

FOND DU LAC BAND OF LAKE SUPERIOR CHIPPEWA

LAND USE ORDINANCE

ORDINANCE #02/07, AS AMENDED

Adopted by Resolution #1194/07 of the Fond du Lac Reservation
Business Committee on May 31, 2007.

Amended by Resolution #1149/20 of the Fond du Lac Reservation
Business Committee on April 22, 2020.

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CHAPTER 1

AUTHORITY, PURPOSES AND SCOPE

Section 101 Authority

This Ordinance is enacted by the Fond du Lac Reservation Business Committee pursuant to the inherent sovereign authority of the Fond du Lac Band of Lake Superior Chippewa, as recognized and reserved under the Treaty of LaPointe, 10 Stat. 1109, and as exercised in accordance with Article VI of the Revised Constitution of the Minnesota Chippewa Tribe, Section 16 of the Indian Reorganization Act of 1934, 25 U.S.C. § 476, and the common law of the United States of America.

Section 102 Purposes

The purposes of this Ordinance are:

- a. To reflect the continuing commitment of the Band to protect, preserve and enhance resources in a manner which is consistent with, and reflective of, traditional Anishanabe values;
- b. To administer the standards set forth in this Ordinance in a uniform manner over all land within the Fond du Lac Reservation which is subject to the jurisdictional authority of the Band; and
- c. To protect the environment and residents of the Fond du Lac Reservation through the regulation of commercial and industrial development, non-residential use, residential development, preservation of sensitive areas, and shoreland areas.

Section 103 Scope

- a. The provisions of this Ordinance shall apply to all lands and activities within the Fond du Lac Reservation which

lie within the jurisdiction of the Band except lands within the City of Duluth, which are subject to the Fond du Lac Band of Lake Superior Chippewa Zoning and Development Ordinance for Lands Located within the City of Duluth, #03/18.

- b. It is not the intent of this Ordinance to repeal, amend or otherwise interfere with any existing easements, covenants or agreements, or with any administrative rule or permit previously or hereafter adopted or issued pursuant to law. Where the conditions imposed by any provision of this Ordinance are either more restrictive or less restrictive than comparable conditions imposed by any other applicable law, ordinance, statute, resolution or administrative rule, the conditions which are more restrictive or which impose higher standards or requirements shall prevail.

Section 104 Application of Other Laws

Approvals, denials, or other actions made pursuant to this Ordinance shall not relieve any individual(s) or entity(ies) of additional applicable requirements under Band law, including any applicable requirements under the Fond du Lac Band Of Lake Superior Chippewa Business License Ordinance, #5/84, as amended, the Fond du Lac Band Of Lake Superior Chippewa Land Assignment and Land Lease Ordinance, #02/11, as amended, the Fond du Lac Band Of Lake Superior Chippewa Leases of Trust Land Ordinance, #02/15, as amended, and the Fond du Lac Band Of Lake Superior Chippewa Waste Management and Recycling Ordinance, #06/93.

Section 105 Severability

If any section, provision, or portion of this Ordinance is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Ordinance shall not be affected thereby.

Section 106 Reservation of Rights

The Reservation Business Committee reserves the right to amend or repeal all or any part of this Ordinance at any time and there shall be no vested rights of any kind against such amendment or repeal. All the rights, privileges, or immunities conferred by this Ordinance or by acts done pursuant thereto shall exist subject to the power of the Reservation Business Committee to amend or repeal this Ordinance or any part herein at any time. Nothing in this Ordinance shall be construed to constitute a waiver of the sovereign immunity of the Band or a consent to jurisdiction by any forum not expressly authorized to

exercise jurisdiction under this Ordinance. Any provision of this Ordinance which is inconsistent or incompatible with applicable federal law shall be invalid and unenforceable to the extent of such inconsistency or incompatibility, provided, however, that all remaining provisions shall be given full force and effect.

CHAPTER 2

DEFINITIONS AND INTERPRETATION

Section 201 Definitions

The following terms shall have the meanings assigned to them:

- a. Abandoned Vehicle: Any motor vehicle that is extensively damaged. The damage would include such things as broken or missing wheels, motor, drive train, or transmission such that the vehicle is apparently inoperative. A vehicle is also considered a junk vehicle if it does not have a valid, current registration and has an approximate value of the scrap in it, or lacks vital component parts such that it has no substantial potential for further use consistent with its usual functions. A vehicle is not considered a junk vehicle if it is kept in an enclosed garage or storage building.
- b. Abandonment: The act of leaving or being absent from a building or suspending a land use for a length of time such that the building or use falls into disrepair and may constitute a safety, health or environmental detriment to the community.
- c. Accessory Use or Structure: A use or structure on the same lot, with and subordinate to the principal use, such as a garage or wood shed or boathouse, including a temporary accessory structure.
- d. Addition: Any alteration that increases the size of a building such as a porch, attached garage or carport, or a new room or wing.
- e. Alteration: A physical change in a building, structure, or system or an addition to a building.
- f. Anishanabe: The people of the Fond du Lac Band of Lake Superior.
- g. Band: The Fond du Lac Band of Lake Superior Chippewa, a federally recognized Indian tribe governed through the Fond du Lac Reservation Business Committee which retains the powers of self-government over the Fond du Lac Reservation in accordance with the laws of the United States.

- h. Bed and Breakfast Establishment: A dwelling that provides rooms and breakfast to overnight guests for a fee where an owner or manager resides on the premises.
- i. Bluff: A topographic feature such as a hill, cliff, or embankment.
- j. Boathouse: An accessory structure used for the sole purpose of the storage of watercraft and directly related equipment.
- k. Buffer: Land, vegetation or screening used to protect one type of land use or structure from another with which it is incompatible.
- l. Building: A structure having a roof supported by columns or walls and intended to be used for sheltering people, animals, property or business activity, including but not limited to houses, garages, factories, and barns. Temporary structures such as tents, wigwams, sweat lodges, and teepees are not buildings.
- m. Building Height: The vertical distance from the average finished grade along a building to the highest point of the building.
- n. Commercial Use: A land use or activity principally for the sale, lease, rental, or trade of products, goods, or services.
- o. Conditional Use: A land use or activity generally not allowed under the Ordinance, but which, if controlled as to number, location and activity, could be consistent with the Ordinance and not harmful to the public health, safety or general welfare.
- p. Cultural Assessment: An evaluation of the potential effects of a proposed action and its practical alternatives on the historic and cultural attributes of a particular geographical area.
- q. Dwelling: A building or portion thereof designed or used exclusively for residential occupancy, including bed and breakfast establishments, but not including hotels, motels, resorts, or boarding and lodging houses.
- r. Dwelling, Multiple Family: A building or portion thereof used or designed for use as a residence for two or more families living independently of each other and doing their own cooking in the building; such dwellings include apartment houses, hotels, and condominiums.

- s. Dwelling, Seasonal: A residence occupied on a part-time basis, such as a cabin or hunting shack.
- t. Dwelling, Single Family: A detached building designed for a single family or household.
- u. Easement: An interest in real property, such as a right of way, consisting of the right to use or control real property, or an area above or below it, for a specific limited purpose (such as to cross it for access to a public road).
- v. Environmental Assessment: A general evaluation of the potential effects of a proposed action and its practical alternatives on the physical, biological, cultural and socioeconomic attributes of a particular geographical area.
- w. Excavation: Movement, removal or fill of more than fifty (50) cubic yards of material such as soil, clay or sand.
- x. Extraction: Removal of any materials or minerals for commercial purposes.
- y. Family: Any person or group of persons, often related by blood or marriage, occupying a single dwelling unit.
- z. FDL: Collectively, the Band and the Fond du Lac Reservation.
- aa. "Fond du Lac Reservation" or "Reservation": The historical land base of the Band as set aside under Article 2 of the Treaty of LaPointe, 10 Stat. 1109, or by statute, and any lands outside of those boundaries that were subsequently acquired in trust for the benefit of the Band.
- bb. Fences: Any artificial barrier consisting of wood, metal, stone or any other construction material or combination of materials erected to enclose or screen areas of land.
- cc. Integrated Resource Management Plan: A Plan, adopted by the RBC, which addresses forestry, wild rice, cultural resources and fish and wildlife management and/or other resources on the Reservation. The primary goal of the Plan is the development of resources while protecting the Band's natural resources.
- dd. Holding Tank: A tank used for short-term storage or retention of sewage waste.
- ee. Home Business: A business conducted in a dwelling unit or accessory building. Such use is clearly incidental and

secondary to use of the dwelling for residential purposes and does not include an activity that is or may be a nuisance to or otherwise incompatible with the surrounding area. Except for signs, evidence of the occupation or business shall not be visible from any roadway.

- ff. Hotel, Motel or Resort: A lodging facility under single ownership containing two or more individual sleeping rooms, suites or cabins that is used primarily for providing accommodations for pay for periods of 30 days or less.
- gg. Interested Party: Any party (other than the permit applicant) with an economic, cultural, spiritual or environmental concern with a land use decision.
- hh. ISTS: Individual sewage treatment system.
- ii. Junkyard: Land or buildings where waste and discarded or salvaged materials are brought, sold, exchanged, stored, baled, cleaned, placed, disassembled or handled, including, but not limited to, motor vehicles, scrap metal, rags, paper, rubber products, plastics, glass products, lumber products, products resulting from wrecking or salvage of automobiles or other vehicles, and outdoor storage of more than five abandoned vehicles. Such use shall not include sanitary landfills or sites for disposal of organic waste.
- jj. Landfill: A location where trash, waste, refuse, debris, salvaged material or garbage is buried between layers of soil.
- kk. Land Use and Zoning Administrator: The person charged with the powers and duties related to administration and enforcement of this Ordinance, as delegated by the RBC and set forth under Section 302(c) of this Ordinance, or his or her designee.
- ll. "Land Use Committee" or "Committee": The Fond du Lac Reservation Land Use Committee, established by the RBC pursuant to Section 301 of this Ordinance.
- mm. Land Use District: An area or areas within the exterior boundaries of the Reservation for which the regulations and requirements governing use are uniform.
- nn. Lot: An area of land having specific boundaries described by plat, metes and bounds, a registered land survey, the Public Land Survey System, or other accepted means and separated from other parcels or portions by said description for the purpose of sale, lease, or separation.

- oo. Lot, Corner: A lot abutting on two or more streets at their intersection.
- pp. Lot Coverage: The amount of land covered or allowed to be covered by a building usually measured in terms of percentage of a lot.
- qq. Lot Width: The narrowest distance between the side lot lines measured at the minimum front setback line.
- rr. Manufactured Home: A structure, transportable in one or more sections, which in the traveling mode, is 8 body feet or more in width, or 40 body feet or more in length, or, when erected on site, is 320 or more sq. ft., and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to required utilities.
- ss. Non-Conforming Structure or Use: Lots, structures, or uses of land and structures that are prohibited under the terms of this Ordinance but were lawful immediately prior to the date of enactment of the Ordinance.
- tt. Nuisance: Anything that interferes with the use or enjoyment of property, endangers personal health or safety, or is offensive to the senses.
- uu. Official Fond du Lac Land Use Map: A reservation map, adopted by the Fond du Lac Reservation Business Committee, which shows existing and proposed streets, highways, land use district lines and water bodies.
- vv. OHWL (Ordinary High Water Level): The boundary of public waters shall be an elevation delineating the highest water level which has been maintained for a sufficient period of time to leave evidence upon the landscape, commonly that point where the natural vegetation changes from predominately aquatic to predominately terrestrial. For watercourses, the ordinary high water level is the elevation of the top of the bank of the channel. For reservoirs and flowages, the ordinary high water level is the operating elevation of the normal summer pool.
- ww. Parcel: A lot or adjoining group of lots in single ownership or under single control and usually considered as a unit for purposes of development.
- xx. Permit: A written authorization issued by the Land Use and Zoning Administrator or the Land Use Committee which gives a person the power to do some act not forbidden by law, but which would not be allowable without such authorization.

- yy. Permitted Use: Any land use that is specifically allowed in a district and which does not require a Conditional Use Permit.
- zz. Person: Any individual, firm, association, organization, partnership, trust, company or corporation, family, or individual household.
- aaa. Plans: Detailed construction documents, drawn to scale, that accurately illustrate a parcel/lot size, structure location and sizes, structure setbacks, roads and driveways, utilities, natural features, dimensions, or building details, sections, and elevations, related to an existing or proposed development.
- bbb. Principal Use: The primary use of land or structures as distinguished from a secondary or accessory use. (A house is a principal use; a garage or pool is a secondary or accessory use.)
- ccc. Public Land Survey System: The first and only systematic survey of the United States Public Domain, which excludes the original thirteen colonies, Kentucky, Tennessee, Texas, and Hawaii, into townships (approximately 36 sq. mile units of land) and sections (approximately one sq. mile unit of land).
- ddd. Recreational Building: A structure that has the primary purpose of providing recreational opportunities to Band members and their families.
- eee. Recreational Vehicle: A motor vehicle or trailer that includes living quarters designed for accommodation, such as a motorhome, campervan, caravan (also known as travel trailer or camper trailer), fifth-wheel trailer, popup camper or truck camper.
- fff. Reservation Business Committee (RBC): The Fond du Lac Reservation Business Committee, which is the duly elected governing body of the Band.
- ggg. Screening: Fences or permanent landscape plantings positioned to reduce visual impact of a land use upon adjacent lands.
- hhh. Setback: The minimum horizontal distance between where a structure may be placed and the vegetation line, road centerline, road right of way, or front, side or rear lot lines.

- iii. Shoreland: Land located within: 1) 1,000 feet from the ordinary high water level (OHWL) of any water body; and 2) 300 feet from either bank on a watercourse.
- jjj. Shore Impact Zone: The buffer area immediately adjacent to waterbodies and watercourses that is critical to preserving water quality, wildlife habitat, and visual screening of the developed area farther back from the shore.
- kkk. Sign: A name, identification, display, illustration, statuary or other structure often bearing lettering or symbols which is used to direct attention to an object, product, place, activity, person, organization or business.
- lll. Site Development Plan: A detailed report in text and map form with the map drawn to scale, depicting the general location and relationship of structures, streets, driveways, parking areas, utilities, buffers and other features and improvements related to a proposed commercial, industrial or subdivision development.
- mmm. Subdivision: Any combining or splitting of parcels to create new building lots.
- nnn. Subdivision Permit: A permit issued for a specific subdivision.
- ooo. Tribal Court: A court established by the Band that has the authority to hear and decide disputes arising on the Reservation.
- ppp. Use: The purpose for which land or a building is designed, arranged or intended or for which it is or may be occupied or maintained.
- qqq. Variance: Any modifications or relief from this Ordinance when compliance would result in a particular hardship, as distinguished from a mere inconvenience or diminished financial benefit.
- rrr. Water Body: Lakes, ponds, and open water wetlands that retain standing water throughout the year (classified as Aquatic Bed Wetlands in the FDL Joint Comprehensive Wetland and Protection and Management Plan).
- sss. Watercourse: Any river, stream, creek, branch, reach, tributary, or judicial ditch, which allows for the flow of water from one point to another.

- ttt. Wetland: Those areas that are comprised of hydric soils and are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and under normal circumstances do support, a prevalence of hydrophytic vegetation. Wetlands include, but are not limited to, shallow and deep marshes, wet meadows, swamps, bogs, and forested wetlands.
- uuu. Yard: An open space associated with a building, other than a court, open and unobstructed from the ground upward except by trees, plantings, laundry poles, bird houses and other similar fixtures customarily found in a yard.
- vvv. Yard, Front: A yard extending across the full width of the lot, extending from the right of way line to the nearest line of the building, excluding steps and unenclosed porches. A corner lot shall have two (2) front yards.
- www. Yard, Rear: A yard extending across the full width of the lot and lying between the rear line of the lot and the nearest line of the building, excluding steps and unenclosed porches.
- xxx. Yard, Side: A yard extending between the side line of the lot and the nearest line of the building, excluding steps and unenclosed porches, and extending from the front yard to the rear yard.

Section 202 Interpretation

The provisions of this Ordinance, and all laws and regulations adopted hereunder, shall be interpreted and administered in a manner which secures and maintains, to the greatest degree permissible under law, the independent right of self-government of the Band over activities on the Fond du Lac Reservation.

- a. The singular number includes the plural and plural the singular.
- b. The word "shall" is mandatory and the word "may" is permissive.
- c. Whenever a word or term defined appears in the text of this Ordinance, its meaning shall be construed as set forth in the definition given.
- d. All measured distances expressed in feet shall be rounded to the nearest foot.

- e. All measured distances, unless otherwise specified, shall be measured horizontally.
- f. The phrase "used for" shall include the phrases "arranged for", "designed for", "intended for", "maintained for", and "occupied for".

CHAPTER 3

ESTABLISHMENT OF THE FOND DU LAC LAND USE COMMITTEE; DISTRIBUTION AND EXERCISE OF LAND USE AUTHORITY

Section 301 Establishment of the Fond du Lac Land Use Committee

- a. Membership. The RBC hereby establishes the Fond du Lac Reservation Land Use Committee, which shall be comprised of seven voting members, two from each District, and one at-large member who may reside in any District. All members must be enrolled members of the Band. The RBC shall appoint members to serve on the Land Use Committee. Appointments shall be for four years, unless shorter appointments are necessary to maintain staggered terms. Any member may be re-appointed for additional terms by the RBC.
- b. Removal or Suspension of Members. Any member of the Land Use Committee may be removed by majority vote of the RBC. The RBC may further specify the circumstances under which a member may be removed or suspended or otherwise limit its authority to remove or suspend a member within the Bylaws of the Fond du Lac Land Use Committee.
- c. Bylaws of the Land Use Committee. The RBC may adopt Bylaws governing the conduct, powers, procedures, and administration of the Land Use Committee consistent with the provisions of this Ordinance.

Section 302 Distribution of Land Use Authority

The land use authority of the Band shall be exercised as follows:

- a. The RBC may exercise the powers and duties specifically assigned to it under this Ordinance. Additionally, the RBC may on its own motion, or on request of the Land Use Committee, or on petition or appeal of the affected property owners, lease holders or land assignees:
 1. Change the land use district of a parcel of land from one classification to another;
 2. Change any of the regulations of this Ordinance as to the use or platting of land in any district, or

as to the restrictions upon buildings or structures therein, by amendment of this Ordinance;

3. May review and approve or deny site plans for multiple dwellings (3 or more units), commercial and industrial development and mandate the inclusion or change of elements of the plans to protect adjacent properties;
 4. May hold public hearings on rezoning and amendments; and
 5. Review and make decisions on variance applications as set forth within this Ordinance.
- b. The RBC hereby delegates the following powers and duties to the Land Use Committee:
1. Together with the Planning Division and such persons as may be deemed appropriate by the RBC, to monitor land use patterns and planning needs of the Reservation, and as such make recommendations and keep the RBC informed on land use issues;
 2. To maintain custody of the Official FDL Land Use Map;
 3. To issue or deny by majority vote Conditional Use, Special Use, Shoreland, and Subdivision Permits in accordance with the provisions of this Ordinance;
 4. To issue or deny permits for conditional uses and subdivisions, and make recommendations to the RBC to issue or deny variances according to Chapters 8, 9, and 10 of this Ordinance;
 5. To approve or deny site development plans required for development in a Commercial or Industrial District according to Chapter 11 of this Ordinance.
 6. To hear appeals from permit decisions made by the Land Use and Zoning Administrator and make recommendations to the RBC on appeals;
 7. To adopt by majority vote such rules and regulations governing the conduct of hearings before the Committee as it deems necessary, with the approval of the RBC and subject to all applicable requirements of due process, **provided** that all meetings and votes of the Land Use Committee and all hearings it conducts shall be open to the public (with the exception of Executive Sessions), and

further provided that written minutes of all such meetings and hearings shall be prepared and shall be available to the public;

8. To review decisions and actions of the Land Use and Zoning Administrator as provided by this Ordinance; and
 9. To engage in all other powers and duties necessary to carry out the terms and requirements of this Ordinance, including those delineated in the Bylaws of the Land Use Committee promulgated under Section 301(c).
- c. The RBC does hereby delegate the following powers and duties to the Fond du Lac Land Use and Zoning Administrator:
1. To consult and cooperate with the Land Use Committee during its study of the Reservation's land use needs and development of the Official FDL Land Use Map;
 2. To provide a monthly report listing all permits applied for and the status of each to the RBC;
 3. To issue or deny Land Use Permits in accordance with the provisions of this Ordinance; To make recommendations to the Land Use Committee concerning any matter under appeal;
 4. To make recommendations to the Land Use Committee on the effect of a proposed Conditional Use, Special Use, Shoreland or Subdivision Permit upon the health, safety, morals and welfare of occupants of surrounding lands;
 5. To investigate violations and take enforcement action as necessary pursuant to Chapter 14 of this Ordinance;
 6. To enforce this Ordinance in cooperation with the Land Use Committee;
 7. To conduct inspections of buildings and use of land to determine compliance with the terms of this Ordinance;
 8. To maintain permanent and current public records pertaining to this Ordinance, including, but not limited to, all maps, all requests for approval or denial of amendments, permits, conditional uses,

special uses, shoreland uses, subdivisions, variances, appeals and applications;

9. To receive, file, and forward all applications for appeals, variances, conditional uses, special uses, shoreland uses, subdivisions, or other matters to the Land Use Committee;
10. To provide such administrative, technical, and professional assistance as may be required by the Land Use Committee in the exercise of its duties;
11. To require the permit applicant to furnish such additional information as may be necessary to properly perform all duties;
12. To provide the necessary assistance to ensure that the permit applicant complies with all applicable permit requirements of this Ordinance; and
13. To facilitate communication with County, State, Federal and other governmental agencies as appropriate.

CHAPTER 4

OFFICIAL LAND USE MAP OF THE FOND DU LAC RESERVATION

Section 401 Establishment of Official Land Use Map of the Fond du Lac Reservation

The Land Use District into which each parcel of land within the Reservation is placed shall be determined by reference to an Official Fond du Lac Land Use Map, which shall consist of one or more maps adopted by the RBC and held by the Land Use Committee. The map and all notations, references, dates, and other information shown thereon are hereby made a part of this Ordinance as if the same were fully set forth herein.

Section 402 Public Examination

The Official Fond du Lac Land Use Map, or an exact copy thereof, held in the custody of the Land Use Committee shall be available for examination by any member of the public during regular working hours or via the Fond du Lac website at fdlrez.com.

Section 403 Interpretation of the Map

Unless otherwise stated, all Land Use Districts shown on the Official Fond du Lac Land Use Map shall be interpreted according to the following standards:

- a. Boundaries shall follow lot lines; road center lines; lines on a registered plat; or section, half-section, quarter-section, quarter-quarter-section or other fractional section lines of United States Public Land Survey System. Some boundaries may also follow geographic features.
- b. Boundaries following geographic features, such as ridges, vegetation cover types or the shoreline of a stream or creek (but excluding large wetlands as interpreted from aerial photographs), shall be construed to follow the centerline of those features. Boundaries indicated as approximately parallel to those lines shall be construed as being parallel and at the distance as is indicated on the Map.
- c. If no distance is given, each dimension shall be determined by the use of the scale shown on the Map.

Section 404 **Amendments to the Map**

Amendments to the Official Fond du Lac Land Use Map shall be recorded on the Map within thirty (30) days after adoption by the RBC.

CHAPTER 5

LAND USE DISTRICTS AND DISTRICT REQUIREMENTS

Section 501 List of Districts

For the purposes of the Ordinance, the Fond du Lac Reservation is divided into nine districts:

- a. Cultural Preservation (CP);
- b. Residential (R);
- c. Mixed Use (M);
- d. Natural Resource Management District (NR);
- e. Commercial (C);
- f. Industrial (I);
- g. Parks and Recreation (PR);
- h. Clean Water, Land and Legacy (CWLL); and
- i. Shoreland Overlay (S).

Section 502 General Permitting Requirements

Within each type of each district identified in Section 501, uses are classified as **permitted** or **conditional**. Any use not listed as permitted or conditional within a particular district shall be considered a **non-conforming** use for that district. Each type of use is subject to different review and permitting requirements as described in this section.

- a. **Permitted** uses are specifically allowed in a district and may require a Land Use Permit pursuant to Chapter 8 of this Ordinance before a person is able to engage in such permitted use.
- b. **Conditional** uses may be allowed only after an application for a permit is received by the Land Use and Zoning Administrator and approved by the Land Use Committee pursuant to Chapter 8 of this Ordinance.
- c. Except as otherwise provided, **non-conforming** use existing at the time this ordinance is enacted or amended shall be allowed to remain in the existing condition even if the use does not conform to the regulations of this Ordinance.

Any alterations, enlargements or other changes to a non-conforming structure or use of land shall first meet the requirements as set forth in Chapter 12 of this Ordinance.

Section 503

Cultural Preservation (CP) District

- a. Purposes: To sustain areas which have cultural, environmental, or historical significance to the people of the Fond du Lac Reservation, to protect sensitive natural resources and to provide a place for traditional practices. This District shall be applied to designated wild rice lakes, sugar bush sites, gathering sites, burial sites, sites of historical remains or artifacts, or any other areas deemed worthy of preservation by the RBC.
- b. Permitted Uses: Hunting, fishing, and gathering as authorized by the Fond du Lac Reservation Conservation Code, FDL Ordinance #03/90.
- c. Conditional Uses:
 1. Restoration and enhancement of areas;
 2. Management of Natural Resources by the FDL Division of Resource Management only;
 3. Viewing Platforms;
 4. Walking Trails;
 5. Temporary Educational or Cultural Facilities; or
 6. Single family dwellings, seasonal dwellings, duplexes, and accessory structures.
- d. Requirements.
 1. Permitted uses are authorized in this District without the need for a Land Use Permit under Chapter 8 or any additional review provided that the use has been authorized under and is consistent with the Fond du Lac Reservation Conservation Code, FDL Ordinance #03/90.
 2. All proposed conditional uses shall be reviewed and approved by the Land Use Committee. In its review, the Committee shall consider, among other things, whether the proposed use is consistent with the intent of this Ordinance, and whether resource impacts of the proposed development have been kept to a minimum.

Section 504 Residential (R) District

- a. Purpose: To provide areas where families can make homes and enjoy a setting that is free of commercial and industrial activity, noise and pollution, or any activity that may threaten the peace, safety, and health of residents.

- b. Permitted Uses:
 - 1. Single family dwellings;
 - 2. Seasonal dwellings;
 - 3. Manufactured homes;
 - 4. Accessory structures;
 - 5. Home businesses subject to applicable lease provisions);
 - 6. Public parks and playgrounds;
 - 7. Management of Natural Resources by the FDL Division of Resource Management only;
 - 8. Agricultural activities, provided that such activities are expressly authorized under a properly issued and current agricultural lease; and/or
 - 9. Temporary use of recreational vehicles.

- c. Conditional Uses:
 - 1. Assisted living and elderly facilities;
 - 2. Multiple family dwellings;
 - 3. Governmental, educational and health care facilities;
 - 4. Offices and community service buildings;
 - 5. Recreational buildings;
 - 6. Daycare centers (not in Home);
 - 7. Churches; and/or
 - 8. Bed and breakfast establishments.

- d. Requirements:
 - 1. Minimum lot size is two (2) acres for private well and septic and (1) one acre for community sewered and watered, with the exception of Big Lake lots.
 - 2. Dimensional requirements set forth in Section 710 must be satisfied.
 - 3. Dwellings must meet all other requirements as deemed necessary by the Land Use and Zoning Administrator, Land Use Committee, and the RBC.
 - 4. Shoreland requirements may also apply in some areas.

Section 505 Mixed Use (M) District

- a. Purpose: To provide for the area already developed as a mixed use area or area that may be suitable for mixed uses, such as the area developed as the institutional core of the Fond du Lac Reservation on Big Lake Road and the town of Brookston as per the Big Lake West plot and all other plots surrounding Big Lake.
- b. Permitted Uses:
1. Single family dwellings, duplexes, townhomes and multiple family dwellings;
 2. Accessory structures;
 3. Assisted living and elderly facilities;
 4. Governmental, educational, and health care facilities;
 5. Offices and community service buildings;
 6. Recreational buildings;
 7. Daycare centers (not in home);
 8. Churches;
 9. Warehouses and storage that pose no threat to the community;
 10. Gas stations and convenience stores;
 11. Home businesses (subject to lease provisions);
 12. Temporary use of recreational vehicles; and/or
 13. Management of Natural Resources by the FDL Division of Resource Management only.
- c. Conditional Uses:
1. New commercial uses; and/or
 2. New industrial uses.
- d. Requirements:
1. All new commercial and industrial development is subject to the requirements of Chapter 11 of this Ordinance.
 2. Shoreland requirements may also apply in some areas.

Section 506 Natural Resource Management (NR) District

- a. Purpose: To provide for uses that allow forest production and management, and agricultural farms; to provide areas managed for fish, wildlife, and other natural resources; and to sustain and enhance areas for traditional hunting, fishing and gathering.

b. Permitted Uses:

1. Forest management activities, including timber harvesting, reforestation, timber stand improvement, and prescribed burns;
2. Agricultural activities, including farming, haying, raising domestic livestock and fowl subject to lease restrictions and in accordance with applicable law;
3. Roads, trails and temporary accessory structures necessary to manage the area in accordance with the Integrated Resource Management Plan and Environmental Assessment;
4. Hunting, fishing and gathering as permitted by the Fond du Lac Reservation Conservation Code, FDL Ordinance #03/90;
5. Wildlife management activities; and/or
6. Other natural resource management activities by the FDL Division of Resource Management only.

c. Conditional Uses:

1. Single family dwellings;
2. Seasonal dwellings;
3. Manufactured homes;
4. Accessory structures that do not fall within a permitted use; and/or
5. Educational and cultural facilities.

d. Requirements:

1. The permitted use of hunting, fishing and gathering is authorized in this District without the need for a Land Use Permit under Chapter 8 or any additional review provided that the use has been authorized under and is consistent with the Fond du Lac Reservation Conservation Code, FDL Ordinance #03/90.
2. All forestry, agricultural, and natural resource management activities shall be conducted in accordance with the Integrated Resource Management Plan, Environmental Assessment and the Timber Sales Policies and Procedures and any other applicable plan or adopted by the FDL Division of Resource Management or other Band law;
3. Natural resource management is to be conducted by the FDL Division of Resource Management only.
4. Shoreland requirements may also apply in some areas.

Section 507 Commercial (C) District

- a. Purpose: To provide adequate space for retail, wholesale, office and service buildings, and gaming activities.

- b. Permitted Uses: None.

- c. Conditional Uses:
 - 1. Hotels, motels, resorts and campgrounds;
 - 2. Gaming facilities;
 - 3. Retail stores and shops;
 - 4. Restaurants;
 - 5. Public buildings;
 - 6. Public parks and recreation areas;
 - 7. Parking lots (where accessory to conditional uses);
 - 8. RV parks;
 - 9. Parking ramps;
 - 10. Day care centers (not in home);
 - 11. Clinics or medical office buildings;
 - 12. Automotive repair and truck stops;
 - 13. stations and convenience stores;
 - 14. Signs; Liquor stores and bars;
 - 15. Industrial uses;
 - 16. Golf courses; and/or
 - 17. Other commercial uses.

- d. Requirements:
 - 1. All development in a Commercial District is subject the requirements of Chapter 11 of this Ordinance.

 - 2. All gaming activities are subject to applicable law.

Section 508 Industrial (I) District

- a. Purpose: To encourage the development of manufacturing, warehousing and similar and related uses in specified portions of the Reservation that are uniquely suited for this type of land use.

- b. Permitted Uses:
 - 1. Hotels, motels, resorts, RV parks and campgrounds;
 - 2. Gaming facilities;
 - 3. Golf courses;
 - 4. Retail stores and shops;
 - 5. Restaurants;
 - 6. Governmental, educational and health care facilities;
 - 7. Public parks and recreational buildings;

8. Parking lots and parking ramps (where accessory to commercial use);
9. Day care centers (not in home);
10. Office and community service buildings;
11. Automotive repair and truck stops;
12. Gas stations and convenience stores;
13. Signs;
14. Liquor stores and bars; and/or
15. Other industrial uses.

c. Conditional Uses:

1. Industrial parks;
2. Warehousing and storage;
3. Heavy equipment storage and repair;
4. Manufacturing uses within an enclosed building;
5. Alternative energy plants;
6. Sewage disposal plants;
7. Mineral extraction;
8. Transportation departments;
9. Parking lots (where accessory to industrial use);
10. Automobile repair and truck stops; and
11. Solid waste management facilities.

d. Requirements:

1. All development in an Industrial District is subject to the requirements of Chapter 11 of this Ordinance.
2. All uses shall not have adverse effects on the environment in any manner as determined by the Land Use Committee.
3. All industrial development shall be limited to areas with access from major roads or highways.

Section 509 Parks and Recreation (P&R) District

a. Purpose: A Parks and Recreation District is intended to provide area for recreational opportunities to Band members and their families. This District includes the various housing development parks on the Reservation and the Band's public access areas on Big Lake.

b. Permitted Uses:

1. Playground equipment;
2. Benches;
3. Picnic areas;
4. Campgrounds;

5. Management of Natural Resources by the FDL Division of Resource Management only.

c. Conditional Uses:

1. Visitor centers;
2. Education buildings;
3. Trails;
4. Scenic overlooks;
5. Public restrooms;
6. Parking lots;
7. Access roads;
8. Service or maintenance buildings; and/or
9. Single family dwellings, seasonal dwellings, manufactured homes and accessory structures.

d. Requirements:

1. All proposed development activities shall be reviewed and approved by the Fond du Lac Land Use Committee and RBC. In its review, the Committee and RBC shall consider, among other things, whether the proposed development is consistent with the intent of this Ordinance, and whether resource impacts of the proposed development have been kept to a minimum.
2. Shoreland Requirements may also apply to some areas.

Section 510 Clean Water, Land and Legacy (CWLL) District

a. Purpose: A Clean Water, Land and Legacy District is intended to provide an area exclusively for restoration, protection, and enhancement of wetlands, prairies, forests, and habitat for fish, game and wildlife. This District is established to promote compliance with the Band's obligations as to properties acquired using appropriations from the Minnesota Outdoor Heritage Fund pursuant to recommendations of the Lessard-Sams Outdoor Heritage Council under Minn. Stat. § 97A.056.

b. Permitted Uses:

1. Management of Natural Resources by the FDL Division of Resource Management, including but not limited to:
 - (A) prevention of forest fragmentation;
 - (B) protection and restoration and lake and stream habitats;

- (C) restoration and enhancement of forests, prairie, and wetlands;
- (D) protection of water quality of the St. Louis River;
- (E) management and regulation of hunting and fishing;
- (F) controlling invasive species; and
- (G) management of watershed to reduce sediment and nutrient loads in the St. Louis River.

- 2. Hunting, fishing, and gathering as permitted by the Fond du Lac Reservation Conservation Code, FDL Ordinance #03/90.

c. Conditional Uses: none.

d. Requirements:

- 1. The FDL Division of Resource Management is the Band Division responsible for management of lands designated as within the CWLL District. As such, the FDL Division of Resource Management does not need prior authorization to engage in permitted uses within the CWLL District.
- 2. All proposed development activities other than those undertaken by the FDL Division of Resource Management shall be reviewed and approved by the RBC. In its review, the RBC shall consider, among other things, whether the proposed activity is consistent the terms, conditions, and purposes of Minn. Stat. § 97A.056 and the Grant Agreement and Accomplishment Plan entered into by the Band and the State of Minnesota for management of CWLL District lands.
- 3. In no event shall any permanent improvements be made within the CWLL District.

CHAPTER 6

SHORELAND OVERLAY DISTRICT

Section 601 Establishment of Shoreland Overlay District

The requirements applicable to areas identified as a Shoreland Overlay District are in addition to the requirements of one or more underlying districts established in Chapter 5.

Section 602 Purpose

The Shoreland Overlay District is established to provide for the effective management, protection, and conservation of shorelands within the Fond du Lac Reservation in order to preserve and enhance surface and ground water qualities and retain the traditional practices associated with these areas. The guidelines in this district shall apply to all designated waterbodies and watercourses within the boundaries of the Fond du Lac Reservation and to all shorelands under the Band's jurisdictional authority.

Section 603 Shoreland Required Permits

A Shoreland Permit is required for any activity to be completed in a Shoreland Overlay District including, but not limited to, the construction or alteration of buildings and accessory structures, including temporary structures such as docks; the installation and/or alteration of individual sewage treatment systems; grading and filling activities; extraction and excavation activities; or removal of vegetation.

Section 604 Other Permits

A Shoreland Permit shall not relieve a party from the obligation to obtain any required Exemption Certificate or Wetland Activity Permit under the Fond du Lac Wetlands Protection and Management Ordinance, #03/06.

Section 606 Shoreland Classification

- a. For purposes of Chapter 6 of this Ordinance, the following terms shall carry the following meanings:
 1. The term "shoreland" shall be defined as land located within: (1) 1,000 feet from the ordinary

high water level (OHWL) of any waterbody; and (2) 300 feet from either bank on a watercourse.

2. The shoreline of waterbodies and watercourses shall be the OHWL as determined by the Fond du Lac Natural Resources Department.
3. "Shore Impact Zone" shall be defined as the buffer area immediately adjacent to waterbodies or watercourses that is critical to preserving water quality, wildlife habitat, and visual screening of the developed area farther back from the shore.

b. The following waterbodies and watercourses shall have the following designated underlying Land Use Districts:

Lakes	CP District	R District	NR District	M District	CWLL District
Long (Bang) Lake		*			
Deadfish Lake	*				
Jaskari Lake	*				
Mud (Miller) Lake	*				
Perch Lake	*				
Rice Portage Lake	*				
Wild Rice Lake	*				
Big Lake		*			
Lost Lake	*	*			
Martin (Joe Martin) Lake	*	*			
Pat Martin Lake	*				
Simian Lake		*			*
Sofie Lake	*	*			
Third Lake				*	
West Twin Lake		*			
Cedar Lake			*		
East Twin Lake			*		
First Lake				*	
Hardwood Lake	*				
Lac Lake	*				
Second Lake				*	

Side Lake			*		
Spring Lake			*		
Spirit (Spruce) Lake			*		
Watercourses	CP District	R District	NR District	M District	CWLL District
Otter Creek	*				
Stoney Brook	*				*
Anishanabe Shin Be Quay Ze'-Bence (Fond du Lac Creek)	*				
Martin Branch	*				
Simian Creek	*	*			*
Annamhasung Creek	*				
Spring Creek	*				
St. Louis River	*				*

Section 607 Shoreland Uses

a. Permitted Uses:

1. The permitted uses shall be that of the primary land use district.

b. Conditional Uses:

1. The conditional uses shall be that of the primary land use district.

c. Requirements:

1. The Land Use Committee may require the applicant to submit a site development plan in addition to the initial application for a Shoreland Permit that includes the following information:
 - (A) Letter of intent indicating the proposed use of the property;
 - (B) Detailed plans drawn to scale and showing all details of the land area and proposed use;
 - (C) Other information as may be required by Land the Use Committee.

2. The Land Use Committee shall grant or deny applications for a Shoreland Permit.
3. A Shoreland Permit shall only be issued upon approval of any required Exemption Certificate or a Wetland Activity Permit under the Fond du Lac Wetlands Protection and Management Ordinance, #03/06.
4. All land use activity within a Shoreland Overlay District shall be consistent with the provisions of all applicable Band law and plans, including the FDL Land Use Plan, the Wetlands Protection and Management Ordinance, and the FDL Water Quality Standards.
5. Setbacks shall be increased by 4 feet for every 2% of slope.
6. Septic systems must be a minimum of 3 feet above the highest groundwater level or bedrock for all shoreland classifications. A conforming septic system is required for all future development and any site improvements.
7. The removal or destruction of emergent aquatic vegetation is prohibited.
8. No permanent structures are allowed in the water or in a Shore Impact Zone.
9. Use of Temporary Water Oriented Structures, including docks, rafts, watercraft lifts, watercraft canopy or other structures that can be removed from water by skidding intact or by hand, must comply with the following guidelines:
 - (A) Docks shall be no wider than 8 feet.
 - (B) The structure cannot create a safety hazard.
 - (C) The structure must not be detrimental to fish and wildlife habitat and must not be installed in fish spawning areas.
 - (D) The structure must not have rigid walls, roofs, or sewage facilities or be intended for human habitation.
 - (E) The structure must allow free flow of water underneath it.

10. Use of commercial docks must comply with the requirements of the FDL Wetlands Protection and Management Ordinance, #03/06.
11. An area no wider than 33% of the lot width, or 40 feet, whichever is less, and no deeper than 25 feet from the OHWL, may be cleared for lake usage purposes. This area must include Temporary Water Oriented Structures. All cleared areas must be stabilized with native vegetative ground cover to prevent erosion and sedimentation.
12. No use of fertilizer or pesticides will be allowed within a Shore Impact Zone.
13. Impervious ground cover shall not be more than 25% of lot area.
14. Non-Riparian lots shall comport to the minimum standards of the underlying district but shall follow all shoreland guidelines and are subject to review upon submission of an application for a Shoreland Permit.

Shoreland Riparian Lot Dimensional Standards

Shoreland Classification	Lot Area Sewered	Lot Area Non-sewered	Lot Width Sewered	Lot Width Non-sewered	Setback from OHWL Sewered	Setback from OHWL Non-sewered	ISTS Setback	Elevation Of lowest floor above OHWL	Shore Impact Zone
CP District	40,000 sq. ft.	80,000 sq. ft.	125 ft.	200 ft.	150 ft.	150 ft.	150 ft.	3 ft.	75 ft.
R District	20,000 sq. ft.	40,000 sq. ft.	75 ft.	150 ft.	75 ft.	100 ft.	100 ft.	3 ft.	50 ft.
M District	20,000 sq. ft.	40,000 sq. ft.	75 ft.	150 ft.	75 ft.	100 ft.	100 ft.	3 ft.	50 ft.
NR District	40,000 sq. ft.	80,000 sq. ft.	125 ft.	200 ft.	150 ft.	150 ft.	150 ft.	3 ft.	75 ft.
CP District Watercourses	40,000 sq. ft.	80,000 sq. ft.	125 ft.	200 ft.	150 ft.	150 ft.	150 ft.	3 ft.	75 ft.
R District Watercourses	20,000 sq. ft.	40,000 sq. ft.	75 ft.	150 ft.	50 ft.	100 ft.	100 ft.	3 ft.	50 ft.
M District Watercourses	20,000 sq. ft.	40,000 sq. ft.	75 ft.	150 ft.	50 ft.	100 ft.	100 ft.	3 ft.	50 ft.
NR District Watercourses	40,000 sq. ft.	80,000 sq. ft.	125 ft.	200 ft.	150 ft.	150 ft.	100 ft.	3 ft.	75 ft.
CP District ST. Louis River	40,000 sq. ft.	80,000 sq. ft.	125 ft.	200 ft.	150 ft.	150 ft.	100 ft.	3 ft.	N/Aft.
M District St. Louis River	4.5 acres	4.5 acres	300 ft.	300 ft.	150 ft.	150 ft.	150 ft.	3 ft.	75 ft.

CHAPTER 7

GENERAL PROVISIONS

The provisions set forth in this Chapter shall apply to all districts, unless otherwise specified.

Section 701 General Requirements

- a. The provisions of this Ordinance shall be considered minimum requirements.
- b. After the effective date of this Ordinance, no structure or part thereof shall be erected, constructed, reconstructed, moved or structurally altered and no land shall be excavated or changed in use unless in conformity with this Ordinance.
- c. Upon submission of an application for a permit until such time as any work or other development authorized under such permit is completed, the Land Use and Zoning Administrator may enter the premises at reasonable times in a reasonable manner to conduct inspections. The Land Use and Zoning Administrator shall make a reasonable effort to contact the owner or occupant and give reasonable notice of a planned inspection before entering the property.
- d. Any proposed land use for which a permit is necessary shall be subject to an environmental assessment, cultural assessment and/or plan review, and the party proposing such use shall be required to submit any development plans as requested by the official or body with the authority to approve or deny said permit before a permit is issued. Failure to comply with this requirement shall invalidate any permit request.
- e. Any proposed land use must be in conformance with the goals, policies, and spirit of the Fond du Lac Land Use Plan before a permit is issued.
- f. All structures must be built in conformity with applicable building codes.
- g. Each proposed building or dwelling shall be on a lot which meets the minimum area requirements specified in Section 710 of this Ordinance.

- h. No lot areas shall be so reduced that the yards are smaller than is required by Section 710 of this Ordinance.
- i. The density of buildings shall not be increased in any manner except in conformity with the area regulations established by this Ordinance for the district in which a building or premises is located.
- j. The required front yard of a corner lot shall not contain any wall, fence or other structure; any tree, shrub or other growth; or any other obstruction that may cause danger to traffic on a street or public road by obstructing the view.
- k. No structure shall exceed the maximum building height except as otherwise specified in this Ordinance.
- l. As a condition of approval of any permit under this Ordinance, the applicant must obtain any required lease(s) or assignment(s) under the Fond du Lac Band Of Lake Superior Chippewa Leases of Trust Land Ordinance, #02/15, as amended, and the Fond du Lac Band Of Lake Superior Chippewa Land Assignment and Land Lease Ordinance, #02/11, as amended.

Section 702 Prohibited Land Uses

- a. The following land uses are prohibited on the Fond du Lac Reservation:
 - 1. Hazardous waste disposal;
 - 2. Radioactive waste storage and disposal;
 - 3. A salvage yard, junkyard, or sanitary landfill unless expressly authorized by the RBC under the Fond du Lac Band of Lake Superior Chippewa Waste Management and Recycling Ordinance, #06/93, and operated consistent with the conditions and requirements of that Ordinance;
 - 4. Commercial fish, commercial wildlife and commercial wild rice preserves;
 - 5. Waste management, unless expressly authorized by the RBC under the Fond du Lac Band of Lake Superior Chippewa Waste Management and Recycling Ordinance, #06/93; and
 - 6. Any Land Use deemed harmful or potentially harmful to the human or natural environment by the RBC or the Fond du Lac Land Use Committee.

- b. No liquid, gaseous or solid wastes shall be discharged that will have a significant negative environmental impact upon adjacent or nearby property, ground water or surface water.

Section 703 Manufactured Homes

- a. The placing of three (3) or more manufactured homes on a lot shall be prohibited.
- b. Two (2) manufactured homes can be placed on a lot provided they meet the lot area requirements for the lot district.
- c. Manufactured homes must be connected to the required utilities, such as well and septic and electricity.

Section 704 Removal of Vegetation

- a. Vegetation may be removed only from areas necessary for day-to-day operations of the land use.
- b. Destruction of the natural vegetation within the shore impact zone of inland lakes and streams shall be prohibited.

Section 705 Fire and Emergency Standards

- a. The Fond du Lac Forester, Land Use and Zoning Administrator, Land Use Committee, and the RBC may require any reasonable fire protection restrictions or changes, such as, but not limited to, implementation of Firewise standards, or a site development plan.
- b. The RBC may direct that any permit be refused until an adequate fire protection plan is developed.
- c. In the case where a permit is refused by the RBC because of an inadequate fire protection plan, the applicant may submit an amended fire protection plan to the Land Use and Zoning Administrator who shall review it in consultation with the Land Use Committee and the FDL Forester and make a recommendation to the RBC, which shall make the final decision on whether to accept or refuse the amended plan.

Section 706 Parking

- a. Off-street parking for every land use shall be adequate as determined by the official or body with the authority to grant or deny the requested permit.

Section 707 Historic and Cultural Sites

- a. No development shall be permitted on a significant historic, geographic, natural or cultural site in any manner which affects the values of the site unless an adequate cultural assessment has been completed and approved by the RBC and the RBC determines that all reasonable measures have been taken to preserve the values of the site.
- b. In the event that any artifacts are discovered during excavation or construction, work shall immediately cease, and the Land Use and Zoning Administrator shall be notified who shall then immediately notify the RBC and the FDL Cultural Specialist.

Section 708 Legal Description and Survey

- a. Prior to any Land Use or subdivision permits being issued, the applicant must submit a legal description and a registered survey of the property in question. Registered surveys and legal descriptions for Band land assignments shall be provided by the Band's Land Information Department.

Section 709 Public Notice

- a. Notice of approval of all Conditional Use, Special Use, Shoreland and Subdivision Permits and Variances issued under this Ordinance shall be publically posted in the Fond du Lac Tribal Center Office Building and the Land Use and Zoning Administrator's Office for a minimum of thirty (30) days.

The following standards shall be met for all permits:

	CP	R	M	NR	C	I	PR	S
Minimum lot area (acres)	2	2 1- Community Utilities	1	2	1	5	1	Chapter 6
Rear yard setback	50'	30'	30'	50'	20'	50'	100'	Chapter 6
Side yard setback	20'	10'	10'	20'	20'	50'	10'	Chapter 6
Minimum lot width	330'	150'	150'	330'	150'	330'	150'	Chapter 6
Maximum building height	30'	30'	30'	30'	30'	30'	30'	Chapter 6
Maximum % lot coverage	5	25	25	5	50	25	25	Chapter 6
Road setback: state highway centerline	110'	110'	110'	110'	110'	110'	110'	Chapter 6
Road setback: other public/private road centerline	85'	85'	85'	85'	85'	85'	85'	Chapter 6

CHAPTER 8

PERMITS

Section 801 General

- a. Application for permits shall be submitted to the Land Use and Zoning Administrator for all uses stipulated by this Ordinance.
- b. Depending on the location and size of the proposed project, and subject to the requirements of Chapter 12 relating to non-conforming uses, the Land Use and Zoning Administrator may deem a permit unnecessary for small unattached structures, exterior remodeling of existing structures, additions to existing structures (not exceeding 100 square feet), or basic maintenance and repairs that do not alter the exterior of the structure as determined by the Land Use and Zoning Administrator.
- c. The Land Use and Zoning Administrator shall issue decisions on the grant or denial of land use permits in accordance with the provisions of this Ordinance.
- d. The Land Use Committee shall grant conditional uses, special uses, shoreland, and subdivision permits in accordance with the provisions of this Ordinance.
- e. The RBC, as the governing authority acting on behalf of the Band, shall be the authority to grant or deny all variances upon receiving recommendations made by the Land Use Committee, and shall decide all appeals of decisions of the Land Use Committee. The RBC shall act on variance requests and appeals within sixty (60) days of initial request.

Section 802 Land Use Permits

A Land Use Permit is required for all permitted uses as stipulated by this Ordinance unless otherwise provided by this Ordinance.

- a. Application Requirements. Each Land Use Permit application shall include the following information:
 1. Name and address of the land owner or user;

2. Brief statement as to the proposed use of the structure, building or land;
 3. Site Plan, Construction Plans (drawings) to scale showing the location and dimensions of all proposed structures and uses;
 4. Other information as may be required by the Land Use and Zoning Administrator, including existing buildings or land uses and other matters as may be necessary to determine conformance with this Ordinance.
- b. Review Procedure. Upon review of the application submitted, the Land Use and Zoning Administrator shall determine whether the proposed action complies with this Ordinance. No Land Use Permit shall be issued that is incompatible with permitted land uses. The Land Use and Zoning Administrator shall approve or deny the application as follows:
1. Approve Application: Where the Land Use and Zoning Administrator determines that the proposed action complies with the requirements of this Ordinance and any other applicable Band ordinances, the Land Use and Zoning Administrator shall approve the application.
 2. Deny Application: Where the Land Use and Zoning Administrator determines that the proposed action does not comply with this Ordinance or any other applicable Band ordinance, the Land Use and Zoning Administrator shall deny the application and:
 - (A) Advise the applicant of the reason for denial;
 - (B) Advise the applicant of the means, if any, by which the application could be altered to satisfy the requirements of this Ordinance;
 - (C) Advise the applicant of the right to appeal the denial to the Land Use Committee pursuant to Chapter 13 of this Ordinance;
 - (D) Assist the applicant in filing an appeal of the denial to the Land Use Committee pursuant to Chapter 13 of this Ordinance, or in

applying for a Variance pursuant to Chapter 9 of this Ordinance.

c. Time Limits.

1. If the Land Use and Zoning Administrator fails to act on a Land Use Permit application within sixty (60) days after submission, the applicant may submit the application directly to the Land Use Committee for review. The Land Use Committee shall issue a decision within sixty (60) days of receiving the application.
2. Approved Land Use Permits shall terminate six (6) months after approval if work has not commenced within that period. A six (6) month extension may be granted upon application to the Land Use and Zoning Administrator prior to expiration of the original permit.

Section 803 Special Use Permits

The purpose of a special use permit is to allow for special consideration of uses which are not principally permitted or prohibited in a designated land use district and as such are considered a special use and shall require a Special Use Permit.

Application for a Special Use Permit shall be submitted to the Land Use and Zoning Administrator for the following special uses set forth in Sections 804-809 below.

Section 804 Height Restrictions

- a. Special Use Permit Required. No structure exceeding the height limits specified in Section 710 of this Ordinance shall be constructed without a Special Use Permit issued by the Land Use Committee. A written application for a permit to exceed the height limits shall be made for structures including, but not limited to, the following:
1. Monuments;
 2. Flag poles;
 3. Chimneys or smokestacks;
 4. Fire lookout towers;
 5. Windmills and wind generators;
 6. Water towers;
 7. Church spires, belfries or domes; or

8. Radio & TV antennae & transmitting towers.
- b. Criteria. The Land Use and Zoning Administrator shall make recommendations to the Land Use Committee to grant or deny a permit based on factors including, but not limited to, the following:
1. The use shall be compatible with adjacent land uses;
 2. The use shall have an appearance that will not have an adverse effect upon adjacent properties;
 3. The use shall be reasonably related to the overall needs of the Reservation and to existing land use as determined by this Ordinance and all other plans and ordinances as determined by the Land Use Committee; and
 4. The use shall be consistent with the purposes of the Land Use Plan and the Land Use Districts in which the applicant intends to locate the proposed use.

Section 805 Signs

- a. Special Use Permit Required. All new permanent signs shall require a special use permit. A written application for a special use permit shall be made to the Land Use and Zoning Administrator. The Land Use and Zoning Administrator shall make recommendations to the Land Use Committee to grant or deny the permit based on the following standards:
1. Signs shall not be placed to interfere with official traffic signs or driving visibility.
 2. All signs, sign faces, and supports, shall be maintained in a good state of appearance and repair, as determined by the Land Use and Zoning Administrator.
 3. No sign shall have interior lighting or moving parts or lights.
 4. Signs shall not exceed 50 square feet in size.
 5. Signs shall not display statements, words, or pictures of an obscene, indecent, or immoral

character that would be publicly offensive. If a member of the Land Use Committee or the applicant raises a question as to whether a sign satisfies this requirement, the Land Use Committee shall seek a determination on the question from the RBC.

6. Signs to be placed along roadways containing MNDOT (Minnesota Department of Transportation) right-of-ways require a permit from MNDOT. Such roadways are State Hwy. 210, Interstate 35, and U.S. Hwy. 2.
- b. No Permit Required. The following signs do not require a special use permit; however, they shall comply with the requirements of subsection (a):
1. Signs that are equal to or less than 1.5 square feet in area and bear only property numbers, postbox numbers, names of occupants of the premises or other identification not having commercial purpose;
 2. Legal notices, identification, informational or directional signs erected or required by governmental agencies;
 3. Temporary signs advertising a cultural or civic event erected not more than thirty (30) days prior to the event and removed within one (1) week following the event.
 4. Candidate signs providing they are removed within one (1) week following election.
- c. Exception. Signs erected prior to the original adoption of this Ordinance shall be authorized without the need for a permit.
- d. Noncompliance. The Land Use and Zoning Administrator may revoke any permit or order any permitted sign removed for noncompliance with the provisions of subsections (a) or (b) by posting notice on the sign of intent to remove the sign if it is not removed by the owner within seventy-two (72) hours of the date and time indicated on the posting.

Section 806 Excavation and Extraction

- a. The following excavation and extraction activities shall require a special use permit:

1. Any excavation, including but not limited to: borrow pits and gravel pits.
 2. The extraction of any materials or minerals for commercial purposes.
- b. No Permit required:
1. A separate special use permit is not required for excavation during activities for which a separate permit has already been issued. However, the standards in this section shall be incorporated into the issuance of all land use permits if excavation or extraction activities are contemplated.
 2. A special use permit is not required for excavation undertaken by the FDL Division of Resource Management during natural resource management activities in all districts except the Cultural Preservation District.
- c. General Requirements.
1. Excavation/Extraction and construction within the Shoreland Overlay District shall require a Shoreland Permit.
 2. Topsoil shall be removed prior to any excavation and shall be saved for replacement for re-vegetation.
 3. All material which is to be permanently removed from a site shall be properly disposed of at a location designated by the Land Use Committee.
 4. Protective measures (such as fencing) designed to prevent erosion and retain sediment on the site shall be implemented during excavation, extraction, or construction activities.
 5. Excavation/Extraction shall be prohibited where buffers, vegetative screening or setbacks are significantly reduced.
 6. Excavation/Extraction shall be prohibited where increased erosion into any Reservation waterbody or watercourse may occur.
 7. Excavation/Extraction shall be prohibited where permanently exposed soil or rock may result.

8. Any Excavation/Extraction activity that the Land Use Committee determines may pose a threat to public health, safety or welfare shall be prohibited.
9. A minimum lot area of two (2) acres shall be required for the extraction of sand and gravel.

d. Requirements and Review Procedure.

Request for a special use permit to perform an extraction or excavation of sand, gravel, rock or other minerals shall be made in writing to the Land Use and Zoning Administrator and shall identify the following:

1. The area to be excavated;
2. Beginning and ending dates of the extraction activity;
3. Amount of materials to be moved or removed;
4. Type of material to be moved or removed;
5. Access routes and haul roads;
6. Existing drainage;
7. Final contours and drainage of the area upon completion of the excavation;
8. A legal description of the proposed site;
9. A topographic map of the site with a scale of 1" = 100' or greater with a contour interval of ten (10) feet or less, extending beyond the site to a minimum distance of five hundred (500) feet on all sides;
10. A system of accounting to determine the amount of materials removed and the amount remaining at the proposed site on a weekly basis;
11. General site information, such as name of applicant, name of landowner, total area of project, and necessary permits;
12. Pre-excavation conditions including current land use, adjacent land use, groundwater elevation, map of pre-excavation conditions, location of streams, lakes and wetlands located within or adjacent to project area and location of wells in the vicinity;
13. A description of all phases of the proposed operation including types of machinery and equipment necessary to carry on the operation, transportation, disposal of brush and vegetative debris, retention of topsoil, hours of mining and processing activities, dust control, storage of chemical substances, spill plan and location of maintenance and fueling areas; and

14. Where the operation is to include sand and gravel washing, the estimated daily quantity of water required, its source and its disposition shall be identified.

After review of the application, the Land Use and Zoning Administrator shall make recommendations to the Land Use Committee to grant or deny the permit.

- e. Conditions. No permit to extract fill materials shall be granted until the Land Use Committee approves a restoration plan, as provided in subsection (h) of this Section.
- f. Conditions for Approval. The Land Use Committee may establish setback and other dimensional requirements, so as to avoid creating a nuisance for surrounding residential uses. The Committee may also require suitable fencing and landscaping.
- g. Existing Operations. The owners of all operations involving the extraction of sand, gravel, rock or other fill materials existing at the time this Ordinance is adopted shall, within one year after adoption of this Ordinance, submit to the Land Use and Zoning Administrator an application for a permit and a plan for the restoration of the site in accordance with subsection (h) of this Section. The restoration plan shall not impose requirements that may be unreasonable from an economic or engineering perspective due to conditions resulting from operations prior to enactment of this Ordinance.
- h. Site Restoration Plan and Financial Guarantee.
 1. No permit to carry on an excavation or extraction operation shall be granted until the Land Use Committee approves a restoration plan.
 2. The restoration plan shall identify the party who has financial responsibility for the actual restoration. The responsible party shall provide sufficient financial guarantee to secure the performance of the restoration agreement. The agreement and financial guarantee shall be in a form and amount approved by the Land Use Committee.
 3. The area shall be restored to a condition of practical usefulness and reasonable physical attractiveness, as determined by the Land Use

Committee. Restoration efforts shall begin no later than six (6) months after the operation has ceased.

4. The restoration plan shall include anticipated topography, future land uses, roads, location of structures on the site, seeding and replanting plans, long-term maintenance and an estimate of the restoration cost for each phase of the project. Re-vegetation or reforestation of materials removed during excavation or extraction operations shall include use of native or similar materials and shall be completed during the first planting season after operations have ceased.

Section 807 Private Septic Systems and Wells

In areas not served by a public sewage treatment plant or public water line, a special use permit from the Land Use and Zoning Administrator shall be required prior to installation of sewage treatment systems and wells. Prior to approval, the Water/Wastewater Office of the Fond du Lac Planning Division shall review and provide feedback on all special use permits and provide recommendations to the Land Use and Zoning Administrator within thirty (30) days of receiving the special use permit application. Individual on-site sewage treatment systems and wells shall be constructed in accordance with all Indian Health Service Guidelines. The installation method and location of sewage treatment systems shall be designed to protect the natural environment to the maximum extent reasonable and feasible.

Section 808 Essential Services

The establishment, construction, maintenance and use of overhead or underground transmission lines, pipelines, or other conduits shall require a special use permit approved and issued by the Land Use Committee. The installation method and location of utilities shall be designed to protect the natural environment to the maximum extent reasonable and feasible.

Section 809 Roads and Driveways

Construction of roads and driveways shall require a special use permit approved and issued by the Land Use Committee. The Land Use and Zoning Administrator shall make recommendations to the Land Use Committee to grant or deny the permit. Public and private roads and driveways shall be located

and designed to minimize impact to the natural environment. Roads and driveways shall meet the shoreland structure setbacks specified in Chapter 6 of this Ordinance. Driveway access to individual lots shall not be constructed within five (5) feet of the lot line.

Section 810 Home Occupations/Home Businesses

All Businesses within the Fond du Lac Reservation are governed by Ordinance #5/84, Fond du Lac Band of Lake Superior Chippewa Business License Ordinance, and must obtain a trade, business, or professional license if required by the Business License Ordinance before conducting any business within the Fond Du Lac Reservation.

Section 811 Shoreland Permits

A shoreland permit shall be required for all land use activity within the Shoreland Overlay District as required by Chapter 6 of this Ordinance.

Section 812 Conditional Use Permits

- a. General. The Land Use and Zoning Administrator shall make recommendations to the Land Use Committee to approve or deny Conditional Use Permits. In deciding whether to grant or deny a conditional use permit, the Committee shall consider the recommendation of the Land Use and Zoning Administrator, the effect of the proposed use upon the health, safety, morals and general welfare of occupants of surrounding lands and the Reservation in general, and the criteria set forth in subsection (b) below.
- b. Criteria. The Land Use Committee shall apply the following criteria as applicable:
 1. The conditional use shall be compatible with adjacent land uses.
 2. The conditional use shall have an appearance that will not have an adverse effect upon adjacent properties.
 3. The conditional use shall be reasonably related to the overall needs of the Reservation and to existing

land use as determined by this Ordinance and all other plans and ordinances approved by the RBC.

4. The conditional use shall be consistent with the purposes of the Land Use Plan and the Land Use Districts in which the applicant intends to locate the proposed use.
 5. The conditional use shall reflect the Fond du Lac Anishanabe value system.
 6. The conditional use shall have adequate utilities, access roads and drainage.
- c. Non-Transferability. A Conditional Use Permit shall be issued only to the applicant. The Conditional Use Permit may not be transferred to any other person without prior approval of the Land Use Committee or the RBC.
- d. Termination. A Conditional Use Permit shall terminate if the use is discontinued for a period of six (6) months. However, a longer or shorter time limitation or review requirement may be included as a condition on any permit.

Section 813 Additional Conditions

The Land Use Committee may impose, in addition to these standards and requirements expressly specified by this Ordinance, additional conditions that the Committee deems necessary to protect the best interests of the surrounding area or community as a whole. These conditions may include, but need not be limited to:

- a. Increasing the required lot size or yard dimension;
- b. Limiting the height, size and location of buildings;
- c. Controlling the location and number of vehicle access points;
- d. Increasing the number of required off-street parking spaces;
- e. Prohibiting expansion without prior Land Use Committee approval; or
- f. Designating sites for open space.

Section 814 Records

The Land Use and Zoning Administrator shall maintain a record of all Conditional Use Permits issued, including information on the use, location and conditions imposed by the Land Use Committee such as time limits, review dates and other information that may be necessary for the efficient and effective administration of this Ordinance.

Section 815 Application

- a. The applicant shall submit to the Land Use and Zoning Administrator a site development plan that includes the following information:
 - 1. A letter of intent indicating the proposed use of the property;
 - 2. Detailed plans drawn to scale and showing all details of the land area and proposed use; and
 - 3. Other information as may be required by the Land Use Administrator.

- b. The Land Use Committee shall have the authority to reject any application for a Conditional Use Permit not complying with subsections (a)(1) through (3) above. The Committee shall notify the applicant in writing of its reasons for rejecting the application within sixty (60) days of receiving the application.

Section 816 Review Procedure

- a. The applicant shall submit a completed conditional use permit application to the Land Use and Zoning Administrator and meet with the Land Use and Zoning Administrator to discuss the application. The Land Use and Zoning Administrator shall forward the application to the Land Use Committee and the RBC at the time of receipt.

- b. The Land Use and Zoning Administrator shall recommend approval, conditional approval or denial to the Land Use Committee within sixty (60) days of receiving the application.

- c. The Land Use Committee may hold a public hearing prior to making a decision. At any time, the RBC may also hold a hearing to gather information on the conditional use permit application and determine whether to exercise its powers under Section 1304 of this Ordinance.
 - 1. Notice of the public hearing shall be published once in the Fond du Lac Newspaper, and shall be posted in the Fond du Lac Tribal Center Building, Land Use and Zoning Administrator's office, and each district community center. Notice shall be published and posted at least ten (10) days and not more than thirty (30) days prior to the hearing.
 - 2. Notice of public hearing shall be mailed to all owners of property located within 1,200 feet of the outer boundaries of the property at least ten (10) days and not more than thirty (30) days prior to the hearing.
- d. The Land Use Committee shall act upon the petition within sixty (60) days of receiving the Land Use and Zoning Administrator's recommendation. Failure of the Land Use Committee to act shall not be considered an approval.
- e. The Land Use Committee shall notify the applicant of its decision in writing within sixty (60) days. The notice shall include the reasons for the decision.
- f. No application of a property owner for a Conditional Use Permit shall be considered by the Land Use Committee within a one (1) year period following a denial of an application for the same, or substantially the same, use unless the Land Use Committee determines that new evidence or a change of circumstances warrant reconsideration.

Section 817 Termination of Conditional Use Permits

- a. Where a Conditional Use Permit has been issued according to provisions of this Ordinance, the permit shall terminate without further action by the Land Use and Zoning Administrator or Land Use Committee if construction does not commence within six (6) months of the date of granting the permit.
- b. A Conditional Use Permit may authorize only one (1) particular use and shall terminate if that use shall cease for more than six (6) consecutive months.

Section 818 Public Notice

Notice of approval or disapproval of a Conditional Use Permit by the Land Use Committee shall be posted in the Fond du Lac Tribal Center Office Building and the Land Use and Zoning Administrator's Office.

CHAPTER 9

VARIANCES

Section 901 Application

- a. Duties of the Land Use and Zoning Administrator. The Land Use and Zoning Administrator may assist the applicant in filing an application for a variance to submit to the Land Use Committee and Reservation Business Committee.
- b. Authority of the Land Use Committee. The Land Use Committee may recommend that the RBC grant a variance for uses that otherwise would not be permitted or conditional under this Ordinance. In order to apply for a variance, the applicant shall present a statement and evidence, in such form as the Land Use Committee may require, sufficient to demonstrate that:
 1. Special circumstances or conditions affect the land, building or use referred to in the application for the variance such that the literal enforcement of this Ordinance would result in unnecessary hardship. The Land Use Committee shall determine on a case by case basis whether or not a hardship exists; and
 2. The granting of the variance will not be detrimental to the health, safety or welfare of the residents of the Reservation or to property in the area adjacent to the property for which the variance is sought; and
 3. The granting of the variance will be consistent with the spirit and intent of this Ordinance, and will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district.

Section 902 Response; Conditions

In making a recommendation on a variance, the Land Use Committee may recommend such additional conditions as necessary to ensure compliance with the provisions of this Ordinance and to protect adjacent property. Such conditions may include but need not be limited to a periodic review of the variance as well as conditions and restrictions upon the use for which the variance is issued. The RBC shall respond to variance applications within sixty (60) days of their submission.

Section 903 Resubmission

No application for a variance which has been denied wholly or in part shall be resubmitted for a period of twelve (12) months from the date of the order of denial, unless the Land Use Committee determines that new evidence or a change of circumstances warrants reconsideration.

Section 904 Transferability

The RBC may order that a variance may be transferable, non-transferable or transferable only upon specified conditions. However, if the order of the RBC does not specifically refer to transferability, the variance shall be non-transferable.

Section 905 Public Notice

Notice of approval or disapproval of a Variance by the RBC shall be posted in the Fond du Lac Tribal Center Office Building and the Land Use and Zoning Administrator's Office.

CHAPTER 10

SUBDIVISIONS

Section 1001 Policy and Purpose

The process for dividing land for development has a lasting effect on the appearance and environment of the Reservation. Roads must be maintained and various public services, including water and sewer, must be provided. It is therefore in the interest of the health, safety and welfare of the public sector that such development be carefully regulated.

Section 1002 Permit Required

After the effective date of this Ordinance, no person shall divide any lands under the jurisdictional authority of the Reservation so as to create a subdivision or any type of lot division without a permit approved by the Land Use Committee.

Section 1003 General Requirements

- a. Compliance with Other Provisions. A subdivision shall comply with applicable district requirements and all other restrictions in this Ordinance, including: minimum lot size and dimensional requirements; setbacks; maximum building height; percentage of lot coverage; and buffering from roads, waterbodies and watercourses.
- b. Sewer and Water. In areas not served by publicly owned sewer and water systems, a subdivision shall not be approved unless an adequate and safe domestic water supply is available and a sewage treatment system that meets the standards of this Ordinance can be provided for every lot. Lots that would require use of holding tanks shall not be approved.

Section 1004 Other Considerations

In considering an application for a subdivision permit, the Land Use Committee may analyze all aspects of the proposed subdivision application and shall consider whether each lot would be suitable for the proposed development. The Land Use Committee may consider:

- a. Susceptibility to flooding;

- b. Existence of wetlands;
- c. Soil and rock formations with severe limitations for development;
- d. Erosion potential;
- e. Steep topography;
- f. Inadequate water supply or sewage treatment capabilities;
- g. Important fish, wildlife and native plant habitat;
- h. Presence of significant historic or cultural sites;
- i. Compatibility with adjacent land uses; and/or
- j. Any other feature of the land that may become a risk to the health, safety or welfare of future residents of the proposed subdivision or of the community.

Section 1005 Non-Transferability

A Subdivision Permit shall be restricted to the exclusive use of the applicant. The Subdivision Permit may not be transferred to any other person without prior approval of the Land Use Committee.

Section 1006 Additional Conditions

The Land Use Committee may impose, in addition to the standards and requirements expressly specified by this Ordinance, other conditions which the Land Use Committee deems necessary to protect the values or best interests of the Band. These conditions may include, but are not limited to:

- a. Increasing the required lot size or yard dimension;
- b. Limiting the height, size and location of buildings;
- c. Controlling the location and number of vehicle access points; and/or
- d. Designating sites for open space.

Section 1007 Application Requirements

The subdivider shall apply for a subdivision permit at the Office of the Land Use and Zoning Administrator on such form as the Administrator may prescribe. At the time of submitting an application, the subdivider shall submit a site development plan that includes the following information:

- a. A letter of intent indicating the proposed use of the property;
- b. The legal description of the property;

- c. A Certificate of Survey by a registered land surveyor;
- d. A sketch plan, drawn to scale, of the proposed subdivision which shows clearly any information which may be required by the Land Use Committee to make a sound evaluation of the proposal and which shall include, but need not be limited to:
 - 1. Topographic map of the site with a scale of 1" = 100' or greater with a contour interval of 20' or less, extending beyond the site to a minimum distance of five hundred (500) feet on all sides;
 - 2. North point and scale;
 - 3. Roads (existing and proposed) within and adjacent to parcel(s), location of driveways, easements, waterbodies, watercourses and other pertinent features within 100' of the boundary of the tract;
 - 4. Property dimensions, existing and proposed;
 - 5. Name of subdivision with lot and block numbers of property indicated;
 - 6. Proposed location and size of any buildings which are to be constructed;
 - 7. Proposed location and description for on-site sewage disposal and water supply, if applicable, and locations of other utilities (telephone, street lights, electrical service and gas service, if applicable); and/or
 - 8. Other information considered relevant or requested by the Land Use Committee, Land Use Administrator or the Reservation Business Committee.

Section 1008 Additional Application Requirements for Larger Subdivisions

If the subdivision would create a total of three or more parcels, the applicant shall be required to submit the following additional information:

a. General Requirements.

- 1. Location and extent of tree cover;

2. Location and extent of wetlands, streams and other waterbodies within and adjacent to the site, and the distance of the same from the existing and proposed lot lines;
 3. Existing and proposed stormwater runoff and drainage patterns;
 4. Adequate soils information to determine suitability for building and on-site sewage treatment capabilities for every lot;
 5. A line or contour representing the vegetation line of lakes, streams and wetlands, the bottom and top of bluffs, and the minimum building setback distances from the top of the bluff and the lake, stream or wetland.
- b. Stormwater Management and Erosion Control Plans. Stormwater and erosion control plans shall be required where development density, topographic features, and soil and vegetation conditions are such that natural features and vegetation are not adequate to handle stormwater runoff without causing erosion, sedimentation or flooding. Plans shall include both non-structural and structural elements such as diversions, settling basins, dikes, waterways and ponds.

Section 1009 Review Procedure

- a. The applicant shall submit a completed subdivision permit application to the Land Use and Zoning Administrator and meet with the Administrator to discuss the application. The Land Use and Zoning Administrator shall forward the application to the Land Use Committee and the RBC at the time of receipt.
- b. The Land Use and Zoning Administrator shall recommend approval, conditional approval or denial to the Land Use Committee within sixty (60) days of receiving the application.
- c. The Land Use Committee may hold a public hearing prior to making a decision. At any time, the RBC may also hold a hearing to gather information on the subdivision permit application and determine whether to exercise its powers under Section 1304 of this Ordinance.

1. Notice of the public hearing shall be published in the FDL Newspaper and posted in the Fond du Lac Tribal Center Office Building, Land Use and Zoning Administrator's Office, and at each District Community Center. Notice shall be published and posted at least ten (10) days and not more than thirty (30) days prior to the hearing.
 2. Notice of the public hearing shall be mailed to all owners of property located within 1,200 feet of the outer boundaries of the property at least ten (10) days and not more than thirty (30) days prior to the hearing.
- d. The Land Use Committee shall act upon the petition within sixty (60) days of the Land Use and Zoning Administrator's recommendation. Failure of the Land Use Committee to act shall not be considered an approval.
 - e. The Land Use Committee shall notify the applicant of its decision in writing within sixty (60) days of the hearing.
 - f. No application for a Subdivision Permit shall be reconsidered by the Land Use Committee within a one (1) year period following denial of an application for the subdivision of the same, or substantially the same, parcel unless the Land Use Committee determines that new evidence or changed of circumstances warrants it.

Section 1010 Termination of Subdivision Permits

A Subdivision Permit shall terminate without further action by the Land Use and Zoning Administrator or Land Use Committee if construction does not commence within six (6) months of the date of granting the Permit. Upon request, extensions may be granted at the discretion of the Land Use Committee.

Section 1011 Public Notice

Notice of approval of a Subdivision Permit by the Land Use Committee shall be posted in the Fond du Lac Tribal Center Office Building and the Land Use and Zoning Administrator's Office.

CHAPTER 11

COMMERCIAL AND INDUSTRIAL PERFORMANCE STANDARDS

Section 1101 Site Development Plan

No Land Use Permit shall be issued for development in the Commercial and Industrial Districts unless a site development plan has been submitted to and approved by the Land Use Committee and the RBC. The plan shall include the following:

- a. A letter of intent indicating the proposed use of the property;
- b. A sketch plan, drawn to scale, of the proposed development, which shows clearly any information that may be required to make a sound evaluation of the proposal. The sketch plan shall include, but need not be limited to:
 1. Topographic map of the site with a scale of 1' = 100' or greater with a contour interval of 10' or less, extending beyond the site to a minimum distance of five hundred (500) feet on all sides;
 2. Proposed location and size of any structures which are to be constructed;
 3. Roads (existing and proposed) within and adjacent to parcel, location of driveways and parking areas, property lines, easements, waterbodies and other pertinent features within 100' of the boundary of the tract;
 4. Proposed location and description for on-site sewage disposal and water supply if applicable, and locations of other utilities (telephone, street lights, electrical service and gas service, if applicable).
- c. Erosion control plans both for construction and for operation;
- d. Storm water runoff plans both for construction and for operation;
- e. Vegetation removal including proposed landscaping;

- f. Other information considered relevant or requested by the Land Use Committee, Land Use and Zoning Administrator or the RBC.

Section 1102 Setbacks

- a. A Commercial District shall have a minimum setback of twenty (20) feet from all lot lines and the Industrial District fifty (50) feet from all lot lines. No parking areas, service yards, storage areas, lighting or structures are permitted within the setback areas.
- b. Side setback areas shall be left in natural vegetation sufficient to provide a buffer from adjacent properties and roadways. Planting of additional trees, shrubs and other vegetation may be required by the Land Use Committee to achieve visual screening.

Section 1103 Lighting

Lighting shall be directed inward and not toward any property line. No lighting shall be directed upward with the exception of the gaming facilities.

Section 1104 Noise

Noise, measured at the property line, shall not be objectionable in frequency or intensity. The general noise level of the surrounding properties shall serve as a guide in judging this standard.

Section 1105 Odor

Odor from any industrial process shall not be discernible at any property line. Processes that are prone to produce objectionable odors shall have specific plans for odor control at the time of permit application.

Section 1106 Vibration

Vibration shall not be discernible to human sense of feeling at any property line.

Section 1107 Smoke

Smoke shall be measured at the point of emission and shall not obscure vision by more than 20 percent.

Section 1108 Vapors

Fumes or gases shall not be emitted at any point in concentrations that are noxious, toxic or corrosive, or which endanger the public health, safety, comfort or welfare, or which cause appreciable injury or damage to property or business.

Section 1109 Hazards

Reasonable precautions shall be taken against fire and explosive hazards. Fire protection devices, fire breaks, fire walls, and similar measures may be required by the Land Use and Zoning Administrator upon recommendation of the Fond du Lac Forestry Department, Reservation Forester or Fire Wardens. In some cases, fire hydrants, water tanks and sprinkler systems may be required singly or in combination.

Section 1110 Access

- a. Access to all commercial and industrial areas shall be constructed to ensure safe auto and truck traffic. Frontage roads and traffic control devices may be required.
- b. If access cannot be provided in a manner that is deemed safe to the general health, safety and welfare by the Land Use and Zoning Administrator or Land Use Committee, the permit shall be denied.

Section 1111 Discharges

No liquid, gaseous, or solid wastes shall be discharged that will have a significant negative environmental impact upon adjacent or nearby property, ground water or surface water.

CHAPTER 12

NON-CONFORMING USES

Section 1201 Continuances

Except as otherwise provided, the lawful use of any land or building existing at the time of the adoption or amendment of this Ordinance may be continued even if the use does not conform to the regulations of this Ordinance.

Section 1202 Abandonment

Any use of land or a building existing as a non-conforming use at the time of adoption or amendment of the Official FDL Land Use Map subsequently may be deemed abandoned by the Land Use and Zoning Administrator. An investigation may be conducted at the discretion of the Land Use and Zoning Administrator to determine the property owner and circumstances involved in the abandonment. Further proceedings may be initiated under applicable law to protect the public health, safety and welfare.

Section 1203 Alterations

A non-conforming building or structure shall not be reconstructed or structurally altered unless that building or structure is brought into conformity with this Ordinance. Minor alterations, such as small unattached structures (not exceeding 100 square feet), exterior remodeling of existing structures, roofing, siding, window replacements and stops, shall not be subject to this requirement, but may require a Land Use Permit in the discretion of the Land Use and Zoning Administrator pursuant to Section 801(b) of this Ordinance.

Section 1204 Enlargement

A non-conforming building or structure shall not be added to or enlarged unless the additions or enlargements are made so as to bring the building or structure into conformity with this Ordinance. Minor enlargements, such as the addition of a small porch, deck or room (not exceeding 100 square feet), shall not be subject to this requirement, but may require a Land Use Permit in the discretion of the Land Use and Zoning Administrator pursuant to Section 801(b) of this Ordinance.

Section 1205 Restoration

Upon adoption of this Ordinance, a non-conforming building or structure which is damaged by fire or other causes resulting in a loss of more than fifty (50) percent of its market value shall not be restored except in conformity with this Ordinance.

Section 1206 Maintenance

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

Section 1207 Extension

No non-conforming use shall be enlarged or increased, nor extended to occupy a greater area of land than occupied at the time of the effective date of this Ordinance or amendments, except as allowed by sections 1203 and 1204.

Section 1209 Movement

No non-conforming use shall be moved in whole or in part to any other portion of the lot or parcel occupied by that use at the time of the effective date of this Ordinance or amendments without a permit.

Section 1210 Non-Conforming Lots

No structure may be constructed on a lot which does not meet the minimum lot size requirements of this Ordinance unless all reasonable attempts to expand the lot have been exhausted. A permit from the Land Use Committee is required prior to construction on a non-conforming lot.

CHAPTER 13

APPEALS

Section 1301 Applicability

All appeals from any decision or action of the Land Use and Zoning Administrator, the Land Use Committee or the RBC shall be governed by this Chapter.

Section 1302 Appeals from a Decision of the Land Use and Zoning Administrator

- a. Right of Appeal. The applicant, permit holder or any interested party may appeal to the Land Use Committee any decision by the Land Use and Zoning Administrator regarding a permit application or an Administrative Order. Applicants do not have the right to appeal recommendations made by the Land Use and Zoning Administrator regarding an application for a permit.
- b. Review Procedure.
 1. The applicant, permit holder or any interested party aggrieved by a decision of the Land Use and Zoning Administrator shall file a written notice of appeal of such decision with the Land Use and Zoning Administrator within thirty (30) days after the Administrator's decision is issued. The notice of appeal shall identify the decision being appealed and explain the grounds for challenging the decision.
 2. Within ten (10) days after the receipt of a notice of appeal filed pursuant to subsection (b)(1), the Land Use and Zoning Administrator shall submit a staff memo to the Land Use Committee that:
 - (A) Outlines the relevant facts of the case;
 - (B) Describes the relationship of the facts to the Land Use Ordinance and other applicable tribal ordinances, policies or rules;
 - (C) Recommends appropriate action which the Land Use Committee may take including, but not limited to, any conditions that should be

included in any permit, variance or other order.

3. Decision.

(A) Unless the Land Use Committee determines that a public hearing is necessary to gather additional information, or otherwise to fulfill the purposes of this Ordinance, the Committee shall decide the appeal on the record without a hearing. The record shall include:

- i. The application, together with any supporting maps, plans and other related documents;
- ii. The notice of appeal, together with any supporting memos and documents; and
- iii. The staff memo of the Land Use and Zoning Administrator described in subsection (b)(2) of this Section.

(B) The Land Use Committee shall issue a decision on an appeal within sixty (60) days after the receipt of the Land Use and Zoning Administrator's staff memo or any hearing ordered by the Land Use Committee, whichever is later. Notice of any hearing ordered by the Land Use Committee shall be given as provided in Section 13.08 (C) of this Ordinance.

c. Expedited Appeal.

1. Where there is a likelihood that the time required to complete the appeal process established by subsection 1302(b) would result in substantial damage to persons, property, or natural resources, the Land Use Committee, on the petition of the Land Use and Zoning Administrator or the appellant, may order an expedited appeal with or without a public hearing. The Land Use Committee shall act on petitions for an expedited review within 48 hours of receipt. Where an expedited appeal is granted, the Land Use Committee shall issue its decision no later

than seven (7) days after the petition is granted or after a public hearing, if any, is held.

2. Any public hearings ordered in connection with an expedited appeal shall be held no later than seven (7) days after the petition is granted. The Land Use Committee shall make reasonable efforts to notify interested parties, but notice shall be in the form and manner determined appropriate under the circumstances by the Land Use Committee.
3. The Land Use Committee shall base its decision on the record as described in subsection 1302(b)(3) and on any additional information which is presented at the hearing. The Land Use Committee shall issue its decision no later than seven (7) days after the hearing.

Section 1303 Appeals from a Decision of the Land Use Committee

- a. Right of Appeal. Any applicant, permit holder, or interested party may appeal a decision of the Land Use Committee to the RBC.
- b. Procedure.
 1. An applicant, permit holder, or interested party aggrieved by a decision of the Land Use Committee shall file a written notice of appeal of such decision with the RBC within thirty (30) days after the Committee's decision is issued. The notice of appeal shall identify the decision being appealed and explain the grounds for challenging the decision.
 2. Unless the RBC determines that a public hearing is necessary for the reasons stated in Section 1302(b)(3), the RBC shall decide the appeal on the record without a hearing. The record shall include, in addition to the items described in Section 1302(b)(3)(A), the transcript or other record of any hearing held by the Land Use Committee. Except in expedited appeals, the RBC shall issue its decision within sixty (60) days of filing the notice of appeal to the RBC or of any hearings ordered by the RBC, whichever is later.

3. In the case of expedited appeals, the RBC shall consider the matter at its next regular meeting. If the RBC orders a hearing on an expedited appeal, it shall be held within seven (7) days of the issuance of the order, and the RBC shall issue its decision no later than seven (7) days after the hearing. If no hearing is held, the RBC shall issue its decision no later than seven (7) days after the meeting at which the appeal is considered.
4. In its discretion, the RBC may request that the Land Use Committee, the Land Use and Zoning Administrator, or both provide a written recommendation of appropriate action for the RBC to take on the appeal.

Section 1304 Authority of the Fond du Lac Reservation Business Committee.

When no appeal is taken, the RBC retains the authority to review, revise or reverse any decision of the Land Use Committee or Land Use and Zoning Administrator. In addition, the RBC may decide any question of interpretation arising under this Ordinance, including those involving measurement of setbacks from property lines, waterbodies and watercourses. The decisions of the RBC are final and not subject to review by any entity, including the Band's judiciary.

CHAPTER 14

ENFORCEMENT

Section 1401 Remedies Available

The provisions of this Ordinance, and the conditions of any Permit, Plan or Variance issued or approved under this Ordinance may be enforced by one, or a combination, of the following administrative and judicial remedies: administrative order, revocation, civil penalty, injunction, or order to compel performance.

Section 1402 Administrative Order

If the provisions of this Ordinance or conditions established in a Permit, Plan or Variance issued or approved under this Ordinance are being violated, the Land Use and Zoning Administrator shall notify in writing the persons responsible for such violations, indicating the nature of the violation, ordering the necessary corrective action, and specifying a reasonable period of time for such action to be completed. The Land Use and Zoning Administrator 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 conducted; or shall order other action reasonably necessary to ensure compliance or prevent violation of this Ordinance.

Section 1403 Revocation

If the permit holder violates any conditions of a permit issued under this Ordinance, the Land Use and Zoning Administrator or the Land Use Committee may recommend that the RBC revoke the permit following a public hearing and shall provide notice of such recommendation to the permit holder. The Land Use and Zoning Administrator may require that all activity cease pending the hearing and decision of the RBC. After notice of the recommended revocation, the permit holder may demand that an expedited hearing be held on the recommended revocation within 14 days of the recommendation, in which case the RBC must hold a hearing in that timeframe should it decide to proceed on the recommended revocation.

Section 1404 Civil Penalties

- a. Any person or organization who violates or fails to comply with the following may be subject to civil penalties consistent with the requirements of subsection (b) of this Section:
 - 1. Any provision of this Ordinance or its requirements;
 - 2. Any of the conditions established in connection with any permit, plan or variance issued or approved under this Ordinance; or
 - 3. Any order issued pursuant to Section 1402.

- b. The amount of civil penalty to be assessed shall be based on a uniform schedule of civil penalties established by the Land Use Committee and approved by the RBC. The schedule shall set forth civil penalty amounts for violations of specified provisions of this Ordinance; violations of conditions of any permit, plan, or variance; or violations of an order issued under Section 1402 of this Ordinance. The penalty for any one violation shall not exceed \$200 for the initial summons and \$500 for each additional summons. Each day during which the violation is found to have existed may constitute a separate offense.

- c. The Land Use and Zoning Administrator or the Land Use Committee may issue a civil summons to any person charging the person with civil penalties for one or more of the grounds set forth in subsection (a) of this Section. Upon issuance of a civil summons by the Land Use and Zoning Administrator or the Land Use Committee, no other body or individual may issue a summons for the same violation unless the originally-issued summons is dismissed without a final resolution. The civil summons shall state the basis for the violation, the amount of civil penalty being assessed based on the schedule of penalties adopted pursuant to subsection (b) above, and an explanation that the defendant must respond to the summons with 30 days of its issuance along with the options for responding outlined in subsection (d) below.

- d. Within 30 days of the civil summons being issued, the defendant must either plead guilty to the charged violation(s) by paying the civil penalty or contest the violation(s) by requesting a hearing in Tribal Court. If

the defendant fails to timely respond to the civil summons, the Tribal Court shall enter an order finding that the defendant has committed the infraction, and shall assess the applicable civil penalties.

- e. Upon timely receipt of a request for a hearing to contest the charged violation(s), the Tribal Court shall schedule a contested hearing. The hearing shall be scheduled for not less than twenty-one (21) days, nor more than sixty (60) days from the date of the hearing request, unless otherwise agreed by the defendant and Tribal Prosecutor in writing. The Tribal Court shall send the defendant written notice of the time, place, and date of the hearing within seven (7) days of the receipt of the request for a contested hearing.
- f. The Tribal Court shall conduct a hearing for contesting the civil summons on the record in accordance with applicable law. The defendant shall have no right to a jury trial on the question of whether the defendant committed the violation(s) for which he or she was cited. At a contested hearing, the Tribe shall be represented by the Tribal Prosecutor or delegated prosecuting authority. The defendant may be represented by a lawyer or lay counselor at the defendant's own expense. The Tribal Court shall determine whether the Tribe has proved by a preponderance of the evidence that the defendant committed the violation(s). If the Tribal Court finds the violation was committed, it shall enter an appropriate order on its records. If the Tribal Court finds the infraction was not committed, it shall enter an order dismissing the case.
- g. If the Tribal Court determines that the violation has been committed, it shall assess a civil penalty against the defendant in an amount consistent with uniform schedule of civil penalties adopted by the RBC.
- h. In lieu of issuing a civil summons described above, the RBC or the Tribal Prosecutor may file a complaint in Tribal Court for the violation(s) outlined in subsection (a) above. By filing a complaint, the Tribal Prosecutor may demand the following damages in addition to any applicable civil penalties consistent with the uniform schedule adopted by the RBC:
 - 1. Damages incurred by cleaning up the pollution of any surface water or groundwater caused by the violation;

2. Loss or destruction of any wildlife, fish or other aquatic organisms caused by the violation; and
 3. Any other actual damages caused to the Band by the violation.
- i. As a defense to any civil penalties or damages described in this Section, the defendant may prove that the violation was caused solely by: (1) an act of God, (2) negligence on the part of the Band, or (3) an act or failure to act that constitutes sabotage or vandalism.

Section 1405 Injunctions

Violation of any provision of this Ordinance or failure to comply with any of its requirements or the conditions established in connection with any permit, plan or variance issued or approved in this Ordinance, or with an order issued pursuant to Section 1402, may be enjoined by the Tribal Court in an action brought by the Tribal Prosecutor or the RBC in the name of the Band.

Section 1406 Actions to Compel Performance in Tribal Court

- a. The Tribal Prosecutor or the RBC may bring an action in the name of the Band in Tribal Court to seek an order to compel:
 1. Performance of an order issued pursuant to Section 1402;
 2. Compliance with any of the provisions or requirements of this Ordinance;
 3. Compliance with conditions established in connection with any permit, plan or variance issued or approved under this Ordinance.
- b. In any such action, the Tribal Court may require any defendant adjudged responsible to do and perform any and all actions necessary, which are reasonable and within the defendant's power, to accomplish the purposes of the Order, provision, permit, plan or variance.

Section 1407 Appeals from an order of the Tribal Court

- a. An aggrieved party may appeal an order issued by the Tribal Court pursuant to this Ordinance in accordance with

Fond du Lac Court of Appeals, FDL Ordinance #08/94. All orders of the Tribal Court issued pursuant to this Ordinance shall remain in effect during the pendency of an appeal under this Ordinance unless a stay of execution is granted by the Tribal Court.

- b. The Tribal Court shall not grant a stay of execution during the pendency of an appeal unless:
 - 1. Execution of the judgment could result in extreme hardship for the appellant;
 - 2. There would be no substantial prejudice or injury to the prevailing party during the period of the stay; and
 - 3. The appellant posts a bond or pays monies to the Tribal Court in the amount required to satisfy any judgment ordered by the Tribal Court.

CHAPTER 15

AMENDMENTS OR RESCISSION

Section 1501 Amendments

The RBC may, from time to time, amend this Ordinance, or any part thereof, by resolution.

Section 1502 Rescission

The RBC may rescind this Ordinance in its entirety by resolution.

CERTIFICATION

We do hereby certify that the foregoing Ordinance #02/07 was duly presented and adopted by Resolution #1194/07 by a vote of 4 for, 0 against, 0 silent, with a quorum of 5 being present at a Special Meeting of the Fond du Lac Reservation Business Committee held on May 31, 2007 on the Fond du Lac Reservation; and subsequently amended by Resolution #1149/20 on April 22, 2020.



Kevin R. Dupuis, Sr.
Chairman



Ferdinand Martineau, Jr.
Secretary/Treasurer

Laws:2007.02(053107;04222020)