinance. The schedule of fees shall be posted in the office of the Zoning Administrator and may be altered or amended only by the Tribal Council. Until all application fees, charges, and expenses have been paid in full, no action shall be taken on any application or appeal. See Appendix I.

**ARTICLE 23 - AMENDMENT**

**Section 2301 Amendments**

The provisions set forth in the Ordinance may, from time to time, be amended, supplemented, changed, modified, or repealed by action of the Tribal Council or when such amendment, supplement, change, modification or repeal is requested through a petition by thirty (30) percent of the landowners in the districts requesting change. An individual landowner may also petition the Council to change the zoning of all or any part of his property. See Appendix J. Upon filing or upon separate request by the Tribal Council, the Reservation Planning Commission and the Tribe shall hold a public hearing not less than fifteen (15) days after notice is published in newspaper of general circulation in the Tribe.

Such petitioning landowner shall also notify all other abutting landowners by registered mail of the petitioned zoning change at least one (1) week prior to any public hearing held thereon by the Reservation Planning Commission. See Appendix K.

The Reservation Planning Commission shall within fifteen (15) days make its recommendation to the Tribal Council. The report of such recommendations shall include approval, disapproval, or other suggestions and reasons therefore, and a discussion of the effect on such amendment, supplement, change, modification upon adjacent property and upon the Comprehensive Plan.

The Tribal Council shall therefore, by duly enacted resolution either adopt or reject such amendment, supplement, change, modification or repeal; and if it is adopted by the Tribal Council the same shall be published in the official newspaper in the Tribe and take effect on the twentieth (20) day after its publication.

**ARTICLE 24 - VIOLATIONS, COMPLAINTS, PENALTIES, AND REMEDIES**

**Section 2401 Building Permit Violations**

Any person firm, or corporation in violation of Article 18, Section 1802, shall be fined twenty-five (\$25.00) dollars or two-tenths (2/10) of one (1) percent (.002) of the total cost of construction which ever is greater. The Zoning Administrator may also take enforcement measures as given in Section 1801. Payment of all fines shall be made in the Office of the Tribal Zoning Administrator within ten (10) days after the person, firm, or corporation in violation of the above Ordinance has been notified by registered letter. If payment of the fine is not received at the end of the ten (10) day period, the Tribal Council's Attorney shall have the power to prosecute.

**Section 2402 Violation of Ordinance**

Any person, firm, or corporation in violation of the provisions of these Ordinances, except Section 1802, shall be punishable by a fine of not less than twenty-five (\$25.00) dollars nor more than one hundred (\$100.00) dollars. After formal notice is served, each and everyday the violation persists shall constitute a separate violation. The Zoning may also take enforcement measures as given in Section 1801. Payment of all fines shall be made within ten (10) days after the person, firm, or corporation in violation of these Ordinances has been notified by registered letter. If payment of the fine is not received at the end of the ten (10) day period, the Tribal Council's Attorney shall have the power to prosecute.

**ARTICLE 25 - LEGAL STATUS PROVISIONS**

**Section 2501 Separability**

Should any article, section or provision of this Ordinance be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of this Ordinance, as a whole or any part thereof, other than the part so declared to be unconstitutional or invalid.

**Section 2502 Purpose of Catch Heads**

The catch heads appearing in connection with the foregoing sections are inserted simply for convenience to serve the purpose of any index and they shall be wholly disregarded by any person, officer, court or other tribunal in construing the terms and provisions of this Ordinance.

**Section 2503 Repeal of Conflicting Ordinance**

All ordinances or parts of ordinances in conflict with this Ordinance, or inconsistent with the provisions of this Ordinance, are hereby repealed to the extent necessary to give this Ordinance full force and effect.

**Section 2504 Effective Date**

This Ordinance shall take effect and be in force from and after its passage and publication according to law.

**ARTICLE 26 - DEFINITIONS**

**Section 2601 General**

For the purpose of this Ordinance, unless otherwise stated, words used in the present tense include the future; the singular number includes the plural and the plural, the singular; the word shall is mandatory, not discretionary; the word may is permissive; the word person

includes a firm, association, organization, partnership, trust, company, or corporation, as well as an individual; the word lot includes the words plat or parcel: the words used or occupied include the words intended, designed, or arranged to be used or occupied.

**Section 2602** For the purpose of this Ordinance, certain terms or words used herein shall be interpreted as follows:

1. **Accessory Use or Structure** - A use or structure on the same lot with and of a nature customarily incidental and subordinate to the principal use or structure.
2. **Automobile Service Station** - Buildings and premises where gasoline, oil, grease, batteries, tires and automobile accessories may be supplied and dispensed at retail and where, in addition, the following services may be rendered and sales made, and no other:
  - a. Sale and servicing of sparkplugs, batteries, and distributors and distributor parts;
  - b. Tire servicing and repair, but not recapping or regrooving;
  - c. Replacement of mufflers and tail pipes, water hose, fan belts, brake fluid, light bulbs, fuses, floor mats, seat covers, windshield wipers and wiper blades, grease retainers, wheel bearings, mirrors and the like;
  - d. Radiator cleaning and flushing;
  - e. Washing and polishing, and sale of automotive washing and polishing materials;
  - f. Greasing and lubrication;
  - g. Providing and repairing fuel pumps, oil pumps, and lines;
  - h. Minor servicing and repair of carburetors.
  - i. Emergency wiring repairs;
  - j. Adjusting and repairing brakes;
  - k. Motor adjustments;
  - l. Sales of cold drinks, packaged foods, tobacco and similar convenience goods for automobile service station customers, as accessory and incidental to principal operation; and
  - m. Provision of road maps and other informational material to customers, provision of rest room facilities.



Uses permissible at an automobile service station do not include major mechanical and body work, straightening of body parts, painting, storage of automobiles not in operating condition, or other work involving noise, glare, fumes, smoke or other characteristics to an extent greater than normally found in automobile service stations. An automobile service station is not a repair garage nor a body shop.

3. Area of Special Flood Hazard - Means the land in the flood plain within a community subject to a one (1%) percent or greater chance flooding in any given year.
4. Base Flood - Means the flood having a one (1%) percent chance of being equalled or exceeded in any given year.
5. Building - The word "building" includes the word structure and is a structure which is entirely separated from any other structure by space or by walls in which there is no communicating doors or windows or similar openings. A principal building including covered porches and paved patios is a building in which is conducted the principal use of the lot on which it is situated. In any residential district, any dwelling shall be deemed to be the principal building on the lot on which the same is situated.
6. Building Area - The portion of a lot remaining after required yards have been provided.
7. Commission - Sisseton-Wahpeton Sioux Tribe, Reservation Planning Commission.
8. Density - Pertaining to the number of dwelling units per net acre or gross acre, as indicated for the appropriate zoning district. Residential District density shall not be exceeded for new subdivision nor exceeded for resubdivision of existing platted land.
9. Development - Means any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, paving, excavation, or drilling operations located within the area of special flood hazard.
10. Dwelling, Mobile Home - A detached residential dwelling unit designed for transportation after fabrication on streets or highways on its own wheels or on flatbed or other trailers, and arriving at the site where it is to be occupied as a dwelling complete and ready for occupancy except for minor and incidental unpacking and assembly operations, location on jacks or other temporary or permanent foundations, connections to utilities, and the like. A travel trailer is not to be considered as a mobile home.

11. Dwelling, Single-Family - A detached residential dwelling unit other than a mobile home, designed for one family.
12. Dwelling, Multiple Family - A residential building designed for two or more families living independently on each other and doing own cooking in said building.
13. Dwelling Unit - One room or rooms, connected together constituting a separate, independent housekeeping establishment for owner occupancy or rental or lease on a weekly monthly, or long basis and physically separated from any other rooms or dwelling units which may be in the same structure and containing independent cooking, bathroom, and sleeping facilities.
14. Feedlot, Commercial - A commercial feedlot is a place where the principal business is the feeding of livestock and such feeding is not done as a subordinate activity to the production of crops on the premises of which the feedlot is a part.
15. Flood or Flooding - Means a general and temporary condition of partial or complete inundation of normally dry land areas from:
  - a. The overflow of inland or tidal waters and/or
  - b. The unusual and rapid accumulation of runoff of surface waters from any source.
16. Flood Hazard Boundary Map - (FHBM) means the official map issued by the Federal Insurance Administration where the areas of special flood hazard have been designated Zone A.
17. Floodway - Means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation.
18. Floor Area - The sum of all gross horizontal enclosed area of the several floors of a building and its accessory building on the same lot excluding basement floor areas and non-enclosed portions of the structure. All dimensions shall be measured between exterior faces or walls.
19. Habitable Floor - Means any floor usable for living purposes, which includes working, sleeping, eating, cooking or recreation, or a combination thereof. A floor used only for storage purposes is not a habitable floor.

20. Home Occupation - An occupation conducted in a dwelling unit provided that:
- a. No more than one other person, in addition to members of the family, residing on the premises shall be engaged in such occupation;
  - b. The use of the dwelling unit for the home occupation shall be clearly incidental and subordinate to its use for residential purposes by its occupants, and not more than thirty (30) percent of the floor area of the dwelling shall be used in the conduct of the home occupation;
  - c. There shall be no change in the outside appearance of the building or premises, or other visible evidence of the conduct of such home occupation other than one sign, not exceeding one (1) square foot in area, non-illuminated and mounted flat against the wall of the principal building;
  - d. No home occupation shall be conducted in any accessory buildings;
  - e. There shall be no sales in connection with such home occupation;
  - f. No traffic shall be generated by such home occupation in greater volumes than would normally be expected in a residential neighborhood, and any need for parking generated by the conduct of such home occupation shall be met off the street and other than in a required front yard;
  - g. No equipment or process shall be used in such home occupation which creates noise, vibration, glare, fumes, odors, or electrical interference detectable to the normal senses off the lot if the occupation is conducted in a single-family residence. In the case of electrical interference, no equipment or process shall be used which creates visual or audible interference in any radio or television receivers off the premises or causes fluctuations in line voltage off the premises; and
  - h. A barber or beauty shop, dentist, physician, insurance, or real estate office shall not be construed to be home occupations.
21. Horticulture - The art or science of growing flowers, fruit, and vegetables.

22. Junk Yards - The use of more than seven hundred fifty (750) square feet of open storage on any lot, portion of a lot, or tract of land for the sale, storage, keeping or abandonment of junk, scrap metals, or salvageable materials, or for the abandonment, dismantling, or wrecking of automobiles or other vehicles, machines, or parts thereof.
23. Kennel - Any lot, structure, or premises where four (4) or more dogs and/or cats over four (4) months of age are kept.
24. Lot - For purposes of this Ordinance, a lot is a parcel of land of at least sufficient size to meet minimum zoning requirements for use, coverage, and area and to provide such yards and other open spaces as are herein required. Such lot shall have frontage on an improved public street, or on an approved private street, and may consist of:
- a. A single lot of record;
  - b. A portion of a lot record;
  - c. A combination of complete lots of record, of complete lots to record, and portions of lots of record, or of portions of lots of record; and
  - d. A parcel of land described by meters and bounds; provided that in no case of division or combination shall any resident lot or parcel be rented which does not meet the requirements of this Ordinance.
25. Lot Frontage - The front of a lot shall be construed to be the portion nearest the street. For the purpose of determining yard requirements on corner lot and through lots, all sides of a lot adjacent to streets shall be considered frontage, and yards shall be provided as indicated under Yards as defined herein.
26. Lot Measurements -
- a. Depth of a lot shall be considered to be the distance between the midpoints of straight lines connecting the foremost points of the side lot lines in front and the rearmost points of the side lot lines in the rear; and
  - b. Width of a lot shall be considered to be the distance between straight lines connecting front and rear lot lines at each side of the lot, measured across the rear of the required front yard, provided, however, that width between side lot lines at their foremost points where they

intersect with the street line, shall not be less than eighty (80) percent of the required lot width except in the case of cul-de-sacs, where the eighty (80) percent requirement shall not apply.

27. Lot Types - Any lot within the jurisdiction of this Ordinance shall be one of the following types:

a. Corner Lot - A corner lot is defined as a lot located at the intersection of two or more streets. A lot abutting on a curved street or streets shall be considered a corner lot if straight lines drawn from the foremost points of the side lot lines to the foremost of the lot meet at an interior angle of less than one hundred thirty-five (135) degrees.

b. Interior Lot - An interior lot is defined as a lot other than a corner lot with only one frontage on a street.

c. Through Lot - A through lot is defined as a lot other than a corner lot with frontage on more than one street. Through lots abutting two streets may be referred to as double frontage lots.

28. Mobile Home - Any occupied vehicle used or so constructed as to permit it being used as a conveyance on the public streets or highways and duly licensed as such, and shall include: self-propelled or non-self-propelled vehicles so designed constructed, reconstructed or added to by means of an enclosed addition or room in such manner as well permit the occupancy thereof as a dwelling or sleeping place for one or more persons. Nothing in this definition shall be construed so as to include prefabricated, precut residences or those manufactured in sections or part away from the site and transported thereto for erection, provided that when completely erected, said prefabricated, precut, or manufactured residences shall be on a permanent foundation and in all respects comply with the Uniform Building Code, 1967 Edition and Amendments thereto, recommended by the International Conference of Building Officials.

29. Mobile Home Park - Any premises where one or more mobile homes are parked for living or sleeping purposes, or any premises used or set apart for supplying to the public, parking space for one or more mobile homes for living or sleeping purposes, and which include any buildings, structures, vehicles, or enclosure used or intended for use, or intended wholly or in a part, for the accommodation of automobile transients.

30. Nonconforming Use - Any Building or land lawfully occupied by a use at the time of passage of this Ordinance which does not conform after passage of this Ordinance.
31. Performance Standards - It is a criterion established for the purpose of:
- a. Assigning proposed industrial uses to proper districts; and
  - b. Making judgements in the control of noise, odor, smoke, toxic matter, vibration, fire and explosive hazards, or glare generated by, or inherent in, uses of land or buildings.
32. Public Utility Substation - An area where facilities are provided for the distribution of telephone, radio communications, water, gas, and electricity. These facilities shall be permitted as a conditional use in the various zoning districts subject to conditions which will assure their harmony, especially aesthetically with the nature of the respective district.
33. Resort - Constitutes one or any combination of the flooding: A commercial business - having on/off liquor, retail sale of grocery supplies, boat rental, bait/tackle sales, dance facilities, eating establishments, and cabins under single ownership for lease or rent.
34. Shelterbelt - A strip or belt of trees or shrubs established to reduce soil erosion and to protect yards, lots, buildings, livestock, residences, recreational areas, and wildlife from the wind.
35. Sign - Any device designed to inform or attract the attention of persons not on the premises on which the sign is located, provided, however, that the following shall not be included in the application of the regulations herein:
- a. Signs not exceeding one (1) square foot in area and bearing only property numbers, post box number, names of occupants of premises or other identification or premises not having commercial connotations;
  - b. Flags and insignia of any government except when displayed in connection with commercial promotion;
  - c. Legal notices; identification, informational, or directional signs erected or required by governmental bodies;

- d. Integral decorative or architectural features of buildings, except letters, trademarks, moving parts, or moving lights; and
- e. Signs directing and guiding traffic and parking on private property, but bearing no advertising matter.
36. Sign, Off-Site - A sign other than an exterior or interior on-site sign. Off-site signs are more conventionally known as billboards regardless of size.
37. Sign, On-Site, Exterior - An exterior sign relating to its subject to the premises on which it is located, or to products, accommodations, services, or activities on the premises. Exterior on-site signs do not include signs erected by the outdoor advertising industry in the conduct of the out door advertising business, such as billboards which are off-site signs.
38. Sign, On-Site, Interior - A sign on the interior of a structure relating its subject matter to the premises on which it is located, or to products, accommodations, services, or activities on the premises. As long as any such sign is not normally viewable from the exterior of the premises, it shall not be regulated by this Ordinance.
39. Special Exception - A special exception is a use that would not be appropriate generally or without restriction throughout the zoning district, but which, if controlled as to number, area, location, or relation to the neighborhood, would promote the public health, safety, welfare, morals, order, comfort, convenience, appearance, prosperity, or general welfare. Such uses may be permitted in such zoning district as special exceptions, if specific provisions for such special exception is made in this Ordinance.
40. Street Line - The lot line abutting right-of-way line.
41. Structure - Anything constructed or erected with a fixed location on the ground. Among other things, structures include buildings, mobile homes, walls, fences, signs, billboards, and poster panels.
42. Travel Trailer - A vehicular, portable structure built on a chassis, designed to be used as a temporary dwelling for travel and/or recreational purposes having a body width not exceeding eight (8) feet.
43. Truck or Equipment Terminal - Any lot, structure, or premises used for the parking or storage of capital equipment such as trucks, trailers, or other like equipment over three-fourths (3/4) capacity.
44. Utility Substation - See Public Utility Substations.

45. Variance - A variance is a relaxation of the terms of the Zoning Ordinance where such variance will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the actions of the applicant, a literal enforcement of the Ordinance would result in unnecessary and undue hardship. As used in the Ordinance, a variance is authorized only for height, area, and size of structure or size of yards and open spaces; establishment or expansion of a use otherwise prohibited shall not be allowed by variance, nor shall a variance be granted because of the presence of nonconformities in the zoning district or uses in an adjoining zoning district. This is NOT to be confused with a conditional use.
46. Yard - A required open space other than a court, unoccupied and unobstructed by any structure or portion of a structure from thirty (30) inches above the grade of the lot upward, provided, however, that fences, walls, poles, posts, and other customary yard accessories, ornaments, and furniture may be permitted in any yard subject to height limitations and requirements limiting obstruction of visibility.
47. Yard, Front - A yard extending between side lot lines across the front of a lot adjoining a public street.

In any required front yard, no fence or wall shall be permitted which materially impedes vision across such yard above the height of thirty (30) inches, and no hedge or other vegetation shall be permitted which materially impedes vision across such yard between the heights of thirty (30) inches and ten (10) feet.

In the case of through lots, unless the prevailing front yard pattern or adjoining lots indicates otherwise, front yards shall be provided on all frontages. Where one of the front yards that would normally be required on a through lot is not in keeping with the prevailing yard pattern, the Zoning Administrator may waive the requirement for the normal front yard and substitute, therefore, a special yard requirement which shall not exceed the average of the yards provided on adjacent lots.

In the case of corner lots which do not have reversed frontage, a front yard of the required depth shall be provided in accordance with the prevailing yard pattern; and a second front yard of half the depth required generally for front yards in the district shall be provided on the other frontage.



In the case of reversed frontage corner lots, a front yard of required depth shall be provided on either frontage; and a second front yard of half the depth required generally for front yards in the district shall be provided on the other frontage.

In the case of corner lots with more than two (2) frontages, the zoning administrator shall determine the front yard requirements, subject to the following limitations:

- a. At least one front yard shall be provided having the full depth required generally in the district; and
- b. No other front yard on such lot shall have less than half the full depth required generally.

Depth of required front yards shall be measured at right angles to a straight line joining the foremost points of the side lot lines. The foremost point of the side lot line, in the case of rounded property corners at street intersections, shall be assumed to be the point at which the side and front lot lines would have met without such rounding. Front and rear front yard lines shall be parallel.

48. Yard, Side - A yard extending from the rear line of the required front yard to the rear lot line, or in the absence of any clearly defined rear lot line to the point on the lot farthest from the intersection of the lot line involved with the public street.

In the case of through lots, side yards shall extend from the rear lines of front yards required. In the case of corner lots, yards remaining after full and half depth front yards have been established shall be considered side yards.

Width of a required side yard shall be measured in such a manner that the yard established is a strip of the minimum width required by district regulations with its inner edge parallel with the side lot line.

49. Yard, Rear - A yard extending across the rear of the lot between inner side yard lines. In the case of through lots and corner lots, there will be no rear yards, but only front and side yards.

Depth of a required rear yard shall be measured in such a manner that the yard established is a strip of the minimum width required by district regulations with its inner edge parallel with the rear lot line.

## APPENDIX A

### PERFORMANCE STANDARDS

1. Physical Appearance - All operations shall be carried on within an enclosed building except that new materials or equipment in operable condition may be stored in the open.

Normal daily wastes of an inorganic nature may be stored in containers not in a building when such containers are not readily visible from the street.

2. Fire Hazard - No operation shall involve the use of highly flammable gases, acid, liquids, grinding processes or other inherent fire hazard. This provision shall not be construed to prohibit the use of normal heating fuels, motor fuels and welding gases when handled in accordance with other ordinances.
3. Noise - No operation shall be carried on which involves noise in excess of the normal traffic noise of the adjacent street at the time of the daily peak hour of traffic volume. Noise shall be measured at the property line and when the level of such noise cannot be determined by observation with the natural senses, a suitable instrument may be used and measurement may include breakdowns into a reasonable number of frequency ranges. All noises shall be muffled so as not to be objectionable due to intermittence, beat frequency or shrillness.
4. Sewage and Liquid Wastes - No operation shall be carried on which involves the discharge into a sewer, watercourse or the ground of liquid wastes of any radioactive nature, or liquid wastes of a chemical nature which are detrimental to normal sewage plant operation or corrosive and damaging to sewer pipes and installations.
5. Air Contaminant - Air contaminants and smoke shall be less dark than designated Number One on the Ringleman Chart as published by the United States Bureau of Mines, except that smoke of a density designated each one-half (1/2) hour. Light colored contaminants of such an opacity as to obscure an observer's view to a degree equal to or greater than the aforesaid shall not be permitted.

Particular matter of dust as measured at the point of emission by any generally accepted method shall not be emitted in excess of two-tenths (.2) grains per cubic foot as corrected to a temperature of five hundred (500) degrees Fahrenheit, except for a period of four (4) minutes in any one-half (1/2) hour, at which time it may equal but not exceed six-tenths (.6) grains per cubic foot as corrected to a temperature of five hundred (500) degrees Fahrenheit.

Due to the fact that the possibility of air contamination cannot reasonably be comprehensively covered in this section, there

shall be applied the general rule that there shall not be discharged from any sources whatsoever such quantities of air contaminants or other material in such quantity as to cause injury, detriment, nuisance or annoyance to any considerable number of persons or to the public in general or to endanger the comfort, repose, health or safety of any such considerable number of persons or to the public in general or to cause or have a natural tendency to cause injury or damage to business, vegetation or property.

6. Odor - The emissions of odors that are generally agreed to be obnoxious to any considerable number of persons shall be prohibited. Observations of odor shall be made at the property line of the establishment causing the odor. As a guide to classification of odor, it shall be deemed that strong odors of putrefaction and fermentation tend to be obnoxious and that such odors as associated with baking or the roasting of nuts and coffee shall not normally be considered obnoxious within the meaning of this Ordinance.
7. Gases - The gases sulphur dioxide and hydrogen sulphide shall not exceed five (5) parts per million. All nitrous fumes shall not exceed one (1) part per million. Measurements shall be taken at the property line of the particular establishment involved.
8. Vibration - All machines including punch presses and stamping machines shall be so mounted as to minimize vibration and in no case shall such vibration exceed a displacement of three thousandths (3/1,000) of an inch measured at the property line. The use of steam of board hammers shall not be permitted in this district.
9. Glare and Heat - All glare, such as welding arcs and open furnaces shall be shielded so that they shall not be visible from the property lines. No heat from furnaces or processing equipment shall be sensed at the property line to the extent of raising the temperature of air or materials more than five (5) degrees Fahrenheit.

#### APPENDIX B

##### MOBILE HOME STANDARDS

Mobile Home Piers, Footings, Tie-downs, and Ground Anchors - The following standards for mobile home tie-downs have taken into account possibilities and practicalities of providing protection from high winds for mobile homes. The standards shall be used in conjunction with the ideas and concepts presented in TR-75, Protecting Mobile Homes from High Winds, prepared by the Defense Civil Preparedness Agency, Washington, D.C.

Mobile homes require two types of anchorage: (a) over-the-top tie-downs to restrict overturning and (2) frame ties to prevent the

mobile home from being pushed from its piers. The standards apply to single mobile homes up to fourteen (14) feet in width. "Double wides" do not require over-the-top ties, but they require the same number of frame ties.

1. Mobile Home Piers and Footings - All mobile homes shall meet the following minimum requirements for mobile home piers and footings:

- a. The ground on which the mobile home is placed will support a minimum of two thousand five hundred (2,500) pounds per square foot;
- b. All piers shall be placed on footings of solid concrete with minimum dimensions of 16" x 16" x 4";
- c. Piers shall be constructed of standard 8" x 8" x 16" hollow concrete blocks;
- d. Piers shall be topped with solid concrete caps 8" x 16";
- e. Treated wood shims shall be driven tight between the cap and the main frame to provide uniform bearing. These shims shall be impervious to salt air and to rot. They shall taper from 0" to 3/4" in thickness and shall be wide enough to provide bearing over the concrete cap;
- f. Other types of piers and foundations of equivalent permanence and weight bearing ability may be approved. Jacks of heavy metal adjustable columns, anchored to both frame and foundations may be used;
- g. Piers shall be centered under each main frame (or chassis) member, with a maximum spacing of ten (10) feet on centers. The end piers shall be no farther than five (5) feet in from the ends of the mobile homes.

2. Mobile Home Tie-downs - Each mobile home up to fourteen (14) feet in width shall be provided with over-the-top tie-downs to meet the standards below and all mobile homes shall require the number of frame ties, as shown in the following table and illustration.

<u>10- and 12-Foot Wide Mobile Homes</u>				<u>12- and 14-Foot Wide Mobile Homes</u>	
<u>30-50 Feet Long</u>		<u>50-60 Feet Long</u>		<u>60-70 Feet Long</u>	
<u>No. of Frame Ties*/</u>	<u>No. of Over-the-top ties</u>	<u>No. of Frame Ties*/</u>	<u>No. of Over-the-top ties</u>	<u>No. of Frame Ties*/</u>	<u>No. of Over-the-top ties</u>
5	4	6	4	7	4

\*/ The number of frame ties shown is based on using the type 2 frame-tie system which can resist a greater horizontal force than type 1. If type 1 ties are used, the quantity required should be increased by one additional frame tie.

3. The mobile home tie-downs will also have to meet the following criteria:
- a. Over-the-top tie-downs shall be positioned at stud and rafter locations near each end of the mobile home. Others, if needed, may be positioned between them.
  - b. Either steel cable or steel strapping can be used for ties. All ties shall be fastened to ground anchors, as described in Section 4, on the following page, and drawn tight with galvanized turnbuckles or yoke-type fasteners and tensioning devices. Turnbuckles shall be ended with jaws or forged or welded eyes. Turnbuckles with hook ends will not be permitted.
  - c. All cable ends shall be secured with at least two U-bolt-type cable clamps or other fastening device as approved by the enforcing officials.
  - d. Cables used for tie-downs shall be either galvanized steel or stainless steel having a breaking strength greater than four thousand eight hundred (4,800) pounds. The cable shall be either 7/32" diameter or greater, (7 x 19) aircraft cable.
  - e. When flat steel straps are used for tie-downs, they must be in accordance with Federal Specification QQ-S-781; that is 1 1/4" x .035". Type 1 Class B, Grade 1, with a breaking strength of at least four thousand seven hundred fifty (4,750) pounds.
  - f. Steel straps used for ties must terminate with D-rings, bolts, or other fastening devices which will not cause distortion of the band or reduce its breaking strength.
  - g. Sharp edges of the mobile home that would tend to cut the cable or strap must be protected by a suitable device to prevent cutting when the mobile home is buffeted by the wind. Likewise, special adapters must be installed to prevent the cable or strap from knifing through the mobile home.
  - h. Connection of the cable frame tie to the I-beam (or other shape) main structural-frame member should be by a 5/8" drop-forged closed eye bolted through a hole drilled in the center of the I-beam web. A washer, or equivalent, should be used so that the beam is sufficiently reinforced around the hole. If steel strap ties are used, care should be exercised to insure that minimum bending radius is adhered to so that the breaking strength of the strap is not reduced.
  - i. Frame ties should connect the anchor and the steel I-beam (or other shape) main structural frame member which runs lengthwise under the mobile home. Frame ties CAN'T BE CONNECTED to any of the steel outrigger beams which fasten

to and intersect the main I-beam at right angles. The out riggers do not have adequate strength to resist the frame tie loadings during high winds.

4. Mobile Home Ground Anchors Shall Meet the Following Requirements:

- a. Ground anchors should be aligned with centers of piers. Also, they should be situated immediately below the outer wall to accommodate over-the-top as well as frame ties.
- b. Auger-type anchors shall have minimum diameter of six (6) inches (arrowheads 8") and be sunk to their full depth (at least 4"). Steel rods shall be at least 5/8" in diameter, have a forged or welded eye at top, or have a yoke-type fastening and tensioning device or a threaded connector and tensioning device.
- c. Anchors shall be capable of withstanding five thousand seven hundred (5,700) pounds of pull (in a vertical or diagonal direction) without failure. This loading can be achieved by many anchors in most kinds of soils.
- d. Deadman anchors shall be sunk to a depth of five (5) feet, have a minimum length of two (2) feet, and have a diameter of at least six (6) inches. Hollow concrete blocks are not approved. Steel rods shall be at least 5/8" in diameter, with the bottom hooked into the concrete deadman.
- e. Anchors to reinforced concrete slabs must be of strength comparable to that presented above.

**SISSETON-WAHPETON SIOUX TRIBE**

**LAKE TRAVERSE RESERVATION**

**SUBDIVISION**

**REGULATIONS**

## ARTICLE I

### GENERAL PROVISIONS

#### Section 101 Purpose

The regulations shall be for the purpose of implementing the Sisseton-Wahpeton Sioux Tribe comprehensive Plan by shaping development patterns and providing for consistency in the quality of development.

#### Section 102 Short Title

This Ordinance may be known and may be cited and referred to as "The Subdivision Regulations Ordinance of Sisseton-Wahpeton Sioux Tribe." to the same effect as if the full titles were stated.

#### Section 103 Jurisdiction

The regulations of this Ordinance shall apply within the unincorporated areas and the incorporated communities of the Sisseton-Wahpeton Sioux Tribe, who by official resolution have given their planning and zoning powers to the Sisseton-Wahpeton Sioux Tribe as established on "The Official Zoning Map of the Sisseton-Wahpeton Sioux Tribe, Lake Traverse Reservation."

#### Section 104 Provisions of the Ordinance Declared to be Minimum Requirements

In their interpretation and application, the provisions of this Ordinance shall be held to be minimum requirements adopted for the promotion of public health, safety, morals, or general welfare.

#### Section 105 Definitions

For the purposes of this Ordinance, certain terms or words used herein shall be interpreted as follows:

The word person includes a firm, association, organization, partnership, trust, company, or corporation as well as an individual.

The present tense includes the future tense, the singular number includes the plural, and the plural number includes the singular.

The word shall is mandatory, the word may is permissive.

The words used or occupied include the words intended, designed, or arranged to be used or occupied.

The word lot includes the words plot or parcel.



The word building includes the word structure.

1. Alley: A public right-of-way which is used primarily as a secondary means of access to the abutting property.
2. Board: As used shall mean Reservation Planning Commission, Sisseton-Wahpeton Sioux Tribe.
3. Block: A track or parcel of land bounded by public streets or lands, streams, railroads, unplatted lands or a combination thereof.
4. Commission: Planning and Zoning Commission of Sisseton-Wahpeton Sioux Tribe, Lake Traverse Reservation.
5. Cul-de-sac: A street having one end connecting with a public street and being terminated at its other end by a vehicular turn-around.
6. Council: Tribal Council in Sisseton-Wahpeton Sioux Tribe, Lake Traverse Reservation.
7. Lot: A portion of a subdivision or other parcel of platted land, intended as a unit for transfer of ownership or for development.
8. Lot of Record: A tract of land described as an integral portion of a subdivision plat which is properly recorded in the Titles and Records section of the Bureau of Indian Affairs.
9. Comprehensive Plan: A long-range plan for the improvement and development of the Sisseton-Wahpeton Sioux Tribe, as adopted by the Planning and Zoning Commission and Tribal Council.
10. Improvements: Pavements, curbs, gutters, sidewalks, water mains, sanitary sewers, storm sewers, grading, street signs, plantings, and other items for the welfare of the property owners and the public.
11. Plat: A map, drawings, or chart on which the subdivider's plan of the subdivision is presented and which he submits for approval and which will be recorded in final form.
12. Street: A right-of-way dedicated to public use which affords a primary means of access to the abutting property.
13. Right-of-Way: A strip of land separating private property from the existing road, street or alley or dedicated in public ownership.
14. Subdivider: A natural person, firm, copartnership, association, or corporation who submits a proposed

subdivision to the Planning Commission.

15. **Subdivision:** The division of a lot, tract or parcel of land into two or more lots, sites, or other divisions of land for the purpose, whether immediate or future, of transfer of ownership or building development. Land which is divided into a twenty (20) acre parcel or greater and used exclusively for agricultural purposes shall not constitute a subdivision.

(No plat is necessary.)

16. **Water Course, Drainage Way, Channel or Stream:** A natural or man-made depression in which a current of surface runoff water flows following precipitation.

## ARTICLE II

### PROCEDURES

#### Section 201 Preapplication

Prior to the subdivision of any land, the subdivider or his agent shall have an informal discussion with the Tribal Zoning and Planning Commission, the proposed subdivision with reference to County Subdivision regulations, the Tribal Zoning Ordinance, and the Tribal Comprehensive Plan.

#### Section 202 Preliminary Application Fee

The subdivider shall pay to the Tribal Treasurer a preliminary application fee of \$15.00 before application.

#### Section 203 Preliminary Application

The subdivider shall prepare and submit to the Tribal Zoning and Planning Commission the following:

1. Five copies of the preliminary plat at uniform size of 15 inches by 26 inches or 8 1/2 inches by 14 inches. All preliminary submittals must conform with the design standards of these subdivision regulations and must include or be accompanied by the following information:
  - a. Receipt for preliminary platting fee.
  - b. Proposed name of the subdivision which shall not duplicate previously filed plat names.
  - c. A date, scale, north point, and key map showing the general location of the proposed subdivision in relation to surrounding development (scale not less than 1 inch by 400 feet).
  - d. Names and addresses of the developer, engineer, surveyor, or landscape architect responsible for

- the survey or design.
- e. Location of boundary lines in relation to section or quarter section lines, including a legal description of the property.
  - f. Existing contours wherever 5 feet of deviation occurs.
  - g. Location, width, and name of existing or platted streets alleys, railroads, utilities, rights-of-way or easements, parks, and existing structures within the proposed subdivision and their relationships to the same of adjacent subdivisions (scale not less than 1 inch by 200 feet).
  - h. Zoning classification and existing and proposed land use.
  - i. Existing sewers, water mains, culverts, and other underground structures within the tract and immediately adjacent thereto, with pipe sizes and grades indicated.
  - j. Written and signed statements by the appropriate officials, obtained by the developer, ascertaining the availability of gas, electricity, and water to the proposed subdivision.
  - k. Layout, numbers, and approximate dimensions of lots and the number of each block; layout, proposed names and widths of proposed streets, alleys, easements and acres of land to be subdivided.
  - l. Statements from the developer as to how and when all improvements (sewer, water, street paving, sidewalks, etc.) will be provided and who is responsible for the cost of said improvements.
  - m. Names of adjoining owners and/or subdivisions.
2. After receiving the preliminary plat applications, the Tribal Zoning and Planning Commission shall distribute copies of the application to appropriate officials, who shall examine the Reservation Planning Commission within 15 days.
  3. The Tribal Zoning and Planning Commission after reviewing all the information shall then recommend to the Tribal Council their approval or disapproval within 60 days of the preliminary plat application.
  4. a. If the Tribal Council find that land proposed to be subdivided is unsuitable for subdivision development due to flooding, bad drainage, steep slopes, rock formations and/or other such

conditions as may increase the danger of health, life, or property or aggravate erosion or flood hazards; and, if from adequate investigations conducted by all the public agencies concerned, it has been determined that in the best interest of the public the land should not be platted and developed for the purpose proposed, the Tribal Council shall not approve the land for subdivision unless adequate methods are formulated by the subdivision for meeting the problems that will be created by the subdivision and development of the land.

b. The Tribal Council may refuse to approve what is considers to be scattered or premature subdivision of land which would involve danger or injury to the public health, safety, welfare, or prosperity by reason of lack of adequate water supply, schools, proper drainage, good roads, and transportation facilities or other public services; or which would necessitate an excessive expenditure of public funds for the supply of such services such as undue maintenance costs for adequate roads.

5. Upon approval of the preliminary plat by the Tribal Council the subdivider may proceed with the preparation of the final plat.

#### **Section 204 Final Application Fees**

The subdivider shall pay to the Tribal Treasurer a final application fee after preliminary approval and before final application. The fee shall be \$30.00.

#### **Section 205 Final Plat Application**

The subdivider shall prepare and submit to the Tribal Zoning and Planning Commission:

1. Eight copies of the final plat at a uniform size of 15 inches by 26 inches or 8 1/2 inches by 14 inches. All final plat submittals shall be in conformance with the design standards set forth in this Ordinance and shall include or be accompanied by the following information, in addition to information already submitted on the preliminary application:

a. The exact location and layout of lots showing building setback, streets, alleys, easements, and other public ground with accurate dimensions to the nearest 100th of a foot and at a scale of not less than 1 inch = 100 feet, interior angles, length of radii and/or arcs of all curves to nearest minute, together with the names of all streets.

b. Location and description of all monuments.

- c. Location by section, township, range, and descriptive boundaries of the subdivision, based on an accurate traverse giving angular and linear dimensions that must mathematically close.
  - d. Notarized certificate signed and acknowledged by all parties having and titled interest in or lien upon the land subdivided consenting to the plat, including dedication of all streets, alleys and public ways, parks or other public grounds, or lands for charitable, religious, or educational purposes, if any, and granting easements.
2. Upon submission of all final application requirements, the Planning Commission shall recommend approval or disapproval of the final plat within 30 days.
  3. The Tribal Council, upon receipt of the Planning Commission's recommendation, shall immediately notify all owners of property adjacent to the proposed subdivision. The Tribal Council shall then allow 60 days for the discussion of the proposal. At the expiration of the 60-day period of time, the Commissioners shall render final approval or disapproval of the plat.
  4. Approval of the final plat by the Tribal Council shall be deemed as certification of the final plat. With this certification, the Tribal Council shall forward a copy of the final plat to the Bureau of Indian Affairs, Office of Titles and Records for recording.
  5. Receipt of a duly certified final plat by the subdivider is authorization that he may proceed with the subdivision. However no lot(s) shall be should unless either installation and construction of required improvements have been made or the installation and construction of said improvements are a condition of sale for the subdivided lot(s).

### ARTICLE III

#### MINIMUM STANDARDS OF DESIGN

##### Section 301 Street Extension

1. The street layout of the proposed subdivision shall provide for the continuation or projection of streets and alleys already existing in areas adjacent to the area being subdivided. In addition, streets and alleys of the proposed subdivision shall correspond in direction and width to existing streets and alleys to be continued.
2. Where, at the determination of the Tribal Council, it is desirable to provide street access to adjoining properties, proposed streets shall be extended by

dedication to the boundaries of such properties. Where the Tribal Council deems it necessary such dead end streets shall be provided with a temporary turn-around having a radius of at least 50 feet.

3. The street system for the proposed subdivision shall provide for extending existing streets at the same or greater width, but in no case shall a street extension be of less width than the minimum width required in these regulations for a street in its category.

### **Section 302 Rights-of-Way for New Streets**

1. The dedication of rights-of-way for new streets measured from lot line to lot line shall meet the following standards:

<u>Street Type</u>	<u>Minimum Dedicated Right-of-Way Width</u>
Arterial Streets	66 feet
Collector Streets	66 feet
Minor Streets	66 feet
Marinal Access Streets	66 feet
Alleys	20 feet

Streets widths shall be the size as stated above except where the subdivision may cross into or be a part of a Federal Highway. If such is the case, the Federal Standards shall apply for the street(s).

2. All streets classified as arterial streets by the Tribal Comprehensive Plan shall have all points of access streets approved by the Tribal Council. Marginal access streets may be required by the Tribal Council for subdivisions fronting on arterial streets.
3. Through proposed business areas, street widths shall be increased 10 feet on each side if needed to provide parking without interfering with normal traffic movements.

### **Section 303 Right-of-Way for Existing Streets**

Subdivisions platted along existing streets shall dedicate additional right-of-way if necessary to meet the minimum street width requirements set forth in Section 302 of this Article.

1. The minimum right-of-way width shall be dedicated where the subdivision is on both sides of an existing street. When the subdivision is located on only one side of an existing street, one-half of the required right-of-way width, measured from the centerline of the existing roadway, shall be dedicated.

2. Dedication of one-half of the rights-of-way for proposed streets along the boundaries of land proposed for subdivision shall be prohibited.

#### Section 304 Intersections

1. Streets shall intersect as nearly as possible at right angles, and no intersection shall be at an angle of less than 60 degrees.
2. Street curb intersections shall be rounded by radii of at least 20 feet. When the smallest angle of street intersection is less than 75 degrees, the Tribal Council may require curb radii of greater length. Wherever necessary to permit the construction of a curb having a desirable radius without reducing the sidewalk at a street corner to less than normal width, the property line at such street corner shall be rounded or otherwise set back sufficiently to permit such curb construction.
3. No lot or other parcel of land which abuts on and has access to either a collector or a minor street shall have a service drive, curb cut, or other means of access to an arterial street within 75 feet of the right-of-way of any street which intersects such arterial streets on the side on which such lots or parcels are located.

#### Section 305 Curves in Street--Horizontal and Vertical

1. The horizontal alignment on all streets where the centerline deflects two degrees or more shall be as follows:

##### Radii of Horizontal Curves

Major Streets	300' minimum
Minor Streets	100' minimum

#### Section 306 Street Grades and Elevations

1. Street grades shall conform to the following:

<u>Street Type</u>	<u>Percent of Grade</u>
Arterial	5 - 6
Collector	7 - 8
Minor	15

2. Water runoff from paved streets shall be adequate with proper grading and drainage. Streets shall have minimum grade of 1/2 percent.

#### Section 307 Access Streets

When a proposed subdivision is located near a major street or

highway on which the traffic flow is heavy, the Tribal Council may require an access road to be build so that no lots of the subdivision shall front on the major street or highway.

#### **Section 308 Centerline Off-sets**

The centerline off-sets of intersecting streets shall be avoided, but where necessary shall be not less than 150 feet.

#### **Section 309 Cul-de-sacs**

Permitted cul-de-sacs shall not be longer than 450 feet and shall terminate with a turnaround having a curb-line diameter of not less than 70 feet.

#### **Section 310 Alleys**

Alleys shall be provided in all subdivisions.

#### **Section 311 Blocks**

1. Block lengths shall not exceed 1,200 feet or be less than 300 feet. In blocks longer than 825 feet, pedestrian crossings with a minimum right-of-way of 10 feet shall be required.
2. A block shall be platted as to allow for two tiers of lots of appropriate depth unless given special permission by the Tribal Council.

#### **Section 312 Lots**

1. Side lot lines shall be at right angles to straight street or radial to curved street lines. Each lot shall front on a public street or highway.
2. Minimum lot size shall in all cases conform to the appropriate district in the zoning regulations. Corner lots shall have sufficient extra width to meet the building setback lines established on both the front and side land.

#### **Section 313 Easements**

1. The alleys shall be used as easements to provide for sanitary sewers and other utilities.
2. A subdivision that is traversed by a water course, drainage way, channel or stream, there shall be a storm water easement or drainage right-of-way of such widths as to be adequate for both water flow and maintenance operations.

#### **Section 314 Curb and Gutter**

Curb and gutter shall not be less than 6 inches in height and



shall be constructed of portland or bituminous concrete. Backfill shall be higher than the curb and shall slope toward the curb in order to insure that surface water drains into the storm drainage system.

**Section 315 Sidewalks**

1. Single-family or duplex housing developments--4 feet wide 4 inches thick.
2. Multifamily or group housing developments-- 5 feet wide and 4 inches thick.
3. Commercial development - 12 feet wide 4 inches thick.

**Section 316 Flood Designated Areas**

When located within flood prone areas as designated on the FHBM, all subdivision proposals:

1. Shall be consistent with the need to minimize flood damage;
2. Shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage;
3. Shall provide base flood elevation data for subdivision proposals and other proposed development which contain at least fifty (50) lots or five (5) acres (whichever is less).

**Section 317 Community Assets**

In all subdivision due regard shall be shown for natural features such as large trees, water courses, etc. or for other sites which have historical significance or add beauty and attractiveness to a subdivision.

**ARTICLE IV**

**IMPROVEMENTS REQUIRED**

**Section 401 Intent**

Before the Tribal Council approved the Final Plat of a subdivision, it will be the responsibility of the subdivider to meet the following improvement requirements.

**Section 402 Monuments**

Iron rods or pipes shall be located at block corners, angle points, point of curves in the street.

**Section 403 Sanitary Sewer**

If in the opinion of the Tribal Council sanitary sewer facilities are reasonably available, the subdivider shall provide a sanitary sewer facility for the subdivision lots and connect the subdivision sewer facilities to the public facilities. When a subdivision cannot be served by extending public sanitary sewer facilities, it shall be the responsibility of the subdivider to provide individual septic tanks to meet the needs of each lot.

#### **Section 404 Drainage Facilities**

Adequate drainage facilities shall be installed including culverts, pipes, open ditches, etc., to allow for the drainage of surface waters.

#### **Section 405 Water Mains**

If in the opinion of the Tribal Council a public water facility is reasonably available to the subdivider, the subdivider shall have to install a connection to the public facility that will provide water for each lot and for adequate fire protection. Where a public water facility is not reasonably available in the opinion of the Tribal Council, the subdivider may furnish a similar water facility that meets the approval of the Tribal Council.

#### **Section 406 Street Grading**

It shall be the responsibility of the subdivider to provide for the pavement of streets in the subdivision, in accordance with the engineering specifications approved by the Tribal Council.

#### **Section 407 Sidewalks**

It shall be the responsibility of the subdivider to provide sidewalks in front connecting all buildings facing the same side of the street to promote the safety of pedestrians.

### **ARTICLE V**

#### **VARIANCES**

#### **Section 501 Exceptions**

1. The Tribal Council shall possess the authority to grant a variance where there are undue hardships or practical difficulties in application for the subdivision regulations provided, however, the variance does not disrupt the general purpose or intent of the subdivision regulations.
2. For a proposed subdivision that would contain six or less lots of land and the building of no new streets, the Tribal Council may waive the preliminary application.

3. The developer shall be responsible for all physical improvements within the subdivision. However, the cost of all or portions of the requirements of sections 403, 405, 407 and 408 may be passed on to the lot (home) buyer through tax assessments providing:
  - a. The Tribal Council has given written approval for such waiver,
  - b. The municipality involved agrees to the tax assessment and can finance the improvements through bonds or other measures,
  - c. The lot (home) buyer is aware that the cost will be assessed to the property. The developer must obtain a separate signed statement, exclusive of other statements, asserting the cost of portions or all of the requirements above to the said property.

## ARTICLE VI

### ENFORCEMENT AND PENALTIES

#### Section 601 Subdivision Registration

The plat of a subdivision within the jurisdiction of this Ordinance cannot be recorded in the official records of the Tribe unless the Tribal Council have given final approval in writing.

#### Section 602 Penalty and Violation

1. Any owner, or agent representing the owner, who sells, leases, or in any way transfers land in a subdivision before the land has been approved by the Tribal Council shall forfeit and pay a penalty of \$100.00 to the Tribe for each parcel of land sold, leases, or in any way transferred.
2. Anyone who is in violation of any of the provisions and conditions of this Ordinance shall be charged with a misdemeanor and shall be fined \$100.00. All fines received shall be paid to the Tribal Auditor.
3. Any person, company, or corporation in violation or threaten violation of this Ordinance may have appropriate actions or proceedings brought against them by the Reservation Planning Commission and it shall be the responsibility of the Tribal Auditor to initiate such actions.

## ARTICLE VII

### AMENDMENTS

**Section 701 Amendments to Ordinance**

This Ordinance may be amended, changed, supplemented, or repealed by the Tribal Council.

**ARTICLE VIII**

**LEGAL STATUS PROVISION**

**Section 801 Conflicts with other Ordinances**

If there is a discrepancy between this Ordinance and other ordinances, those parts of the other ordinances shall be repealed so as to give this Ordinance full authority.

**Section 802 Validity**

Should a court decide any provision of this Ordinance to be invalid, that decision shall not affect the validity of this as a whole.

**Section 803 Effective Date**

These subdivision regulations shall take effect and be in force after its passage and publication as provided by law.

**ARTICLE IX**

**SEVERABILITY**

**Section 901 Severability**

If any clause, sentence, paragraph, section or part of this code shall, for any reason be adjudicated by any Court of competent jurisdiction, to be invalid or unconstitutional, such judgement shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section, or part thereof directly involved in the controversy in which the judgement shall have been rendered.

W.S.T. CODE  
] Amendment  
New Adoption  
Judicial Approved  
2-24-88  
Council Adopted  
3-01-88