



**GRAND PORTAGE BAND OF CHIPPEWA
TRIBAL EMPLOYMENT RIGHTS ORDINANCE**

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GRAND PORTAGE BAND OF CHIPPEWA TRIBAL EMPLOYMENT RIGHTS ORDINANCE

TITLE I. POLICY, PURPOSE, DEFINITIONS, AND APPLICABILITY

Section 1.01 Short Title. This Ordinance shall be known and may be cited as the Grand Portage Tribal Employment Rights Ordinance (TERO).

Section 1.02 Declaration of Policy

- (A) It is the policy of the Grand Portage Band of Chippewa that the membership of the Grand Portage Band is the Band's most important resource, and that the Reservation Tribal Council has a duty to create, promote and protect employment and training opportunities for Band Members and their families whenever possible, and to eradicate discrimination against Band Members and other Native American persons within the Band's regulatory jurisdiction.
- (B) Meaningful self-determination for Band Members can only be realized through the maximum participation in employment opportunities arising on or near the Grand Portage Reservation. Toward these purposes, the Reservation Tribal Council declares it to be the policy of the Band to promote the social and economic development of the Band and its members through the implementation of the standards set forth in this Ordinance for employment on or near the Grand Portage Reservation, and as a condition to all contracts, memorandums of understanding/agreement, and co-management agreements that create employment.

1.03 Purpose.

The purposes of this Ordinance include, but are not necessarily limited to:

- (A) Ensure that no covered employer discriminates against any Grand Portage Band Member and other Native American in any aspect of employment, including but not limited to, training, hiring, promotion, demotion, transfer, change in work status, layoffs, and termination from employment.
- (B) Require that all covered employers give preference to qualified Grand Portage Band Members and other Native Americans in all aspects of employment, including but not limited to, training, hiring, promotion, demotion, transfer, changes in work status, layoffs, and termination from employment.
- (C) Require that all entities awarding contracts give preference to Grand Portage Band Members or Native American Contractors for contract and subcontract work on the Reservation.
- (D) Establish contracting rights fees to support implementation and enforcement of this Ordinance.
- (E) Establish an application and certification process to certify that a business is a Grand Portage Band Member owned business and/or Native American owned.
- (F) Establish a Licensing process for entities doing business with the Grand Portage Band

Section 1.04 Authority.

This Ordinance is adopted pursuant to the inherent sovereign authority of the Grand Portage Reservation Tribal Council, as the governing body of the Grand Portage Band of Chippewa. As affirmed by Article VI of the Revised Constitution of the Minnesota Chippewa Tribe, and as recognized by the United States under Section 16 of the Indian Reorganization Act of 1934, 25 U.S.C. § 476 7 (b) of the Indian Self-Determination and Education Assistance Act of 1975, 25 U.S.C. § 450e, and Section 703(i) of Title VII of the Civil Rights Act of 1964, 42 U.S.C. §2000e-2(i).

Section 1.05 Definitions.

The following words, terms and phrases, when used in this Ordinance, shall have the meanings ascribed to them in this Section, except where the context clearly indicates a different meaning:

- (A) **“Certified Grand Portage Member-Owned Business”** (GPMO) means a Grand Portage Band Member owned firm or entity which shall include any commercial, industrial, or other business firm or entity in which fifty-one (51%) or more of the ownership is held by and fifty-one (51%) or more of the actual management and control is exercised by one or more Grand Portage Band Members, as certified by the Grand Portage Tribal Council.
- (B) **“Certified Native American Owned Business”** (NAO) means a firm or entity which shall include any commercial, industrial, or other business firm or entity in which fifty-one (51%) or more of the ownership is held by and fifty-one (51%) or more of the actual management and control is exercised by one or more enrolled members of a federally recognized American Indian tribal government as certified by the Grand Portage Tribal Council.
- (C) **“Contract”** means an agreement or promise, written or unwritten, between two or more entities which creates an obligation enforceable by law to perform work, supply service, labor, or material(s) on or near the Reservation.
- (D) **“Contractor”** means any person, employer, or entity that enters a contract for the provision of goods or services, or other obligations where the person, employer, or entity has the primary responsibility for providing the work or services under the contract on or near the Grand Portage Reservation.
- (E) **“Core Crew”** shall mean a member of a contractor or subcontractor’s crew who is a regular, permanent employee, and in a supervisory position or other key position, such that the employer would face a serious financial loss if the position was filled by another person who had not previously worked for the contractor or subcontractor.
- (F) **“Covered Employer”** means any employer with two or more employees doing business on or near the Grand Portage Reservation or entering into a contract with the Grand Portage Band, its departments, offices, or commercial entities. Covered Employers shall include contractors and subcontractors carrying out projects that are funded wholly or in part by Band, state, or federal dollars. Employers are Covered Employers regardless of whether their headquarters or principle place of business is on or off the Reservation and regardless of whether they were

already engaged in commerce on the Reservation on the date of enactment of this Ordinance. Covered Employer does not include the Grand Portage Tribal government or its commercial entities or the federal government or state government; however, contractors and/or subcontractors of all of the aforementioned are Covered Employers. A private individual who contracts or subcontracts work on his or her own private residence is not a Covered Employer.

- (G) **“Department Director”** means the head of any department, office or business enterprise of the Grand Portage Band.
- (H) **“Discriminate”** means to, with the exception of the Native American preferences provided for in this Ordinance, administer conditions and privileges of employment based upon a person’s race, color, sex, sexual orientation, gender identity, national origin, age or disability.
- (I) **“Entity”** means any person, partnership, corporation, joint venture, vendor, government, governmental enterprise, or any other natural or artificial person or organization. The term "entity" is intended to be broadly interpreted to further the purposes of this Ordinance.
- (J) **“Employee”** means any person employed for remuneration, compensation, or other value.
- (K) **Grand Portage Band Member Preference:** “Grand Portage Band Member Preference” means the requirement that, when considering offering training opportunities, hiring and promotion, the employer or contractor shall give preference to qualified Grand Portage Band Members who meet the minimum qualifications required to perform the terms of employment or contract.
- (L) **“Indian Tribe”** means a tribe, band, pueblo, nation, or other organized group or community of Indians, including an Alaska Native village (as defined in or established under the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.), that is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.
- (M) **“Native American”** means any person that is enrolled with a federally-recognized American Indian tribal government or Alaska Native Village or who is otherwise eligible for Native American hiring preference under Band, federal or state law. It shall also be synonymous with the term American Indian as defined in federal law.
- (N) **“Native American Preference”** means the requirement that, when considering offering training opportunities, hiring and promotion and there is no qualified Grand Portage Band Member to fulfil the terms of the employment or contract, the employer or contractor shall give preference to qualified Native Americans who meet the minimum qualifications required to perform the terms of employment or contract.
- (O) **“TERO”** means this Tribal Employment Rights Ordinance.
- (P) **“Qualified Native American”** means a Native American who meets minimum qualifications for a specific job or other employment position.

- (Q) **“Reasonable commuting distance”** shall mean that distance that a person seeking employment could reasonably commute to and from work, and for the purposes of this Ordinance shall mean 100 miles one way.
- (R) **“Reservation”** means all lands and waters within the exterior boundaries of the Grand Portage Indian Reservation, notwithstanding the issuance of any patent, easement, or rights-of-way running through the Reservation, ceded lands, and such other lands without such boundaries as may be added by purchase, exchange, transfer, gift or grant, or which are under the jurisdiction of the Band.
- (S) **“Subcontractor”** means any entity, usually a third party, hired or retained by a contractor, to perform work, supply services, or provide materials under a contract.
- (T) **“Reservation Tribal Council”, “Council” or “RTC”** mean the elected governing body of the Grand Portage Band of Chippewa and are synonymous in meaning.
- (U) **“Band”** means the Grand Portage Band of Lake Superior Chippewa.

Section 1.06 General Applicability.

All employers that conduct business on or near the exterior boundaries of the Grand Portage Reservation and on all other lands or waters subject to the jurisdiction of the Grand Portage Band are required to comply with all provisions of this ordinance. Additionally, all employers that enter into contracts with the Band or any of its departments, offices, or commercial enterprises are required to comply with this ordinance.

Section 1.07 Band Government and Enterprises.

The Band government, including Band departments, offices and commercial enterprises, are required to abide by the provisions of the Band’s administrative hiring preference policy, which provides for preferential hiring of Grand Portage Band Members and other Native Americans.

TITLE II. TERO IMPLEMENTATION

Section 2.01 Notice; Bid Requirements.

- (A) The RTC shall provide notification to federal, state, county departments or agencies and any other political subdivisions as appropriate of this enactment of this Ordinance.
- (B) Department Directors shall make good faith efforts, through direct contact and general public information, to inform all Covered Employers, Contractors, and any other Entity that conducts business on or near the Reservation of this Ordinance and the requirements of the TERO.
- (C) All bid announcements issued for work conducted on or near the exterior boundaries of the Reservation shall contain a statement requiring that the successful bidder is obligated to comply

with this Ordinance. It shall not be a defense in any enforcement action for a Covered Employer, Contractor, or other Entity to allege that the Band failed to notify the Covered Entity of the requirements of this Ordinance.

Section 2.02 Native American Preference in Employment Actions by Contractors and Covered Employers.

- (A) All Covered Employers shall recognize the following order of preference which shall be applied to all employment, recruitment, hiring, promotions, training and development activities or opportunities in the following priority order:
 - 1) Members of the Grand Portage Band of Chippewa
 - 2) Descendants or Native American spouses of Grand Portage Band Members
 - 3) Other Native Americans living on or near the Grand Portage Reservation
 - 4) Other Native Americans
- (B) The above-listed preference order shall be given for retention when layoffs occur unless layoff is based upon significant employee performance and/or qualifications.

Section 2.03 Employment Preference Compliance Plan.

- (A) The RTC shall issue a Compliance Plan Packet for distribution to entities and Covered Employers describing TERO compliance requirements. This Packet shall include instructions for Covered Employers to utilize for completing an Employment Preference Compliance Plan and other forms.
- (B) The Compliance plan shall include a listing of all core crew positions and non-core crew positions to be used in the performance of the contract, and shall include a written acknowledgement by the contractor of its responsibilities under this Ordinance. Compliance plans will require that a minimum of 25% of non-core crew positions be filled by qualified Grand Portage Band Members and other Native Americans, depending on availability.
- (C) All positions other than core crew shall be posted by the contractor with the RTC at least one week prior to commencement of performance of the contract or as soon as such positions become open. Postings shall include Position title; Qualifications; Dates and place of employment; and Rate of pay and fringe benefits.
- (D) The Band shall, within 72 hours of posting a position by a contractor, either refer a qualified Indian person or persons to the contractor for such position or notify the contractor that the Band is unaware of any qualified Indian available for such position at that time.
- (E) Following referral by the Band, the contractor shall notify the Band of the applicant's status through contacting the Grand Portage Human Resources Department. The Band and the contractor shall attempt to resolve any dispute as to the qualifications or suitability of the applicant for the position at this stage. If they are unable to come to a mutually acceptable resolution, the matter may be referred to the Council initiate enforcement action pursuant to this Ordinance.

- (F) The completed Employment Preference Compliance Plan and other required forms must be signed by the Covered Employer and returned to the Reservation Tribal Council prior to commencement of any work on the reservation.
- (G) Work may not commence unless or until The RTC grants its approval of the Employment Preference Compliance Plan.

Section 2.04 Complaints and Investigations.

- (A) Any person who believes that an employer has violated any requirements of this Ordinance, or subsequent rules and regulations issued by the RTC pursuant to this Ordinance, may file a complaint with the Grand Portage Department of Human Resources. The complaint must be in writing and provide such information as necessary to enable the Band to conduct an investigation.
- (B) The Band shall conduct investigations as deemed necessary to determine whether any employer has violated this ordinance, or to aid in clarifying rules, regulations and guidelines. An official Band designee of the RTC with TERO investigative authority may enter, during business hours, the place of business or employment of any relevant employer for the purpose of such investigations, and may require the employer or entity to submit such reports as the Band deems necessary to monitor compliance with the requirements of this ordinance.

Section 2.05 Compliance and Enforcement.

- (A) If upon investigation it is clear that a violation has occurred, the covered employer shall be issued a compliance order by the RTC that specifies the alleged violations and requires that such violations be immediately remedied. The Band shall seek an informal settlement of the alleged violation.
- (B) If an informal settlement is not reached, a formal notice of non-compliance may be issued. Failure to comply with the provisions of this Ordinance shall constitute a breach of contract and shall constitute a civil violation. Penalties up to \$1000 per day may be assessed for each violation.
- (C) Any qualified Grand Portage Band Member or Native American who is denied employment preference rights or any Grand Portage Member Owned Business or Native American Owned Business that is denied subcontracting preference rights may bring a civil cause of action in the Grand Portage Tribal Court against any covered employer or entity that is in violation of this Ordinance, and may seek monetary and equitable remedies; provided that no such cause of action may be brought against the Tribe, its departments, agencies, enterprises, officers, or employees.
- (D) Any party may appeal the decision of the RTC to the Grand Portage Tribal Court. Within ten days following a hearing, the Tribal Court shall make a determination which shall include:
 - 1) Findings of fact
 - 2) A discussion of the relevant provisions of this Ordinance
 - 3) A conclusion as to whether a violation of this Ordinance has occurred; and
 - 4) The specific relief or remedy required under this Ordinance, which is limited to reversing the decision of the RTC. Such relief or remedy may not include monetary or other damages.

The Tribal Court's decision shall be final.

Section 2.06. Native American Preference in Contracting.

- (A) Covered Employers awarding contracts or subcontracts for supplies, services, labor, and/or materials in an amount of \$25,000 or more shall give first preference in contracting and subcontracting to Native American Contractors, then in the preference order set forth in Section 7.
- (B) The Native American Preference requirements contained in this Ordinance shall be binding on all contractors and subcontractors of covered employers and will be deemed to be part of and incorporated into any contract or subcontract covered by this Ordinance. The covered employer shall have the initial and primary responsibility for ensuring that all contractors and subcontractors comply with these requirements.
- (C) The above Native American Preference requirements apply in all cases except where a specific percent of ownership or preference requirements are established by Band law or policy, pursuant to Section 2, for particular types of employment or contracting.
- (D) Any exception from these Native American Preference in Contracting compliance requirements, or Native American preference provisions in this Ordinance must be approved by the RTC.

Section 2.07 Collective Bargaining Agreements/Right to Work: The Native American preference requirements of this Ordinance shall supersede and preempt any inconsistent provision of a collective bargaining agreement between an employer or contractor and a labor union to the extent that such provision would operate to frustrate the purposes of this Ordinance. In the event that a dispute arises involving this section, the Band shall attempt to resolve such dispute through negotiation. If such negotiation is unsuccessful, the Band may refer the matter to the Grand Portage Attorney, who may seek the appropriate federal administrative assistance or judicial relief.

Section 2.08 Recognition of Freedom of Religion and Tribal Traditional Practices. Each employer or contractor who is subject to the provisions of this Ordinance shall reasonably accommodate the religious or tribal traditional practices of Native American employees.

Section 2.08 Equal Employment Rights.

- (A) Other than order of preference as required under Section 2.02 (A), employers shall not consider any person's race, color, religion, gender, age, or national origin in any personnel, management, or contracting decisions.

TITLE III. EMPLOYMENT RIGHTS FEE

Section 3.01 TERO Contracting Rights Fee.

- (A) Every Covered Employer or entity doing business on the Grand Portage Reservation with the Grand Portage Band, its departments, offices, or commercial entities, with a contract or subcontract totaling \$150,000 or more shall pay to the Band an employment rights fee of five percent (5%) of the total amount of the contract. If the contract is amended or enlarged, the Covered Employer shall

additionally pay the Band 5% of the increased contract amount. If the contract amount is not expended at the conclusion of the contract, the fee already paid the Band shall not be reimbursed. Such fee must be paid by the Covered Employer prior to commencing work on the Reservation. If a Covered Employer has entered into a contract in the amount of \$100,000 or more prior to the date of enactment of this Ordinance but has not commenced or completed work under that contract, the covered employer must still pay the 5% fee prior to commencement of the work or, if work has commenced but is not completed, within 30 calendar days of enactment of this Ordinance.

- (B) A Covered Employer subject to subsection (A) above shall not be permitted to commence work on the Reservation until it has paid the applicable TERO fee.
- (C) Fees imposed by this Section shall not apply to education, health, religious, governmental, or non-profit employers. It shall apply to contractors employed by such employers.

TITLE IV. CERTIFICATION OF GRAND PORTAGE BAND MEMBER OWNED AND OTHER NATIVE AMERICAN OWNED BUSINESSES

Section 4.01 Establishment of Certification Process.

- (A) The Band shall establish a process for certifying that a business is a Grand Portage Band Member Owned Business (GPMOB) or other Native American Owned Business (NAOB), and thereby eligible for Indian preference in contracting or subcontracting for all contracts for work carried out on or near the Grand Portage Reservation or on other lands under the jurisdiction of the Grand Portage Band.
- (B) This process shall include requirements that ensure that criteria are met ensuring that Grand Portage Band Member owned businesses and other Native American Owned Businesses are 51% or more owned and controlled by a member of the Grand Portage Band or other federally-recognized tribe, as defined by Title I, Section 1.06 (B) and (C) of this Ordinance.
- (C) Any business that is certified as being Grand Portage Band Member Owned Business also has designation as a Native American Owned Business.
- (D) A business shall not be considered to be a GPMOB or NAOB unless certification has been granted approval by the RTC.
- (E) The Band shall keep a current directory of businesses certified by the RTC as being a GPBOB or NAOB.
- (F) Businesses or industries requiring professional licensing must provide a copy of such license along with the licenses of any individuals employed by the applicant whose work is conditional upon a professional license to operate in the industry.

Section 4.02 Full Faith and Credit.

- (A) Tribes possess all powers of self-government, except those relinquished under treaty with the United States, those that Congress has expressly extinguished, and those that federal courts have ruled are subject to existing federal law. The Grand Portage Band retains civil regulatory jurisdiction over its members. The designation of a business as being Native American Owned by a member of the Grand Portage Band of Chippewa is a matter of civil regulatory authority exclusive to the Band.
- (B) Certificates issued by the Grand Portage Reservation Tribal Council to any business certifying such business as being a Grand Portage Band Member Owned Businesses shall be afforded full faith and credit as a Native American Owned Business in all other government jurisdictions for purposes of establishing 51% Native American ownership and control of that business for consideration of priority or targeted preference in contracting.

TITLE V. ESTABLISHING A LICENSING REQUIREMENT FOR BUSINESSES DOING BUSINESS WITH THE GRAND PORTAGE BAND OF LAKE SUPERIOR CHIPPEWA

Section 5.01 Annual or Short Term License Fees and Business Permit Fees.

- (A) Every entity doing business with the Grand Portage Band of Lake Superior Chippewa shall, regardless of the location of its headquarters or location of the work being completed or services provided, be required to apply for a license to do business with the Band or business permit, regardless of whether it is already engaged in business with the Band at the time of enactment of this ordinance.
- (B) Application forms for an Annual License or Short-Term License to do business with the Band, or a Business Permit License to do business with the Band, shall be available from the Department of Human Resources. Every entity that applies for and is issued a license or permit by the RTC under this section shall be required to pay a license or permit fee.
 - 1) Grand Portage Band Members or descendants of Band Members shall pay \$10.00 to purchase an Annual License to do business with the Grand Portage Band, which shall be valid for a period of up to twelve (12) months.
 - 2) All other entities shall pay a fee of \$400 to purchase an Annual License to do business with the Grand Portage Band, which shall be valid for a period of up to twelve (12) months, except as provided for in B (3) or (4) of this section.
 - 3) All entities that are not owned by Grand Portage Band Members and are engaged in work for a short or defined period of time may opt to purchase a Short-Term License instead of an Annual License to do business with the Band for a fee of \$150.00 for a period of up to three (3) consecutive months.

- 4) All entities that are not owned by Grand Portage Band Members but which are engaged in work that will require fewer than 10 business days to complete may opt to purchase a Business Permit Fee of \$10.00/day instead of an Annual or Short-Term License.
- 5) In the event of an emergent situation wherein immediate services are required to so as to protect Band property, lands or resources, the Band has discretionary authority to waive any fees required in this section.

Section 4.03. Miscellaneous Provisions.

- (A) Severability. If any provision of this Ordinance shall ever be held to be invalid or unenforceable, such invalidity or unenforceability shall not affect any other provision of this Ordinance, but such other provisions shall continue in full force and effect.
- (B) The RTC may promulgate rules, regulations or policies as necessary to implement this Ordinance.
- (C) The RTC has sole authority to amend this Ordinance
- (D) Sovereign Immunity Provision. Nothing herein shall be interpreted as a waiver of the Tribe's immunity from suit.

Effective Date: This Ordinance was duly adopted and enacted into law on May 8, 2025, by the Grand Portage Reservation Tribal Council with passage of RTC Resolution 12-25.