

**LAND USE ORDINANCE**

**OF THE**

**GRAND PORTAGE BAND OF  
LAKE SUPERIOR CHIPPEWA INDIANS**

Ordinance Number 95-01

As amended on June 26, 1996

Prepared by:

Grand Portage Land Use Management Task Force

## **MISSION STATEMENT**

As a sovereign nation, the Grand Portage Band of Lake Superior Chippewa retains the inherent authority to protect and manage the use of the lands, waters and resources within the exterior boundaries of the Grand Portage Reservation.

The Grand Portage Band believes in the inherited responsibility of perpetual stewardship of the land and the ancestral ties that link the people with past generations. Land use management under the jurisdiction of the Grand Portage Tribal Council shall reflect these continuing Ojibwe values.

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**Article 1: TITLE.**

This ordinance shall be known as the LAND USE ORDINANCE (ORDINANCE) OF THE GRAND PORTAGE BAND OF LAKE SUPERIOR CHIPPEWA INDIANS.

**Article 2: AUTHORITY, PURPOSE, SCOPE, SEVERABILITY AND SOVEREIGN IMMUNITY.**

2.01 Authority.

The Grand Portage Band of Lake Superior Chippewa Indians, which is a member of the Minnesota Chippewa Tribe, a federally recognized tribe of Indians organized pursuant to section 16 of the Indian Reorganization Act of June 18, 1934, enacts this Land Use Ordinance as an exercise of its inherent sovereign powers and under the authority of the Constitution of the Minnesota Chippewa Tribe for the promotion and protection of the public health, safety, peace, prosperity, comfort and general welfare of residents of the Grand Portage Reservation.

2.02 Purpose.

The purposes of this Ordinance are:

- A. To reflect basic land stewardship principles and environmental ethics of the Grand Portage Ojibwe value system;
- B. To develop a land use management ordinance, fair to all residents and legally enforceable on all land, regardless of ownership, within the exterior boundaries of the Grand Portage Reservation;
- C. To protect the environment and residents of the Reservation by developing regulations for:
  - 1. Commercial development;
  - 2. Non-residential use;
  - 3. Density & location of residential development;
  - 4. Preservation of sensitive areas.

2.03 Scope.

A. 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 permits previously or hereafter adopted or issued pursuant to law; provided, however, that where this ordinance imposes a greater restriction upon the use of buildings or land, the provisions of this Ordinance shall govern.

B. 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.

2.04 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.

2.05 Sovereign Immunity.

The Grand Portage Reservation Tribal Council, by adoption of this Ordinance, does not waive or limit its sovereign immunity in any respect. The Grand Portage Reservation Tribal Council declares that neither the Grand Portage Band, nor any of its officers, agencies or employees may be held liable for damages that may occur as a result of reliance upon or conformance with this Ordinance.

**Article 3: DEFINITIONS.**

3.01 Abandoned Vehicle - Any unlicensed vehicle which is partially dismantled, is used as a source of repair and replacement parts for other vehicles, or which is kept for scrapping, dismantling or salvage.

3.02 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.

3.03 Accessory Use or Structure - A use or structure on the same lot, with and subordinate to the principal use, such as a garage, wood shed or boat house.

3.04 Addition - Any alteration that increases the size of a building such as a porch,

attached garage or carport, or a new room or wing.

- 3.05 Alteration - A physical change in a building or an addition to a building.
- 3.06 Archeological Assessment - An evaluation of the potential effects of a proposed action and its practical alternatives on the historic and archeological attributes of a particular geographical area.
- 3.07 Band - The Grand Portage Band of Lake Superior Chippewa governed by the Grand Portage Reservation Tribal Council.
- 3.08 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.
- 3.09 Biological Evaluation - A review of a proposed action, conducted in compliance with federal law, in order to determine the possible effects on threatened and endangered species, and to ensure that the proposed actions contribute to the health and survival of native and desired non-native species.
- 3.10 Bluff - A topographic feature such as a hill, cliff or embankment.
- 3.11 Boathouse - An accessory structure used for the sole purpose of the storage of watercraft and directly related equipment.
- 3.12 Buffer - Land, vegetation or screening used to protect one type of land use or structure from another with which it is incompatible.
- 3.13 Building Area - The space remaining on a lot after the minimum open-space requirements such as coverage, yards and setbacks have been met.
- 3.14 Building - A structure having a roof supported by columns or walls and intended to be used for sheltering people, animals, property or business activity. (Examples include houses, garages, factories, and barns. Temporary structures such as tents are not buildings.)
- 3.15 Building Coverage - The amount of land covered or allowed to be covered by a building usually measured in terms of percentage of a lot.
- 3.16 Building Height - The vertical distance from the average finished grade along a building to the highest point of the building.
- 3.17 Building Permit - A permit issued for a specific use of or activity on the land.
- 3.18 Commercial Mobile Home Park - Any site or parcel of land designed, maintained or developed for locating two or more mobile homes. Such sites shall include

any buildings, vehicles or enclosures intended for use as part of the mobile home park.

- 3.19 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.
- 3.20 Density - The average number of families, persons or housing units per unit of land; usually expressed in "per acre" terms (e.g., the density of a development of 300 units occupying 40 acres is 7.5 units per acre).
- 3.21 Dwelling - A building or portion thereof designed or used exclusively for residential occupancy, including bed and breakfast establishments, but not including hotels, motels or boarding and lodging houses.
- 3.22 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.
- 3.23 Dwelling, Single Family - A detached building designed for a single family or household.
- 3.24 Easement - A right, such as a right of way, which allows a person to make limited use of another's real property.
- 3.25 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.
- 3.26 Environmental Impact Statement - A detailed, in-depth study 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.
- 3.27 Excavation - Movement, removal or fill of more than ten (10) cubic yards of material such as soil, clay or sand.
- 3.28 Extraction - Removal of any materials or minerals for commercial purposes.
- 3.29 Family - Any person or group of persons, often related by blood or marriage, occupying a single dwelling unit.
- 3.30 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.

- 3.31 Fish House - A structure, not to exceed 100 square feet, located near a dock area, the sole purpose of which is the cleaning and processing of fish by household residents.
- 3.32 Grand Portage Forest Resources Management Plan - A Plan, adopted by the Grand Portage Reservation Tribal Council, which addresses timber, recreation, and fish and wildlife management. The primary goal of the Plan is to maximize timber productivity while protecting designated recreation areas and selected wildlife species.
- 3.33 Holding Tank - A tank used for short-term storage or retention of sewage waste.
- 3.34 Home Business - A business conducted in a dwelling unit or accessory building, and carried on only by the inhabitants thereof. 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.
- 3.35 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.
- 3.36 Interested Party - Any party (other than the permit applicant) with an economic, cultural, spiritual or environmental concern with a land use decision. Also, any party filing a protest against a proposed amendment to this Ordinance.
- 3.37 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 three or more abandoned vehicles. Such use shall not include sanitary landfills or organic waste.
- 3.38 Landfill - A location where trash, waste, refuse, debris, salvaged material or garbage is buried between layers of soil.
- 3.39 Land Use Administrator - The person charged with the administration and enforcement of this Ordinance, as established by the Grand Portage Tribal Council pursuant to section 5.02 of this Ordinance.
- 3.40 Land Use Amendment - A change in the Official Tribal Land Use Map or the Land Use Ordinance text adopted by resolution of the Grand Portage Reservation Tribal Council.

- 3.41 Land Use Committee - The Grand Portage Reservation Land Use Committee, established by the Grand Portage Reservation Tribal Council pursuant to section 5.01 of this Ordinance.
- 3.42 Land Use District - An area or areas within the exterior boundaries of the Grand Portage Reservation for which the regulations and requirements governing use are uniform.
- 3.43 Logging - The business, generally for profit, of cutting down and trimming trees and transporting logs to a mill.
- 3.44 Lot - A parcel of land having specific boundaries.
- 3.45 Lot, Corner - A lot abutting on two or more streets at their intersection.
- 3.46 Lot Width - The narrowest distance between the side lot lines measured at the minimum front setback line.
- 3.47 Mobile Home - A detached single-family dwelling designed for transportation after fabrication on streets or highways on its own wheels or a flatbed or other trailer, and arriving at the site where it is to be occupied as a dwelling complete and ready for occupancy except for minor and incidental unpacking and assembly; it is often located on jacks or other foundations.
- 3.48 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.
- 3.49 Nuisance - Anything that interferes with the use or enjoyment of property, endangers personal health or safety, or is offensive to the senses.
- 3.50 Official Tribal Land Use Map - A reservation map, adopted by the Grand Portage Tribal Council, which shows existing and proposed streets, highways, land use district lines and water bodies.
- 3.51 Ojibwe - The Grand Portage Band of Lake Superior Chippewa Indians.
- 3.52 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.
- 3.53 Permit - A written authorization issued by the Land Use 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.

- 3.54 Permitted Use - Any land use that is specifically allowed in a district and which does not require a Conditional Use permit.
- 3.55 Person - Any individual, firm, association, organization, partnership, trust, company or corporation, family, or individual household.
- 3.56 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.)
- 3.57 Screening - Fences or permanent landscape plantings positioned to reduce visual impact of a land use upon adjacent lands.
- 3.58 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.
- 3.59 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.
- 3.60 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.
- 3.61 Subdivision - Any combining or splitting of parcels to create new building lots.
- 3.62 Subdivision Permit - A permit issued for a specific subdivision.
- 3.63 Tribal Council - The Grand Portage Reservation Tribal Council for the Grand Portage Band of Lake Superior Chippewa Indians.
- 3.64 Tribal Court - A court established by the Grand Portage Band of Chippewa that has the authority to hear civil cases involving matters arising on the reservation.
- 3.65 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.
- 3.66 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.
- 3.67 Vegetation Line - The point on the shoreline of a body of water which is removed from wave action and high water long enough to sustain plant life.

- 3.68 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.
- 3.69 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.
- 3.70 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.
- 3.71 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.

#### **Article 4: RULES OF INTERPRETATION.**

The language set forth in the text of this Ordinance shall be interpreted according to the following rules:

- 4.01 The singular number includes the plural and plural the singular.
- 4.02 The word "shall" is mandatory and the word "may" is permissive.
- 4.03 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.
- 4.04 All measured distances expressed in feet shall be rounded to the nearest foot.
- 4.05 All measured distances, unless otherwise specified, shall be measured horizontally.
- 4.06 The word "building" shall include the word "structure".
- 4.07 The phrase "used for" shall include the phrases "arranged for", "designed for", "intended for", "maintained for", and "occupied for".

**Article 5: ESTABLISHMENT OF ORGANIZATION.**

5.01 Land Use Committee.

The Grand Portage Reservation Tribal Council hereby establishes a Land Use Committee which shall be composed of seven (7) members, at least five (5) of whom are Band members. All members shall be appointed and may be removed by majority vote of the Tribal Council. Members of the Tribal Council may serve on the Committee. Each member shall serve a four (4) year term; terms shall be staggered. Any member may be re-appointed for additional terms by the Tribal Council.

5.02 Land Use Administrator.

The Grand Portage Reservation Tribal Council hereby establishes the position of Land Use Administrator. The Land Use Administrator shall be hired and may be removed by the Reservation Tribal Council according to the Grand Portage Tribal Council Personnel Policies.

**Article 6: POWERS AND DUTIES.**

6.01 Land Use Committee.

The Grand Portage Reservation Tribal Council hereby delegates the following powers and duties to the Grand Portage Reservation Land Use Committee. The Land Use Committee shall:

- A. Together with the Land Use Administrator and such persons as may be deemed appropriate by the Reservation Tribal Council, study the land use patterns and planning needs of the Reservation, and on the basis of this study, within six (6) months of the effective date of this Ordinance, present to the Tribal Council a proposed Official Tribal Land Use Map for the Reservation drawn according to the provisions of Article 7 of this Ordinance;
- B. Maintain custody of the Official Tribal Land Use Map;
- C. Issue or deny Building Permits for proposed Commercial and Industrial development activities according to the provisions of this Ordinance;
- D. Issue or deny permits for Conditional Uses, Subdivisions and Variances according to Articles 13, 14 and 15 of this Ordinance;

- E. Hear appeals from permit decisions made by the Land Use Administrator;
- F. Adopt by majority vote such rules and regulations governing the conduct of hearings before the Land Use Committee as it deems necessary with the approval of the Reservation Tribal Council 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;
- G. Review decisions and actions of the Land Use Administrator, in such a manner and at such time as the Committee may determine.

#### 6.02 Land Use Administrator.

The Grand Portage Reservation Tribal Council does hereby delegate the following powers and duties to the Grand Portage Reservation Land Use Administrator. The Administrator shall:

- A. Consult and cooperate with the Land Use Committee during its study of the Reservation's land use needs and development of the Official Tribal Land Use Map;
- B. Provide a monthly report listing all permits applied for and the status of each to the Land Use Committee;
- C. Issue or deny Building Permits according to the provisions of this Ordinance;
- D. Make recommendations to the Land Use Committee or the Tribal Council concerning any matter under appeal;
- E. Make recommendations to the Land Use Committee on the effect of a proposed Conditional Use Permit, Subdivision Permit or Variance upon the health, safety, morals and general welfare of occupants of surrounding lands;
- F. Investigate violations and take enforcement action as necessary pursuant to Article 17 of this Ordinance;
- G. Enforce the Grand Portage Forest Resources Management Plan in cooperation with the Grand Portage Natural Resource Program Director.
- H. Conduct inspections of buildings and use of land to determine compliance with the terms of this Ordinance;

- I. 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, subdivisions, variances, appeals and applications;
- J. Receive, file, and forward all applications for appeals, variances, conditional uses, subdivisions, or other matters to the Land Use Committee;
- K. Provide such administrative, technical, and professional assistance as may be required by the Land Use Committee in the exercise of its duties;
- L. Require the permit applicant to furnish such additional information as may be necessary to properly perform all duties;
- M. Provide the necessary assistance to ensure that the permit applicant complies with all applicable permit requirements of this Ordinance;
- N. Facilitate communication with County, State, Federal and other governmental agencies as appropriate.

## **Article 7: OFFICIAL TRIBAL LAND USE MAP.**

### 7.01 Map.

The Land Use District into which each parcel of land in the Reservation is placed shall be determined by reference to an Official Tribal Land Use Map, which shall consist of one or more maps adopted by the Grand Portage Reservation Tribal Council and held in the custody of 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.

### 7.02 Public Examination.

The Official Tribal 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.

### 7.03 Interpretation.

Unless otherwise stated, all Land Use Districts shown on the Official Tribal 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 surveys;
- B. Boundaries following geographic features, such as ridges, vegetation cover types or the shoreline of a stream or creek, 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.

### 7.04 Amendments.

Amendments to the Official Tribal Land Use Map shall be recorded on the Map within thirty (30) days after adoption by the Tribal Council.

## **Article 8: LAND USE DISTRICTS AND DISTRICT REQUIREMENTS.**

#### 8.01 List of Districts.

For the purposes of the Ordinance, the Grand Portage Reservation is divided into eight districts.

- A. Preservation (P).
- B. Wildlife Habitat (W).
- C. Forestry (F).
- D. Single-Family Residential (R-1).
- E. Multi-Family Residential (R-2).
- F. Commercial (C).
- G. Industrial (I).
- H. Parks and Recreation (P&R).

#### 8.02 General Permitting Requirements.

Within each district, uses are classified as **permitted**, **conditional** or **non-conforming**. 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, but may require a permit from the Land Use Administrator, pursuant to Article 12 of this Ordinance.
- B. **Conditional** uses may be allowed only after an application for a permit is received by the Land Use Administrator and approved by the Land Use Committee, pursuant to Article 13 of this Ordinance.
- C. Except as otherwise provided, **non-conforming** uses 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 Article 11 of this Ordinance.

### 8.03 Preservation (P).

#### A. Purposes.

To sustain areas which have historical, cultural, religious, geographic or environmental significance to the people of the Grand Portage Reservation, to preserve the natural environment and to provide a place for quiet enjoyment.

#### B. Uses.

Any use of the area shall be temporary.

If the use is determined by the Land Use Administrator and Land Use Committee to be inconsistent with the Grand Portage Ojibwe value system, then that use shall not be allowed.

### 8.04 Wildlife Habitat (W).

#### A. Purpose.

To provide forest and other natural areas managed principally for wildlife habitat.

#### B. Permitted Uses.

1. Wildlife refuges and game management habitat areas.
2. Areas managed for resources conservation or recreation purposes.
3. Roads, trails and accessory structures necessary to manage the area for wildlife.

#### C. Conditional Uses.

1. Forestry uses.
2. Hiking trails and temporary shelters for limited, non-permanent use.
3. Picnic grounds.
4. Gravel pits.

#### D. Requirements.

1. No logging shall be allowed in this district except as permitted by the Grand Portage Tribal Council.
2. All activities that involve excavation or extraction of gravel or other materials shall comply with sections 9.12 and 9.13 of this Ordinance.
3. All private landowners, prior to cutting, and the Grand Portage Natural Resources Department - Forestry Division, prior to advertisement of timber sales, shall conduct Archaeological Surveys, Environmental Assessments and Biological Evaluations, as provided in the Grand Portage Forest Resources Management Plan.

8.05 Forestry (F).

A. Purpose.

To provide forest areas managed principally for timber production.

B. Permitted Uses.

1. Logging and reforestation activities.
2. Forest plantations/ Commercial Forest Stand Improvement Activities
3. Roads, trails and temporary accessory structures necessary to manage the area in accordance with the Grand Portage Forest Resources Management Plan.
4. Clear-cut logging where compatible with the Grand Portage Forest Resources Management Plan and with approval of the Grand Portage Reservation Forester.
5. Wildlife management areas.

C. Conditional Uses.

1. Public parks and observation areas.
2. Recreation areas and accessory structures.
3. Hiking trails and temporary shelters for limited, non-permanent use.
4. Picnic grounds.
5. Gravel pits.

D. Requirements.

1. All logging activities shall be conducted in accordance with the Grand Portage Forest Resources Management Plan and shall require approval of the Reservation Tribal Council.
2. All activities that involve excavation or extraction of gravel or other materials shall comply with sections 9.12 and 9.13 of this Ordinance.
3. All private landowners, prior to cutting, and the Grand Portage Natural Resources Department - Forestry Division, prior to advertisement of timber sales, shall conduct Archaeological Surveys, Environmental Assessments and Biological Evaluations, as provided in the Grand Portage Forest Resources Management Plan.

8.06 Single Family Residential (R-1).

A. Purpose.

To provide areas for single family housing units within the Reservation.

B. Permitted Uses.

1. Single family dwellings.
2. Accessory structures.
3. Mobile homes.
4. Public parks and playgrounds.
5. Fish houses.
6. In-home day care centers.

C. Conditional Uses.

1. Community or recreational buildings.
2. Schools.
3. Churches.
4. Public buildings.

5. Day care centers (not in-home).
6. Home businesses.
7. Bed & breakfast establishments.
8. Clinic or medical office buildings.
9. Gravel pits.
10. Removal of timber prior to construction (limited to building sites).
11. Management of existing commercial forest stands.

D. Requirements.

1. Minimum lot size is one (1) acre.
2. New housing shall not be permitted in or within 400 feet of forest plantations due to fire danger.
3. Management of commercial forest stands is subject to a 400 foot setback from any public road and a 400 foot setback from any lot line containing structures.

8.07 Multi-Family Residential (R-2).

A. Purpose.

To provide areas for multiple family residential units within the Reservation.

B. Permitted Uses.

1. Any use permitted in R-1.
2. Multi-family dwellings containing no more than four (4) units
3. Fish houses.

C. Conditional Uses.

1. Any conditional use in R-1.

2. Five (5) to ten (10) unit multi-family dwellings.

D. Requirements.

1. Minimum lot size is two (2) acres.
2. New housing shall not be permitted in or within 400 feet of forest plantations due to fire danger.
3. Management of commercial forest stands is subject to a 400 foot setback from any public road and a 400 foot setback from any lot line containing structures.

8.08 Commercial (C).

A. Purpose.

To provide compact centers for retail sales and services offering a wide range of goods and services.

B. Permitted Uses.

1. Hotels, motels, resorts and campgrounds.
2. Bed & breakfast establishments.
3. Retail stores and shops.
4. Restaurants.
5. Gas stations (without repair service).
6. Public buildings.
7. Public parks and recreation areas.
8. Parking lots (where accessory to permitted uses).
9. Any use similar to the above uses with the approval of the Land Use Committee.

C. Conditional Uses.

1. Marinas.
2. Parking lots.

3. Day care centers.
4. Clinics or medical office buildings.
5. Automotive repair facilities.
6. Gaming facilities.
7. Liquor stores and bars.
8. Single and multi-family housing units.
9. Removal of timber prior to construction (limited to building sites).
10. Management of existing commercial forest stands.

D. Requirements.

1. All development in a Commercial district is subject to the requirements of Article 10 of this Ordinance.
2. Management of existing commercial forest stands is subject to a 400 foot setback from any public road and a 400 foot setback from any lot line containing structures.

8.09 Industrial (I).

A. Purpose.

To encourage development of manufacturing, warehousing and similar and related uses in specified portions of the Reservation that are insulated from residential use.

B. Permitted Uses.

1. Planned industrial complexes.
2. Warehousing.
3. Heavy equipment storage and repair.
4. Other uses of a similar character to the above uses and no more objectionable by reason of the emission of odor, dust, smoke, gas, fumes, noise or vibration, as determined by the Land Use Committee.

C. Conditional Uses.

1. Sewage disposal plants.
2. Removal of timber prior to construction (limited to building site only).

D. Requirements.

All development in an Industrial District is subject to the requirements of Article 10 of this Ordinance.

8.10 Parks and Recreation (P&R).

A. Purpose.

To provide areas, operated by Tribal, Federal or State government, for preservation and management of natural, scenic and cultural resources for present and future generations while providing appropriate recreational and educational opportunities.

B. Permitted Uses.

None.

C. Conditional Uses.

1. Visitor center.
2. Education buildings.
3. Administrative offices.
4. Seasonal staff housing.
5. Trails.
6. Scenic overlooks.
7. Public restrooms.
8. Picnic areas.
9. Parking lots.

10. Access roads.
11. Service or maintenance buildings.
12. Any use similar to the above uses with the approval of the Land Use Committee.

D. Requirements.

1. All proposed development activities shall be reviewed and approved by the Grand Portage Land Use Committee. In its review, the Committee 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. No logging shall be permitted in this district.
3. All activities that involve excavation or extraction of gravel or other materials shall comply with sections 9.12 and 9.13 of this Ordinance.
4. Development of trails and overlooks within seventy-five (75) feet of the top of an embankment or the shoreline of water bodies or watercourses shall be kept to a minimum.
5. Seasonal staff housing shall be limited to single family housing and multi-family housing containing no more than four (4) units.

**Article 9: GENERAL PROVISIONS.**

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

9.01 The provisions of this Ordinance shall be considered minimum requirements.

9.02 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 and all amendments.

- 9.03 Each proposed building or dwelling shall be on a lot which meets the minimum area requirements specified in section 9.19 of this Ordinance.
- 9.04 No lot areas shall be so reduced that the yards are smaller than is required by section 9.19 of this Ordinance.
- 9.05 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 which may cause danger to traffic on a street or public road by obstructing the view.
- 9.06 In any proposed land use for which an Environmental Assessment, Environmental Assessment Worksheet, Environmental Impact Statement or similar document is required, and where the Grand Portage Reservation Tribal Council is the lead agency, the proposer shall be required to supply all information requested by the Grand Portage Reservation Tribal Council to complete the documents. Failure to comply with this requirement shall invalidate any permit issued.
- 9.07 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.
- 9.08 In all districts, clearcutting shall be prohibited within two hundred (200) feet of a state highway centerline, within one hundred (100) feet of the center line of any other public or private road, and within one hundred (100) feet of the shorelines of waterbodies and watercourses, except in areas where the Grand Portage Reservation Tribal Council authorizes the Grand Portage Reservation Forester to prepare a plan that includes such cutting. This plan shall be approved by the Tribal Council before any clearcutting begins.
- 9.09 No structure shall exceed the maximum building height except as otherwise specified in this Ordinance.
- 9.10 Height Restrictions.

A. Permit Required.

No structure exceeding the height limits specified in section 9.19 of this Ordinance shall be constructed without a permit from the Land Use Administrator. 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;
8. Radio & TV antennae & transmitting towers.

B. Criteria.

The Land Use Administrator shall grant or deny the 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 Reservation Tribal Council;
4. The use shall be consistent with the purposes of the Land Use Ordinance and the Land Use Districts in which the applicant intends to locate the proposed use;
5. The use shall reflect the Grand Portage Ojibwe value system.
6. The use shall have adequate access roads.

9.11 Signs.

A. Permit Required

All new signs shall require a sign permit. A written application for a sign permit shall be made to the Land Use Administrator. The Land Use Administrator shall 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. Signs shall not be closer than five (5) feet to a property line or right of way and shall not extend more than fifteen (15) feet above ground level or, if fastened to a building, not higher than the highest part of the building.
3. All signs, sign faces and supports, shall be maintained in a good state of appearance and repair, as determined by the Land Use Administrator.
4. No sign shall have interior lighting or moving parts or lights.
5. Signs shall not exceed 50 square feet in size.
6. Signs shall be placed at least 60 yards apart along highways and other roads.
7. Signs shall only be used for identification and direction purposes; no sign (billboard) may be erected for commercial or advertising purposes.

B. No Permit Required

The following signs do not require a sign permit, however they shall comply with the requirements of section 9.11 (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. Flags and insignia of any government except when displayed in connection with a commercial promotion;
3. Legal notices, identification, informational or directional signs erected or required by governmental agencies;
4. Architectural features of buildings except letters, trademarks, moving parts or moving lights;
5. Signs directing or guiding traffic and parking on private property, but bearing no advertisement matter and not exceeding nine (9) square feet in area.
6. Temporary paper signs advertising a cultural or civic event erected not

more than thirty (30) days prior to the event.

C. Exception

Signs erected prior to the adoption of this Ordinance shall be considered permitted.

D. Noncompliance

The Land Use Administrator may revoke any permit or order any permitted sign removed for noncompliance with the provisions of section 9.11 (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.

9.12 Excavation.

A. An excavation permit shall be required for the movement, removal, or fill of more than ten (10) cubic yards of material.

B. Notwithstanding section 9.12 (A), a separate excavation permit is not required for excavation during construction of permitted or conditional use structures. However, the standards in this section shall be incorporated into the issuance of all land use permits.

C. General Requirements.

1. Excavation and construction on beach areas and within seventy-five (75) feet of the vegetation line of Lake Superior, as determined by the Grand Portage Natural Resources Department, shall be prohibited.
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 construction.
5. Excavation shall be prohibited where buffers, vegetative screening or setbacks are significantly reduced.
6. Excavation shall be prohibited where increased erosion into any

Reservation waterbody or watercourse may occur.

7. Excavation shall be prohibited where permanently exposed soil or rock may result.
8. Any excavation that the Land Use Administrator determines may pose a threat to public health, safety or welfare shall be prohibited.

D. Conditions.

No permit to excavate shall be granted until the Land Use Committee approves a restoration plan, as provided in section 9.14 of this Ordinance.

9.13 Extraction of Sand, Gravel and Other Minerals.

A. Permitted Uses and Structures.

The extraction of any materials or minerals for commercial purposes, other than fill materials such as sand, gravel and rock, shall be prohibited.

The extraction of sand and gravel shall require a permit and shall be subject to the following conditions:

1. A minimum lot area of two (2) acres shall be required;
2. Request for an extraction permit shall be made in writing to the Land Use Administrator and shall identify the following:
  - a. Area to be excavated;
  - b. Beginning and ending dates of the extraction activity;
  - c. Amount of materials to be removed;
  - d. Access routes and haul roads;
  - e. Existing drainage;
  - f. Final contours and drainage of the area upon completion of the excavation;
  - g. A legal description of the proposed site;
  - h. 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;

- I. A system of accounting to determine the amount of materials removed and the amount remaining at the proposed site on a weekly basis;
  - j. General site information, such as name of applicant, name of landowner, total area of project, and necessary permits;
  - k. 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.
3. A description shall be provided 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.

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.

B. Conditions.

No permit to extract fill materials shall be granted until the Land Use Committee approves a restoration plan, as provided in section 9.14 of this Ordinance.

C. 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.

D. 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 Committee an application for a permit and a plan for the restoration of the site in accordance with section 9.14. 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.

9.14 Site Restoration Plan and Financial Guarantee.

- A. No permit to carry on an excavation (section 9.12) or extraction (section 9.13) operation shall be granted until the Land Use Committee approves a restoration plan.
- B. 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.
- C. 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.
- D. 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.

9.15 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 fifty (50) feet of the vegetation line of Lake Superior and inland lakes and streams shall be prohibited.

9.16 Prohibited Land Uses.

The following land uses are prohibited on the Grand Portage Indian Reservation:

- A. Hazardous waste disposal;
- B. Commercial mobile home parks;
- C. Salvage and junk yards;
- D. Sanitary landfills;
- E. Commercial game preserves;
- F. Radioactive waste storage and disposal.

9.17 The outdoor storage of three or more abandoned vehicles (as determined by the Land Use Administrator) on any lot shall be prohibited.

9.18 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.

9.19 Setback, Lot Size and Buffers.

The following requirements shall be met for all permits.\*

	P	I	W	F	R-1	R-2	C	P&R
Building set-back from shoreline **	N/A	200'	100'	100'	75'	75'	100'	100'
Minimum lot area (acres)	N/A	25	N/A	N/A	1	2	5	N/A
Front/Rear yard setback	N/A	100'	N/A	50'	35'	35'	50'	N/A
Side yard setback	N/A	100'	N/A	50'	20'	30'	50'	N/A
Minimum lot width	N/A	900'	N/A	N/A	150'	300'	300'	N/A
Maximum building height	N/A	35'	N/A	35'	35'	35'	35'	35'
Maximum % lot coverage	N/A	40	N/A	N/A	10	15	40	N/A
Road setback: state highway centerline	N/A	600'	200'	200'	150'	150'	150'	150'
Road setback: other public/private road centerline	N/A	150'	100'	100'	50'	50'	75'	100'
Vegetation buffer for waterbodies & watercourses	N/A	150'	100'****	100'****	50'	50'	75'	75'

\* All required setback areas shall be left in natural vegetation to provide for visual screening from adjacent properties and roadways.

\*\* The shoreline of waterbodies and watercourses shall be marked at the vegetation line as determined by the Grand Portage Natural Resources Department.

\*\*\* The setback for the Pigeon River is 400' for all logging activities.

9.20 Fire and Emergency Standards.

- A. The Grand Portage Fire Department, Land Use Administrator or Reservation Forester may require any reasonable fire protection restrictions or alterations of a site development plan.
- B. The Reservation Tribal Council may direct that any permit be refused until an adequate fire protection plan is developed.
- C. In the case where a permit is refused because of an inadequate fire protection plan, an amended fire protection plan shall be submitted to the Land Use Administrator, who shall review it in consultation with the Grand Portage Fire Department and Reservation Forester and make a recommendation to the Tribal Council, which shall make the final decision.

9.21 Parking.

Off-street parking for every land use shall be adequate as determined by the Land Use Administrator.

9.22 Sewage Treatment.

In areas not served by the public sewage treatment plant, a permit from the Land Use Administrator shall be required prior to installation of sewage treatment systems. Individual on-site sewage treatment systems shall be constructed in accordance with Grand Portage Reservation regulations, and shall be set back at least 100 feet from the vegetation line of any waterbody or watercourse. The installation method and location of sewage treatment systems shall be designed to protect the natural environment to the maximum extent reasonable and feasible.

9.23 Essential Services.

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

9.24 Roads and Driveways.

Construction of roads and driveways shall require approval by the Land Use Administrator. 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 section 9.19 of this Ordinance. Driveway access to individual lots shall not be constructed within five (5) feet of the lot line.

9.25 Historic and Cultural Sites.

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 archaeological assessment has been completed and approved by the Tribal Council, and the Tribal Council determines that all reasonable measures have been taken to preserve the values of the site.

In the event that any artifacts are discovered during excavation or construction, work shall immediately cease, and the Land Use Administrator shall be notified.

9.26 Legal Description and Survey.

Prior to issuing any building or subdivision permits, the Land Use Administrator shall require 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 Tribal Council.

9.27 Public Notice.

Notice of approval of all permits issued under this Ordinance shall be posted in the Grand Portage Tribal Council Office Building and the Land Use Administrator's Office for a minimum of thirty (30) days.

**Article 10: COMMERCIAL AND INDUSTRIAL PERFORMANCE STANDARDS.**

#### 10.01 Site Development Plan.

No Building 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. This plan shall include the following:

- 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 by the developer or requested by the Land Use Committee, Land Use Administrator or the Reservation Tribal Council.

#### 10.02 Setbacks.

- A. The commercial district shall have a minimum setback of fifty (50) feet from all lot lines and the industrial district one hundred (100) feet from all lot lines. No parking areas, service yards, storage areas, lighting or structures are

permitted within the setback areas.

- B. 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.

10.03 Lighting.

Lighting shall be directed inward and not toward any property line. No lighting shall be directed upward.

10.04 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.

10.05 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.

10.06 Vibration.

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

10.07 Smoke.

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

10.08 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.

10.09 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 Administrator upon recommendation of the Grand Portage Fire Department, Reservation Forester or Fire Wardens. In some cases, fire hydrants,

water tanks and sprinkler systems may be required singly or in combination.

10.10 Access.

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.

If access cannot be provided in a manner that is deemed safe to the general health, safety and welfare by the Land Use Administrator or Land Use Committee, the permit shall be denied.

10.11 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.

## **Article 11: NON-CONFORMING USES.**

### 11.01 Continuance.

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

### 11.02 Abandonment.

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

### 11.03 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 shall require a Building Permit pursuant to Article 12 of this Ordinance.

### 11.04 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 shall require a Building Permit pursuant to Article 12 of this Ordinance.

### 11.05 Restoration.

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

### 11.06 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.

11.07 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, except as allowed by sections 11.03 and 11.04.

11.08 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 without a permit.

11.09 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.

## **Article 12: BUILDING PERMITS.**

### 12.01 General.

- A. Application for a Building Permit shall be made to the Land Use Administrator before a building or structure shall be erected, constructed, re-constructed, altered, moved or enlarged.
- B. Depending on the location and size of the proposed project, and subject to the requirements of Article 11 relating to non-conforming uses, the Land Use Administrator may deem a permit unnecessary in some instances (small unattached structures, exterior remodeling of existing structures, or additions to existing structures (not exceeding 100 square feet)).
- C. Except as specified in Article 11 for Non-Conforming Uses, no application for a Building Permit is required for basic maintenance or repairs (such as roofing, siding, window replacements, steps and painting); movement, removal or fill of ten (10) cubic yards of material or less; or interior remodeling of an existing structure which does not alter the exterior of the structure.

### 12.02 Application Requirements.

Each Building Permit application shall include the following information:

- A. Name and address of the land owner or user;
- B. Brief statement as to the proposed use of the structure, building or land;
- C. Site layout (drawing) to scale showing the location and dimensions of all proposed buildings and uses;
- D. Other information as may be required by the Land Use Administrator, including existing buildings or land uses and other matters as may be necessary to determine conformance with this Ordinance.

### 12.03 Review Procedure.

Upon review of the application submitted, the Land Use Administrator shall determine whether the proposed action complies with this Ordinance. No Building Permit shall be issued that is incompatible with surrounding land uses. The Land Use Administrator shall either approve or deny the application as follows:

- A. Approve Application: Where the Land Use Administrator determines that the

proposed action complies with the Land Use Ordinance and any other applicable ordinance of the Grand Portage Reservation, a Building Permit shall be promptly issued.

- B. Deny Application: Where the Land Use Administrator determines that the proposed action does not comply with the Land Use Ordinance or any other applicable ordinance of the Grand Portage Reservation, the Land Use Administrator shall deny the application and:
1. Advise the applicant of the reason for denial;
  2. Advise the applicant of the means, if any, by which the application could be altered to meet the provisions of the Land Use Ordinance;
  3. Advise the applicant of the right to appeal the denial to the Land Use Committee pursuant to Article 16 of this Ordinance;
  4. Assist the applicant in filing an appeal of the denial to the Land Use Committee pursuant to Article 16 of this Ordinance, or in applying for a Variance pursuant to Article 15 of this Ordinance.

#### 12.04 Time Limits.

- A. If the Land Use Administrator fails to act on a Building 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 thirty (30) days of receiving the application.
- B. Approved Building Permits shall terminate six (6) months after approval unless work shall have commenced within that period. A six (6) month extension may be granted upon application to the Land Use Administrator prior to expiration of the original permit.

## **Article 13: CONDITIONAL USE PERMITS.**

### 13.01 General.

The Land Use Committee shall have the authority to approve Conditional Use Permits. The Committee shall consider the recommendation of the Land Use Administrator and the effect of the proposed use upon the health, safety, morals and general welfare of occupants of surrounding lands and the reservation in general.

### 13.02 Criteria.

Among other things, the Committee shall apply the following criteria as applicable:

- A. The conditional use shall be compatible with adjacent land uses.
- B. The conditional use shall have an appearance that will not have an adverse effect upon adjacent properties.
- C. 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 Reservation Tribal Council.
- D. The conditional use shall be consistent with the purposes of the Land Use Ordinance and the Land Use Districts in which the applicant intends to locate the proposed use.
- E. The conditional use shall reflect the Grand Portage Ojibwe value system.
- F. The conditional use shall have adequate utilities, access roads and drainage.

### 13.03 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.

### 13.04 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.

### 13.05 Additional Conditions.

The Land Use Committee may impose, in addition to these standards and requirements expressly specified by this Ordinance, additional conditions that the Land Use 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;
- F. Designating sites for open space.

13.06 Records.

The Land Use 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.

13.07 Application.

- A. The applicant shall submit a site development plan that includes the following information to the Land Use Administrator:
  - 1. 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;
  - 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 13.07 (A)(1) through (3) above. The Committee shall notify the applicant in writing of its reasons for rejecting the application within thirty (30) days of receiving the application.

13.08 Review Procedure.

- A. The applicant shall meet with the Land Use Administrator to discuss the

proposal.

- B. The Land Use Administrator shall recommend approval, conditional approval or denial to the Land Use Committee within thirty (30) days of receiving the application.
- C. The Land Use Committee shall hold a public hearing prior to making a decision.
  - 1. Notice of the public hearing shall be published once in the Tribal Newsletter and the Cook County News Herald, and shall be posted in the Grand Portage Tribal Council Office Building, Land Use Administrator's office, Grand Portage Trading Post and the Grand Portage 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 thirty (30) days of receiving the Land Use Administrator's recommendation. Failure of the Land Use Committee to act shall not mean approval.
- E. The Land Use Committee shall notify the applicant of its decision in writing within thirty (30) 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.

#### 13.09 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 Administrator or Land Use Committee unless construction commences 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.

#### 13.10 Public Notice.

Notice of approval or disapproval of a Conditional Use Permit by the Land Use Committee shall be posted in the Grand Portage Tribal Council Office Building and the Land Use Administrator's Office.

## **Article 14: SUBDIVISIONS.**

### **14.01 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.

### **14.02 Permit Required.**

After the effective date of this Ordinance, no person shall divide any lands within the exterior boundaries of the Reservation so as to create a subdivision or any type of lot division without a permit from the Grand Portage Land Use Committee.

### **14.03 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 section 9.22 of this Ordinance can be provided for every lot. Lots that would require use of holding tanks shall not be approved.

### **14.04 Other Considerations.**

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;
- 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.

14.05 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.

14.06 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 Grand Portage Ojibwe. 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;
- D. Designating sites for open space.

14.07 Application Requirements.

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

- A. Letter of intent indicating the proposed use of the property;
- B. Legal description of property;
- C. Certificate of Survey by a registered land surveyor;
- D. 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);
  - 8. Other information considered relevant by the developer or requested by the Land Use Committee, Land Use Administrator or the Reservation Tribal Council.

14.08 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 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.

14.09 Review Procedure.

- A. The applicant shall meet with the Land Use Administrator to discuss the proposal.
- B. The Land Use Administrator shall recommend approval, conditional approval or denial to the Land Use Committee within thirty (30) days of meeting with the applicant or receiving the application, whichever is later.
- C. The Land Use Committee shall hold a public hearing prior to making a decision.
  1. Notice of the public hearing shall be published in the Tribal Newsletter and the Cook County News Herald, and posted in the Grand Portage Tribal Council Office Building, Land Use Administrator's Office, Grand Portage Trading Post and the Grand Portage 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 thirty (30) days of the Land Use Administrator's recommendation. Failure of the Land Use Committee to act shall not mean approval.
- E. The Land Use Committee shall notify the applicant of its decision in writing within thirty (30) 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.

#### 14.10 Termination of Subdivision Permits.

A Subdivision Permit shall terminate without further action by the Land Use Administrator or Land Use Committee unless construction commences 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.

#### 14.11 Public Notice.

Notice of approval of a Subdivision Permit by the Land Use Committee shall be posted in the Grand Portage Tribal Council Office Building and the Land Use Administrator's Office.

**Article 15: VARIANCES.**

15.01 Application.

A. Duties of the Land Use Administrator.

Upon denial of a permit application, the Land Use Administrator may assist the applicant in filing an application for a Variance to submit to the Land Use Committee.

B. Authority of the Land Use Committee.

The Land Use Committee may grant a Variance for uses that otherwise would not be permitted under this Ordinance. 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.

15.02 Conditions.

The Land Use Committee, in granting a Variance, may impose conditions to ensure compliance 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.

15.03 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.

15.04 Transferability.

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

15.05 Public Notice.

Notice of approval or disapproval of a Variance by the Land Use Committee shall be posted in the Grand Portage Tribal Council Office Building and the Land Use Administrator's Office.

## **Article 16: APPEALS.**

### 16.01 Applicability.

All appeals from any decision or action of the Land Use Administrator, the Land Use Committee or the Grand Portage Reservation Tribal Council shall be governed by this Article.

### 16.02 Appeals from a Decision of the Land Use 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 Administrator regarding a permit application or an Administrative Order. Appeals shall be in writing and shall be filed within thirty (30) days after the decision of the Land Use Administrator.

#### B. Duties of the Land Use Administrator.

Within ten (10) days after the receipt of a notice of appeal filed pursuant to section 16.02 (A), the Land Use Administrator shall submit a staff memo to the Land Use Committee that:

1. Outlines the relevant facts of the case;
2. Describes the relationship of the facts to the Land Use Ordinance and other applicable tribal ordinances, policies or rules;
3. 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.

#### C. Review Procedure.

##### 1. Basic Procedure.

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, appeals shall be on the record without a hearing. The record shall include:

- a. The application, together with any supporting maps, plans and other related documents;

- b. The notice of appeal, together with any supporting memos and documents;
- c. The memo of the Land Use Administrator described in section 16.02 (B).

The Land Use Committee shall issue a decision on an appeal within thirty (30) days after the receipt of the notice of appeal 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.

2. Expedited Appeal.

Where there is a likelihood that the time required to complete the appeal process established by subsection 16.02 (C)(1) would result in substantial damage to persons, property, or natural resources, the Land Use Committee, on the petition of the Land Use 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.

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.

The Land Use Committee shall base its decision on the record as described in subsection 16.02 (C)(1) 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.

16.03 Appeals from a Decision of the Land Use Committee.

A. Authority of the Reservation Tribal Council.

The Grand Portage Reservation Tribal Council may review, revise or reverse any decision of the Land Use Committee or Land Use Administrator. In addition, the Tribal Council may decide any question of interpretation arising under this Ordinance, including those involving measurement of setbacks from property lines, waterbodies and watercourses.

B. Right of Appeal.

Any applicant, permit holder or interested party may appeal a decision of the Land Use Committee to the Tribal Council. Appeals shall be filed in writing within thirty (30) days of publication of the decision of the Land Use Committee.

C. Procedure.

Unless the Tribal Council determines that a public hearing is necessary for the reasons stated in subsection 16.02 (C)(1), appeals shall be on the record developed by the Land Use Committee, which shall include, in addition to the items described in subsection 16.02 (C)(1), the transcript or other record of any hearing held by the Land Use Committee. Except in expedited appeals, the Tribal Council shall issue its decision within sixty (60) days of filing the notice of appeal to the Tribal Council or of any hearings ordered by the Tribal Council, whichever is later.

In the case of expedited appeals, the Tribal Council shall consider the matter at its next regular meeting. If the Tribal Council orders a hearing on an expedited appeal, it shall be held within seven (7) days of the issuance of the order, and the Tribal Council shall issue its decision no later than seven (7) days after the hearing. If no hearing is held, the Tribal Council shall issue its decision no later than seven (7) days after the meeting at which the appeal is considered.

## **Article 17: ENFORCEMENT.**

### **17.01 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, civil penalty, injunction, or order to compel performance.

### **17.02 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 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 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.

### **17.03 Revocation.**

If the permit holder violates any conditions of a permit issued under this Ordinance, the Land Use Committee may revoke the permit following a public hearing. The Land Use Administrator may require that all activity cease pending the hearing and decision of the Land Use Committee. The permit holder may demand an emergency public hearing pursuant to subsection 16.02 (C)(2) of this Ordinance.

### **17.04 Civil Penalties.**

- A. Any person or organization who violates or fails to comply with the following shall forfeit and pay to the Band a penalty, in an amount to be determined by the Tribal Court, of not more than \$200 per day of violation:
  - 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;
  - 3. Any order issued pursuant to section 17.02.
- B. In addition, at the discretion of the Court, the defendant may be required to

forfeit and pay to the Band, as damages, a sum that will adequately compensate the Band for the reasonable value of:

1. 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;
  3. Any other actual damages caused to the Band by the violation.
- C. As a defense to any of the above damages, 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.
- D. The civil penalties and damages described in this section may be recovered in a civil action in Tribal Court brought by the Land Use Administrator in the name of the Band.

#### 17.05 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 17.02, may be enjoined by the Tribal Court in an action brought by the Land Use Administrator in the name of the Band.

#### 17.06 Actions to compel performance.

- A. The Land Use Administrator 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 17.02;
  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.

**Article 18: AMENDMENTS.**

The Grand Portage Reservation Tribal Council may, from time to time, amend the Ordinance, or any part thereof, by the procedures set forth in this Article, provided that such amendments shall not be contrary to the intent and purposes of this Ordinance.

- A. Amendments may be proposed by any governmental body, interested parties, or organizations. An application for such an amendment shall be filed with the Grand Portage Land Use Committee and accompanied by such information as required by the Committee. The application shall be reviewed and a written recommendation submitted to the Tribal Council within thirty (30) days of receiving the application.
- B. The Tribal Council shall not act upon a proposed amendment to this Ordinance without a written report and recommendation from the Land Use Committee and Land Use Administrator on the proposed amendment.
- C. The Tribal Council shall hold a Public Hearing on each application for an amendment. Proper notice of the hearing shall be given in accordance with section 13.08 (C) of this Ordinance.
- D. The Tribal Council may grant or deny any application for an amendment.
- E. If an application for a proposed amendment is not acted upon finally by the Tribal Council within fourteen (14) days of the public hearing date, it shall be deemed to have been denied.

## CERTIFICATION

We do hereby certify that the foregoing Ordinance, Grand Portage Ordinance No. \_\_\_\_\_, was duly enacted by Resolution No. \_\_\_\_\_ of the Reservation Tribal Council at the regular meeting of the Council held on November \_\_\_\_\_, 1995, at Grand Portage, Minnesota.

\_\_\_\_\_  
Norman W. Deschampe  
Chairman

\_\_\_\_\_  
Gilbert Caribou  
Secretary/Treasurer