

FOND DU LAC BAND OF LAKE SUPERIOR CHIPPEWA

LAND USE ORDINANCE

ORDINANCE #02/07

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

TABLE OF CONTENTS

CHAPTER 1	AUTHORITY AND PURPOSES . . . . .	1
CHAPTER 2	DEFINITIONS AND INTERPRETATION . . . . .	3
CHAPTER 3	ESTABLISHMENT OF THE FOND DU LAC RESERVATION LAND USE COMMITTEE; DISTRIBUTION AND EXERCISE OF LAND USE AUTHORITY . . . . .	11
CHAPTER 4	OFFICIAL LAND USE MAP OF THE FOND DU LAC RESERVATION . . . . .	14
CHAPTER 5	LAND USE DISTRICTS AND DISTRICT REQUIREMENTS . . . . .	15
CHAPTER 6	SHORELAND OVERLAY DISTRICT . . . . .	22
CHAPTER 7	GENERAL PROVISIONS . . . . .	27
CHAPTER 8	PERMITS . . . . .	31
	802 - Land Use Permits . . . . .	31
	803 - Special Use Permits . . . . .	33
	812 - Conditional Use Permits . . . . .	39
CHAPTER 9	VARIANCES . . . . .	44
CHAPTER 10	SUBDIVISIONS . . . . .	46
CHAPTER 11	COMMERCIAL AND INDUSTRIAL STANDARDS . . . . .	51
CHAPTER 12	NON-CONFORMING USES . . . . .	54
CHAPTER 13	APPEALS . . . . .	56
CHAPTER 14	ENFORCEMENT . . . . .	59
CHAPTER 15	AMENDMENTS AND RESCISSION . . . . .	62
	CERTIFICATION . . . . .	62

# FOND DU LAC BAND OF LAKE SUPERIOR CHIPPEWA

## LAND USE ORDINANCE

### ORDINANCE #02/07

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#### CHAPTER 1

#### AUTHORITY, PURPOSES AND SCOPE

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**Section 101**      **Authority.** This Ordinance is enacted by the Fond du Lac Reservation Business Committee pursuant to the inherent sovereign authority of the Fond du Lac Band of Lake Superior Chippewa, as recognized and reserved under the Treaty of LaPointe, 10 Stat. 1109, and as exercised in accordance with Article VI of the Revised Constitution of the Minnesota Chippewa Tribe, Section 16 of the Indian Reorganization Act of 1934, 25 U.S.C. § 476, and the common law of the United States of America.

**Section 102**      **Purposes.** The purposes of this Ordinance are:

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

**Section 103**      **Scope**

- a. The provisions of this Ordinance shall apply to all lands and activities within the Fond du Lac Reservation which lie within the jurisdiction of the Fond du Lac Band.
- b. It is not the intent of this Ordinance to repeal, amend or otherwise interfere with any existing easements, covenants or agreements, or with any administrative rule or permit previously or hereafter adopted or issued pursuant to law.

Where the conditions imposed by any provision of this Ordinance are either more restrictive or less restrictive than comparable conditions imposed by any other applicable law, ordinance, statute, resolution or administrative rule, the conditions which are more restrictive or which impose higher standards or requirements shall prevail.

**Section 104 Severability**

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

**Section 105 Reservation of Rights**

The Reservation Business Committee reserves the right to amend or repeal all or any part of this Ordinance at any time and there shall be no vested rights of any kind against such amendment or repeal. All the rights, privileges, or immunities conferred by this Ordinance or by acts done pursuant thereto shall exist subject to the power of the Reservation Business Committee to amend or repeal this Ordinance or any part herein at any time. Nothing in this Ordinance shall be construed to constitute a waiver of the sovereign immunity of the Fond du Lac Band or a consent to jurisdiction by any forum not expressly authorized to exercise jurisdiction under this Ordinance. Any provision of this Ordinance which is inconsistent or incompatible with applicable federal law shall be invalid and unenforceable to the extent of such inconsistency or incompatibility, provided, however, that all remaining provisions shall be given full force and effect.

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## CHAPTER 2

### DEFINITIONS AND INTERPRETATION

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#### Section 201 Definitions

The following terms shall have the meanings assigned to them:

- a. Abandoned Vehicle: Any unlicensed vehicle that 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.
- b. Abandonment: The act of leaving or being absent from a building or suspending a land use for a length of time such that the building or use falls into disrepair and may constitute a safety, health or environmental detriment to the community.
- c. Accessory Use or Structure: A use or structure on the same lot, with and subordinate to the principal use, such as a garage or wood shed.
- d. Addition: Any alteration that increases the size of a building such as a porch, attached garage or carport, or a new room or wing.
- e. Alteration: A physical change in a building or an addition to a building.
- f. Anishanabe: The people of the Fond du Lac Band Of Lake Superior.
- g. Band: The Fond du Lac Band of Lake Superior Chippewa, governed through the Fond du Lac Reservation Business Committee.
- h. Bed and Breakfast Establishment: A dwelling that provides rooms and breakfast to overnight guests for a fee where an owner or manager resides on the premises.
- i. Bluff: A topographic feature such as a hill, cliff, or embankment.
- j. Boathouse: An accessory structure used for the sole purpose of the storage of watercraft and directly related equipment.
- k. Buffer: Land, vegetation or screening used to protect one type of land use or structure from another with which it is incompatible.

- l. Building Area: The space remaining on a lot after the minimum open-space requirements such as coverage, yards and setbacks have been met.
- m. 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, wigwams, sweat lodges, and teepees are not buildings).
- n. Building Coverage: The amount of land covered or allowed to be covered by a building usually measured in terms of percentage of a lot.
- o. Building Height: The vertical distance from the average finished grade along a building to the highest point of the building.
- p. 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.
- q. Cultural Assessment: An evaluation of the potential effects of a proposed action and its practical alternatives on the historic and cultural attributes of a particular geographical area.
- r. 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.
- s. 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.
- t. Dwelling, Seasonal: A residence occupied on a part-time basis, such as a cabin or hunting shack.
- u. Dwelling, Single Family: A detached building designed for a single family or household.
- v. Easement: A right, such as a right of way, which allows a person to make limited use of another's real property.
- w. 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.

- x. 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.
- y. Excavation: Movement, removal or fill of more than fifty (50) cubic yards of material such as soil, clay or sand.
- z. Extraction: Removal of any materials or minerals for commercial purposes.
- aa. Family: Any person or group of persons, often related by blood or marriage, occupying a single dwelling unit.
- bb. FDL: Collectively, the Fond du Lac Band and the Fond du Lac Reservation.
- cc. Fond du Lac Band of Lake Superior Chippewa: A federally recognized Indian tribe which retains the powers of self government over the Fond du Lac Reservation in accordance with the laws of the United States.
- dd. Fond du Lac Reservation: all lands set aside under treaty or statute as the lands of the Fond du Lac Band.
- ee. 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.
- ff. Fond du Lac Natural Resources Management Plan: A Plan, adopted by the Fond du Lac Reservation Business Committee, which addresses forestry, wild rice, cultural resources and fish and wildlife management and/or other resources on the FDL Reservation. The primary goal of the Plan is the development of resources while protecting our natural resources.
- gg. Holding Tank: A tank used for short-term storage or retention of sewage waste.
- hh. 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.
- ii. 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.

- jj. 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.
- kk. ISTS: Individual sewage treatment system.
- ll. 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.
- mm. Landfill: A location where trash, waste, refuse, debris, salvaged material or garbage is buried between layers of soil.
- nn. Land Use and Zoning Administrator: The person charged with the administration and enforcement of this Ordinance, as established by the Fond du Lac Reservation Business Committee pursuant to Section 302(c) of this Ordinance.
- oo. Land Use Amendment: A change in the Official FDL Land Use Map or the Land Use Ordinance text adopted by resolution of the Fond du Lac Reservation Business Committee.
- pp. Land Use Committee: The Fond du Lac Reservation Land Use Committee, established by the Fond du Lac Reservation Business Committee pursuant to Section 301 of this Ordinance.
- qq. Land Use District: An area or areas within the exterior boundaries of the Fond du Lac Reservation for which the regulations and requirements governing use are uniform.
- rr. Logging: The business, generally for profit, of cutting down and trimming trees and transporting logs to a mill.
- ss. Lot: An area of land having specific boundaries described by, or used in meets and bounds surveys, the Public Land Survey System, or a surveyed plat map.
- tt. Lot, Corner: A lot abutting on two or more streets at their intersection.
- uu. Lot Width: The narrowest distance between the side lot lines measured at the minimum front setback line.
- vv. Manufactured Home: A structure, transportable in one or more sections, which in the traveling mode, is 8 body feet or more in width, or 40 body feet or more in length, or, when erected on site, is 320 or more sq. ft., and which is built on a

permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to required utilities.

- ww. Manufactured Home Park: Any site, lot, field, or tract of land upon which three (3) or more manufactured homes are located.
- xx. 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.
- yy. Nuisance: Anything that interferes with the use or enjoyment of property, endangers personal health or safety, or is offensive to the senses.
- zz. Official Fond du Lac Land Use Map: A reservation map, adopted by the Fond du Lac Reservation Business Committee, which shows existing and proposed streets, highways, land use district lines and water bodies.
- aaa. OHWL (Ordinary High Water Level): The boundary of public waters shall be an elevation delineating the highest water level which has been maintained for a sufficient period of time to leave evidence upon the landscape, commonly that point where the natural vegetation changes from predominately aquatic to predominately terrestrial. For watercourses, the ordinary high water level is the elevation of the top of the bank of the channel. For reservoirs and flowages, the ordinary high water level is the operating elevation of the normal summer pool.
- bbb. 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.
- ccc. Permit: A written authorization issued by the Land Use and Zoning Administrator or the Land Use Committee which gives a person the power to do some act not forbidden by law, but which would not be allowable without such authorization.
- ddd. Permitted Use: Any land use that is specifically allowed in a district and which does not require a Conditional Use Permit.
- eee. Person: Any individual, firm, association, organization, partnership, trust, company or corporation, family, or individual household.
- fff. Plans: Detailed construction documents, drawn to scale, that accurately illustrate a parcel/lot size, structure location and sizes, structure setbacks, roads and driveways, utilities, natural features, dimensions, or building details, sections, and elevations, related to an existing or proposed development.

- ggg. 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.)
- hhh. Public Land Survey System: The first and only systematic survey of the United States Public Domain, which excludes the original thirteen colonies, Kentucky, Tennessee, Texas, and Hawaii, into townships (approximately 36 sq. mile units of land) and sections (approximately one sq. mile unit of land).
- iii. Reservation Business Committee (RBC): The Fond du Lac Reservation Business Committee, which is the duly elected governing body of the Fond du Lac Band.
- jjj. Screening: Fences or permanent landscape plantings positioned to reduce visual impact of a land use upon adjacent lands.
- kkk. 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.
- lll. Shoreland: Land located within: 1) 1,000 feet from the ordinary high water level (OHWL) of any water body; and 2) 300 feet from either bank on a watercourse.
- mmm. Shore Impact Zone: The buffer area immediately adjacent to waterbodies and watercourses that is critical to preserving water quality, wildlife habitat, and visual screening of the developed area farther back from the shore.
- nnn. 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.
- ooo. 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.
- ppp. Subdivision: Any combining or splitting of parcels to create new building lots.
- qqq. Subdivision Permit: A permit issued for a specific subdivision.
- rrr. Tribal Court: A court established by the Fond du Lac Band of Lake Superior Chippewa that has the authority to hear and decide disputes arising on the Reservation.

- sss. 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.
- ttt. 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.
- uuu. Water Body: Lakes, ponds, and open water wetlands that retain standing water throughout the year (classified as Aquatic Bed Wetlands in the FDL Joint Comprehensive Wetland and Protection and Management Plan).
- vvv. Watercourse: Any river, stream, creek, branch, reach, tributary, or judicial ditch, which allows for the flow of water from one point to another.
- www. Wetland: Those areas that are comprised of hydric soils and are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and under normal circumstances do support, a prevalence of hydrophytic vegetation. Wetlands include, but are not limited to, shallow and deep marshes, wet meadows, swamps, bogs, and forested wetlands.
- xxx. 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.
- yyy. 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.
- zzz. 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.
- aaaa. Yard, Side: A yard extending between the side line of the lot and the nearest line of the building, excluding steps and unenclosed porches, and extending from the front yard to the rear yard.

**Section 202      Interpretation**

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

- a. The singular number includes the plural and plural the singular.
- b. The word "shall" is mandatory and the word "may" is permissive.
- c. Whenever a word or term defined appears in the text of this Ordinance, its meaning shall be construed as set forth in the definition given.
- d. All measured distances expressed in feet shall be rounded to the nearest foot.
- e. All measured distances, unless otherwise specified, shall be measured horizontally.
- f. The phrase "used for" shall include the phrases "arranged for", "designed for", "intended for", "maintained for", and "occupied for".

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## CHAPTER 3

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

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#### Section 301 Establishment of the Fond du Lac Land Use Committee

The Reservation Business Committee hereby establishes the Fond du Lac Reservation Land Use Committee, which shall be comprised of the following members:

- a. Three (3) enrolled members of the Fond du Lac Band, including at least one member who resides in the Cloquet, Brookston and Sawyer Districts of the Reservation, to be appointed by the RBC; and
- b. Four (4) employees of the Fond du Lac Band, regardless of their membership status with the Band, who shall serve as part of their employment position with the Band: (1) the Cultural Resources Specialist; (2) the Water Regulatory Specialist; (3) the Environmental Specialist; and (4) the FDL Forester.

Any member of the Land Use Committee may be removed by majority vote of the RBC. Members of the RBC may serve on the Committee. Each member shall serve a two (2) year term; terms shall be staggered. Any member may be re-appointed for additional terms by the RBC.

#### Section 302 Distribution of Land Use Authority

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

- a. The Fond du Lac Reservation Business Committee may on its own motion, or on request of the Land Use Committee, or on petition or appeal of the affected property owners, lease holders or land assignees:
  1. Change the land use district of a parcel of land from one classification to another;
  2. Change any of the regulations of this Ordinance as to the use or platting of land in any district, or as to the restrictions upon buildings or structures therein, by amendment of this Ordinance;
  3. May review and approve or deny site plans for multiple dwellings (3 or more units), commercial and industrial

development and mandate the inclusion or alteration of elements of the plans to protect adjacent properties;

4. May hold public hearings on rezoning and amendments;
5. Shall act as the Board of Adjustment and Appeals until such time as the RBC appoints an independent Board; and
6. Review variance applications as set forth within this Ordinance.

b. The Fond du Lac Reservation Business Committee hereby delegates the following powers and duties to the Fond du Lac Reservation Land Use Committee:

1. Together with the Planning Division and such persons as may be deemed appropriate by the Reservation Business Committee, to monitor land use patterns and planning needs of the Reservation, and as such make recommendations and keep the RBC informed on land use issues;
2. To maintain custody of the Official FDL Land Use Map;
3. To issue or deny Conditional Use, Special Use, Shoreland, and Subdivision Permits in accordance with the provisions of this Ordinance;
4. To make recommendations to the RBC to issue or deny permits for conditional uses, subdivisions and variances according to Chapters 8, 9, and 10 of this Ordinance;
5. To hear appeals from permit decisions made by the Land Use and Zoning Administrator and make recommendations to the RBC on appeals;
6. To adopt by majority vote such rules and regulations governing the conduct of hearings before the Committee as it deems necessary, with the approval of the RBC and subject to all applicable requirements of due process, **provided** that all meetings and votes of the Land Use Committee and all hearings it conducts shall be open to the public (with the exception of Executive Sessions), and **further provided** that written minutes of all such meetings and hearings shall be prepared and shall be available to the public; and
7. To review decisions and actions of the Land Use and Zoning Administrator, in such a manner and at such time as the Committee may determine.

c. The Fond du Lac Reservation Business Committee does hereby delegate the following powers and duties to the Fond du Lac Land Use and Zoning Administrator:

1. To consult and cooperate with the Land Use Committee during its study of the Reservation's land use needs and development of the Official FDL Land Use Map;
2. To provide a monthly report listing all permits applied for and the status of each to the RBC;
3. To issue or deny Land Use Permits in accordance with the provisions of this Ordinance;
4. To make recommendations to the Land Use Committee and the RBC concerning any matter under appeal;
5. To make recommendations to the Land Use Committee and the RBC on the effect of a proposed Conditional Use, Special Use, Shoreland or Subdivision Permit or Variance upon the health, safety, morals and welfare of occupants of surrounding lands;
6. To investigate violations and take enforcement action as necessary pursuant to Chapter 14 of this Ordinance;
7. To enforce the FDL Land Use Ordinance in cooperation with the Fond du Lac Land Use Committee;
8. To conduct inspections of buildings and use of land to determine compliance with the terms of this Ordinance;
9. To maintain permanent and current public records pertaining to this Ordinance, including, but not limited to, all maps, all requests for approval or denial of amendments, permits, conditional uses, special uses, shoreland uses, subdivisions, variances, appeals and applications;
10. To receive, file, and forward all applications for appeals, variances, conditional uses, special uses, shoreland uses, subdivisions, or other matters to the Land Use Committee;
11. To provide such administrative, technical, and professional assistance as may be required by the Land Use Committee in the exercise of its duties;
12. To require the permit applicant to furnish such additional information as may be necessary to properly perform all duties;
13. To provide the necessary assistance to ensure that the permit applicant complies with all applicable permit requirements of this Ordinance; and
14. To facilitate communication with County, State, Federal and other governmental agencies as appropriate.

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CHAPTER 4

OFFICIAL LAND USE MAP OF THE FOND DU LAC RESERVATION

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

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

**Section 402      Public Examination**

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

**Section 403      Interpretation of the Map**

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

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

**Section 404      Amendments to the Map**

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

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CHAPTER 5  
LAND USE DISTRICTS AND DISTRICT REQUIREMENTS

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**Section 501 List of Districts**

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

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

**Section 502 General Permitting Requirements**

Within each type of each district identified in Section 501, 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 and Zoning Administrator and approval by the Reservation Business Committee, pursuant to Chapter 8 of this Ordinance.
- b. **Conditional** uses may be allowed only after an application for a permit is received by the Land Use and Zoning Administrator and approved by the Land Use Committee pursuant to Chapter 8 of this Ordinance.
- c. Except as otherwise provided, **non-conforming** 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 Chapter 12 of this Ordinance.

Section 503 Cultural Preservation (PC) District

- a. Purposes: To sustain areas which have cultural, environmental, or historical significance to the people of the Fond du Lac Reservation, to protect sensitive natural resources and to provide a place for traditional practices. This District shall be applied to designated wild rice lakes, sugar bush sites, gathering sites, burial sites, sites of historical remains or artifacts, or any other areas deemed worthy of preservation by the Reservation Business Committee.
- b. Permitted Uses: Hunting, fishing, and gathering as permitted by the Fond du Lac Reservation Conservation Code, FDL Ordinance #03/90.
- c. Conditional Uses:
1. Restoration and enhancement of areas;
  2. Management of Natural Resources by the FDL Division of Resource Management only;
  3. Viewing Platforms;
  4. Walking Trails;
  5. Temporary Educational or Cultural Facilities; or
  6. Single family dwellings, seasonal dwellings, duplexes, and accessory structures.
- d. Requirements. All proposed activities shall be reviewed and approved by the Fond du Lac Land Use Committee and the Reservation Business Committee. In its review, the Committee shall consider, among other things, whether the proposed use is consistent with the intent of this Ordinance, and whether resource impacts of the proposed development have been kept to a minimum.

Section 504 Residential (R) District

- a. Purpose: To provide areas where families can make homes and enjoy a setting that is free of commercial and industrial activity, noise and pollution, or any activity that may threaten the peace, safety, and health of residents.
- b. Permitted Uses:
1. Single family dwellings;
  2. Seasonal dwellings;
  3. Manufactured homes;
  4. Accessory structures;
  5. Manufactured Homes;
  6. Home businesses;
  7. Public parks and playgrounds; and/or
  8. Management of Natural Resources by the FDL Division of Resource Management only.

c. Conditional Uses:

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

d. Requirements:

1. Minimum lot size is two (2) acres for private well and septic and (1) one acre for community sewer and watered, with the exception of Big Lake lots;
2. Dimensional requirements as established in Chapter 7; and
3. Dwellings must meet all other requirements as deemed necessary by the Land Use and Zoning Administrator, Land Use Committee, and the RBC to be permitted;
4. Shoreland requirements may also apply in some areas.

**Section 505 Mixed Use (M) District**

a. Purpose: To provide for the area already developed as a mixed use area or area that may be suitable for mixed uses; such as the area developed as the institutional core of the Fond du Lac Reservation on Big Lake Road and the town of Brookston.

b. Permitted Uses:

1. Single family dwellings, duplexes, townhomes and multi-family housing;
2. Accessory structures;
3. Assisted living and elderly facilities;
4. Governmental, educational, and health care facilities;
5. Offices and community service buildings;
6. Recreational buildings;
7. Daycare centers (not in Home);
8. Churches;
9. Warehouses and storage that pose no threat to the community;
10. Gas stations and convenience stores;
11. Home businesses (subject to lease provisions); and/or
12. Management of Natural Resources by the FDL Division of Resource Management only.

c. Conditional Uses:

1. New commercial uses; and/or
2. New industrial uses.

d. **Requirements:**

1. All new commercial and industrial development is subject to the requirements of Chapter 11 of this Ordinance.
2. Shoreland requirements may also apply in some areas.

**Section 506      Natural Resource Management (NR) District**

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

b. **Permitted Uses:**

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

c. **Conditional Uses:**

1. Single family dwellings;
2. Seasonal dwellings;
3. Manufactured homes;
4. Accessory structures; and/or
5. Educational and cultural facilities.

d. **Requirements:** All forestry, agricultural, and natural resource management activities shall be conducted in accordance with the Fond du Lac Reservation Natural Resource Management Plan, Environmental Assessment and the Timber Sales Policies and Procedures and any other applicable plan or ordinance enacted by the FDL Division of Resource Management;

- e. Natural resource management is to be conducted by the FDL Division of Resource Management only.
- f. Shoreland requirements may also apply in some areas.

**Section 507      Commercial (C) District**

- a. **Purpose:** To provide adequate space for retail, wholesale, office and service buildings, and gaming activities.
- b. **Permitted Uses:** None. All uses require approval by the Land Use Committee and/or the Reservation Business Committee.
- c. **Conditional Uses:**
  - 1. Hotels, motels, resorts and campgrounds;
  - 2. Gaming Facilities;
  - 3. Retail stores and shops;
  - 4. Restaurants;
  - 5. Public buildings;
  - 6. Public parks and recreation areas;
  - 7. Parking lots (where accessory to conditional uses);
  - 8. RV parks;
  - 9. Parking ramps;
  - 10. Day care centers;
  - 11. Clinics or medical office buildings;
  - 12. Automotive repair and truck stops;
  - 13. Gas stations and convenience stores;
  - 14. Signs;
  - 15. Liquor stores and bars;
  - 16. Industrial uses; and/or
  - 17. Golf courses.
- d. **Requirements:**
  - 1. All development in a Commercial District is subject to the requirements of Chapter 11 of this Ordinance.
  - 2. All gaming activities are subject to applicable law.

**Section 508      Industrial (I) District**

- a. **Purpose:** To encourage the development of manufacturing, warehousing and similar and related uses in specified portions of the Reservation that are uniquely suited for this type of land use.
- b. **Permitted Uses:**
  - 1. Hotels, motels, resorts, RV parks and campgrounds;
  - 2. Gaming facilities;
  - 3. Golf courses;
  - 4. Retail stores and shops;

5. Restaurants;
6. Governmental, educational and health care facilities;
7. Public parks and recreational buildings;
8. Parking lots and parking ramps (where accessory to commercial use);
9. Day care centers (not in home);
10. Office and community service buildings;
11. Automotive repair and truck stops;
12. Gas stations and convenience stores;
13. Signs;
14. Liquor stores and bars; and/or
15. Industrial uses.

c. **Conditional Uses:**

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

d. **Requirements:**

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

**Section 509      Parks and Recreation (P&R) District**

a. **Purpose:** A Parks and Recreation District is intended to provide area for recreational opportunities to Fond du Lac Band members and their families. Included in this district would be the various housing development parks on the Reservation and the Band's public access areas on Big Lake.

b. **Permitted Uses:**

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

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

c. **Conditional Uses:**

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

d. **Requirements:**

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

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**CHAPTER 6**  
**SHORELAND OVERLAY DISTRICT**

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**Section 601     Establishment of Shoreland Overlay District**

The shoreland areas identified in this chapter are intended to include provisions that are in addition to or overlay one or more underlying districts established in Chapter 5.

**Section 602     Purpose**

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

**Section 603     Shoreland Required Permits**

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

**Section 604     Other Permits**

A Shoreland Permit shall be an accompaniment to the Exemption Certificate or Wetland Activity Permit required under the Fond du Lac Wetlands Protection and Management Ordinance if such permits apply.

**Section 605     Requirements**

Along with the initial application the applicant may be asked to submit a site development plan that includes the following information to the Land Use and Zoning 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, Land Use Committee, or the Reservation Business Committee.

**Section 606 Shoreland Classification**

**Shoreland** shall be defined as, land located within: 1) 1,000 feet from the ordinary high water level (OHWL) of any waterbody; and 2) 300 feet from either bank on a water course.

\*\* The shoreline of waterbodies and watercourses shall be the OHWL as determined by the Fond du Lac Natural Resources Department.

**Shore Impact Zone** shall be defined as the buffer area immediately adjacent to waterbodies or watercourses that is critical to preserving water quality, wildlife habitat, and visual screening of the developed area farther back from the shore. Furthermore, Fond du Lac has designated waterbodies and watercourses for the purpose of this ordinance into the following underlying Land Use Districts:

Lakes	CP Dis tri ct	R Dis tri ct	NR Dis tri ct	M Dis tri ct
Long (Bang) Lake		*		
Deadfish Lake	*			
Jaskari Lake	*			
Mud (Miller) Lake	*			
Perch Lake	*			
Rice Portage Lake	*			
Wild Rice Lake	*			
Big Lake		*		
Lost Lake	*	*		
Martin (Joe Martin) Lake	*	*		
Pat Martin Lake	*			
Simian Lake		*		
Sofie Lake	*	*		
Third Lake				*
West Twin Lake		*		
Cedar Lake			*	
East Twin Lake			*	
First Lake				*
Hardwood Lake	*			
Lac Lake	*			
Second Lake				*
Side Lake			*	
Spring Lake			*	
Spirit (Spruce) Lake			*	

Watercourses	CP Dis tri ct	R Dis tri ct	NR Dis tri ct	M Dis tri ct
Otter Creek	*			
Stoney Brook	*			
Anishanabe Shin Be Quay Ze'-Bence (Fond du Lac Creek)	*			
Martin Branch	*			
Simian Creek	*	*		
Annamhasung Creek	*			
Spring Creek	*			
St. Louis River	*			

**Section 607**

**Shoreland Uses**

a. **Permitted Uses:**

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

b. **Conditional Uses:**

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

c. **Requirements:**

1. All proposed activities shall be reviewed and approved by the Fond du Lac Land Use Committee.
2. A Shoreland Permit shall only be issued upon approval of an Exemption Certificate or a Wetland Activity Permit if such permits apply.
3. All land use activity within the shoreland overlay district shall be consistent with the provisions of the FDL Land Use Plan, FDL Land Use Ordinance, the Wetlands Protection and Management Ordinance, the FDL Water Quality Standards and all other applicable plans and ordinances as deemed necessary by the RBC, the FDL Land Use Committee, and the FDL Office of Water Protection.
4. Setbacks shall be increased by 4 feet for every 2% of slope.

5. Septic systems must be a minimum of 3 feet above the highest groundwater level or bedrock for all shoreland classifications. A conforming septic system is required for all future development and any site improvements.
6. The removal or destruction of emergent aquatic vegetation is prohibited.
7. No permanent structures are allowed in the water or in the shore impact zone.
8. Temporary Water Oriented Structures: Docks, rafts, watercraft lifts, watercraft canopy or other structure that can be removed from water by skidding intact or by hand must follow these guidelines:
  - (A) Docks shall be no wider than 8 feet.
  - (B) The structure cannot create a safety hazard.
  - (C) The structure must not be detrimental to fish and wildlife habitat and must not be installed in fish spawning areas.
  - (D) The structure must not have rigid walls, roofs, or sewage facilities or be intended for human habitation.
  - (E) The structure must allow free flow of water underneath it.
9. Commercial docks are regulated by the FDL Wetlands Protection and Management Ordinance.
10. An area no wider than 33% of the lot width, or 40 feet, whichever is less, and no deeper than 25 feet from the OHWL, may be cleared for lake usage purposes. This area must include temporary water oriented structures. All cleared areas must be stabilized with native vegetative ground cover to prevent erosion and sedimentation.
11. No use of fertilizer or pesticides will be allowed within shore impact zone.
12. Impervious ground cover shall not be more than 25% of lot area.
13. Wetland activity must comply with the requirements of the FDL Wetland Protection and Management Ordinance.
14. Non-Riparian lots shall comply to the minimum standards of the underlying district but shall follow all shoreland guidelines and are subject to review upon application request.

### Shoreland Riparian Lot Dimensional Standards

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

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CHAPTER 7  
GENERAL PROVISIONS

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

**Section 701 General Requirements**

- a. The provisions of this Ordinance shall be considered minimum requirements.
- b. After the effective date of this Ordinance, no structure or part thereof shall be erected, constructed, reconstructed, moved or structurally altered and no land shall be excavated or changed in use unless in conformity with this Ordinance and all amendments.
- c. From the first request of permit and until such time as the work is deemed completed; the Land Use and Zoning Administrator may enter the premises at reasonable times in a reasonable manner to conduct inspections as deemed necessary. The Land Use and Zoning Administrator shall make a reasonable effort to contact the owner or occupant before entering the property.
- d. Any proposed land use shall be subject to an environmental assessment, cultural assessment and/or plan review, and shall be required to submit any development plans as requested by the Land Use and Zoning Administrator, Land Use Committee, or the Fond du Lac Reservation Business Committee before a permit is issued. Failure to comply with this requirement shall invalidate any permit request.
- e. Any proposed land use shall be deemed to be in conformance with the goals, policies, and spirit of the Fond du Lac Land Use Plan before a permit shall be issued.
- f. All structures must be built in conformity with applicable building codes.
- g. Each proposed building or dwelling shall be on a lot which meets the minimum area requirements specified in Section 710 of this Ordinance.
- h. No lot areas shall be so reduced that the yards are smaller than is required by Section 710 of this Ordinance.
- i. The density of buildings shall not be increased in any manner except in conformity with the area regulations established by

this Ordinance for the district in which a building or premises is located.

- j. The required front yard of a corner lot shall not contain any wall, fence or other structure; any tree, shrub or other growth; or any other obstruction that may cause danger to traffic on a street or public road by obstructing the view.
- k. No structure shall exceed the maximum building height except as otherwise specified in this ordinance.

**Section 702                      Prohibited Land Uses**

- a. The following land uses are prohibited on the Fond du Lac Reservation:
  - 1. Hazardous waste disposal;
  - 2. Radioactive waste storage and disposal.
  - 3. Salvage and junk yards;
  - 4. Sanitary landfills;
  - 5. Commercial fish, wildlife and wild rice preserves; and
  - 6. Any Land Use deemed harmful or potentially harmful to the human or natural environment by the Fond du Lac Reservation Business Committee and the Fond du Lac Land Use Committee.
- b. The outdoor storage of three or more abandoned vehicles (as determined by the Land Use and Zoning Administrator) on any lot shall be prohibited.
- c. No liquid, gaseous or solid wastes shall be discharged that will have a significant negative environmental impact upon adjacent or nearby property, ground water or surface water.

**Section 703      Manufactured Homes**

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

**Section 704      Removal of Vegetation**

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

**Section 705      Fire and Emergency Standards**

- a. The Fond du Lac Forester, Land Use and Zoning Administrator, Land Use Committee, and the RBC may require any reasonable fire protection restrictions or alterations, such as, but not limited to, implementation of Firewise standards, or a site development plan.
- b. The Reservation Business Committee 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 and Zoning Administrator, who shall review it in consultation with the Fond du Lac Land Use Committee and the FDL Forester and make a recommendation to the RBC, which shall make the final decision.

**Section 706      Parking**

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

**Section 707      Historic and Cultural Sites**

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

**Section 708      Legal Description and Survey**

- a. Prior to issuing any Land Use or subdivision permits, the Land Use and Zoning 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 Reservation Business Committee.

**Section 709      Public Notice**

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

Section 710 Dimensional Standards and Setbacks

The following standards shall be met for all permits:

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

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**CHAPTER 8**  
**PERMITS**

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**Section 801      General**

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

**Section 802      Land Use Permits**

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

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

2. Brief statement as to the proposed use of the structure, building or land;
3. Site Plan, Construction Plans (drawings) to scale showing the location and dimensions of all proposed buildings and uses;
4. Other information as may be required by the Land Use and Zoning Administrator, Land Use Committee, or Reservation Business Committee including existing buildings or land uses and other matters as may be necessary to determine conformance with this Ordinance.

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

1. **Approve Application:** Where the Land Use and Zoning Administrator determines that the proposed action complies with the FDL Land Use Ordinance and any other applicable ordinance of the Fond du Lac Reservation, they shall approve the application.
2. **Deny Application:** Where the Land Use and Zoning Administrator determines that the proposed action does not comply with the Land Use Ordinance or any other applicable ordinance of the Fond du Lac Reservation, they shall deny the application and:
  - (A) Advise the applicant of the reason for denial;
  - (B) Advise the applicant of the means, if any, by which the application could be altered to meet the provisions of the FDL Land Use Ordinance;
  - (C) Advise the applicant of the right to appeal the denial to the Land Use Committee pursuant to Chapter 13 of this Ordinance;
  - (D) Assist the applicant in filing an appeal of the denial to the Land Use Committee pursuant to Chapter 13 of this Ordinance, or in applying for a Variance pursuant to Chapter 9 of this Ordinance.

c. Time Limits.

1. If the Land Use and Zoning Administrator fails to act on a Land Use Permit application within sixty (60) days after submission, the applicant may submit the application directly to the Land Use Committee for review. The Land Use Committee shall issue a decision within sixty (60) days of receiving the application.
2. Approved Land Use Permits shall terminate six (6) months after approval unless work shall have commenced within that period. A six (6) month extension may be granted upon application to the Land Use and Zoning Administrator prior to expiration of the original permit.

**Section 803**                      Special Use Permits

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

Application for a Special Use Permit shall be made to the Land Use and Zoning Administrator for the following special uses.

**Section 804**                      Height Restrictions

- a. Special Use Permit Required. No structure exceeding the height limits specified in Section 710 of this Ordinance shall be constructed without a Special Use Permit from the Land Use and Zoning 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; or
  8. Radio & TV antennae & transmitting towers.
- b. Criteria. The Land Use and Zoning Administrator shall make recommendations to the Land Use Committee to grant or deny a permit based on factors including, but not limited to, the following:

1. The use shall be compatible with adjacent land uses;
2. The use shall have an appearance that will not have an adverse effect upon adjacent properties;
3. The use shall be reasonably related to the overall needs of the Reservation and to existing land use as determined by this Ordinance and all other plans and ordinances as determined by the Land Use Committee; and
4. The use shall be consistent with the purposes of the Land Use Plan and the Land Use Districts in which the applicant intends to locate the proposed use;

**Section 805      Signs**

- a. **Special Use Permit Required.** All new permanent signs shall require a special use permit. A written application for a special use permit shall be made to the Land Use and Zoning Administrator. The Land Use and Zoning Administrator shall make recommendations to grant or deny the permit based on the following standards:
  1. Signs shall not be placed to interfere with official traffic signs or driving visibility.
  2. All signs, sign faces and supports, shall be maintained in a good state of appearance and repair, as determined by the Land Use and Zoning Administrator.
  3. No sign shall have interior lighting or moving parts or lights.
  4. Signs shall not exceed 50 square feet in size.
  5. Signs shall not display statements, words, or pictures of an obscene, indecent, or immoral character that would be publicly offensive as determined by the Reservation Business Committee.
  6. Signs to be placed along roadways containing MNDOT (Minnesota Department of Transportation) right-of-ways require a permit from MNDOT. Such roadways are State Hwy. 210, Interstate 35, and U.S. Hwy. 2.
- b. **No Permit Required.** The following signs do not require a sign permit, however they shall comply with the requirements of subsection (a):

1. Signs that are equal to or less than 1.5 square feet in area and bear only property numbers, postbox numbers, names of occupants of the premises or other identification not having commercial purpose;
  2. Legal notices, identification, informational or directional signs erected or required by governmental agencies;
  3. Temporary signs advertising a cultural or civic event erected not more than thirty (30) days prior to the event and removed within one (1) week following the event.
  4. Candidate Signs providing they are removed within one (1) week following election.
- c. **Exception.** Signs erected prior to the adoption of this Ordinance shall be considered permitted.
- d. **Noncompliance.** The Land Use and Zoning Administrator may revoke any permit or order any permitted sign removed for noncompliance with the provisions of subsections (a) or (b) by posting notice on the sign of intent to remove the sign if it is not removed by the owner within seventy-two (72) hours of the date and time indicated on the posting.

**Section 806      Excavation and Extraction**

- a. The following excavation and extraction activities shall require a special use permit:
1. The movement, removal, or fill of more than fifty (50) cubic yards of material, including but not limited to: borrow pits and gravel pits.
  2. The extraction of any materials or minerals for commercial purposes, other than fill materials such as sand, gravel and rock.
- b. **No Permit required:**
1. A separate special use permit is not required for excavation during activities for which a separate permit has already been issued. However, the standards in this section shall be incorporated into the issuance of all land use permits.

2. A special use permit is not required for excavation during natural resource management activities in all districts except the Cultural Preservation District: provided the management activities are completed by the FDL Division of Resource Management.

c. General Requirements

1. Excavation/Extraction and construction within the Shoreland Overlay District, shall require a Shoreland Permit.
2. Topsoil shall be removed prior to any excavation and shall be saved for replacement for re-vegetation.
3. All material which is to be permanently removed from a site shall be properly disposed of at a location designated by the Land Use Committee.
4. Protective measures (such as fencing) designed to prevent erosion and retain sediment on the site shall be implemented during construction.
5. Excavation/Extraction shall be prohibited where buffers, vegetative screening or setbacks are significantly reduced.
6. Excavation/Extraction shall be prohibited where increased erosion into any Reservation waterbody or watercourse may occur.
7. Excavation/Extraction shall be prohibited where permanently exposed soil or rock may result.
8. Any Excavation/Extraction activity that the Land Use and Zoning Administrator, Land Use Committee, or the Reservation Business Committee determines may pose a threat to public health, safety or welfare shall be prohibited.
9. A Minimum lot area of two (2) acres shall be required for the extraction of sand and gravel.

d. Requirements

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

1. Area to be excavated;
2. Beginning and ending dates of the extraction activity;
3. Amount of materials to be moved or removed;
4. Type of material to be moved or removed;
5. Access routes and haul roads;
6. Existing drainage;
7. Final contours and drainage of the area upon completion of the excavation;
8. A legal description of the proposed site;
9. A topographic map of the site with a scale of 1" = 100' or greater with a contour interval of ten (10) feet or less, extending beyond the site to a minimum distance of five hundred (500) feet on all sides;
10. A system of accounting to determine the amount of materials removed and the amount remaining at the proposed site on a weekly basis;
11. General site information, such as name of applicant, name of landowner, total area of project, and necessary permits; and
12. Pre-excavation conditions including current land use, adjacent land use, groundwater elevation, map of pre-excavation conditions, location of streams, lakes and wetlands located within or adjacent to project area and location of wells in the vicinity.

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.

- e. Conditions. No permit to extract fill materials shall be granted until the Land Use Committee approves a restoration plan, as provided in section h of this Ordinance.
- f. Conditions for Approval. The Land Use Committee may establish setback and other dimensional requirements, so as to avoid creating a nuisance for surrounding residential uses. The Committee may also require suitable fencing and landscaping.
- g. Existing Operations. The owners of all operations involving the extraction of sand, gravel, rock or other fill materials

existing at the time this Ordinance is adopted shall, within one year after adoption of this Ordinance, submit to the Land Use and Zoning Administrator an application for a permit and a plan for the restoration of the site in accordance with subsection h. The restoration plan shall not impose requirements that may be unreasonable from an economic or engineering perspective due to conditions resulting from operations prior to enactment of this Ordinance.

h. **Site Restoration Plan and Financial Guarantee**

1. No permit to carry on an excavation or extraction operation shall be granted until the Land Use Committee approves a restoration plan.
2. The restoration plan shall identify the party who has financial responsibility for the actual restoration. The responsible party shall provide sufficient financial guarantee to secure the performance of the restoration agreement. The agreement and financial guarantee shall be in a form and amount approved by the Land Use Committee.
3. The area shall be restored to a condition of practical usefulness and reasonable physical attractiveness, as determined by the Land Use Committee. Restoration efforts shall begin no later than six (6) months after the operation has ceased.
4. The restoration plan shall include anticipated topography, future land uses, roads, location of structures on the site, seeding and replanting plans, long-term maintenance and an estimate of the restoration cost for each phase of the project. Re-vegetation or reforestation of materials removed during excavation or extraction operations shall include use of native or similar materials and shall be completed during the first planting season after operations have ceased.

**Section 807 Private Septic Systems and Wells**

In areas not served by a public sewage treatment plant or public water line, a special use permit from the Land Use and Zoning Administrator shall be required prior to installation of sewage treatment systems and wells. Individual on-site sewage treatment systems and wells shall be constructed in accordance with all Indian Health Service Guidelines. The installation method and location of sewage treatment systems shall be designed to protect

the natural environment to the maximum extent reasonable and feasible. All Well and Septic special use permits are required to be reviewed by the Water/Wastewater Office of the Fond du Lac Planning Division.

**Section 808      Essential Services**

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

**Section 809      Roads and Driveways**

Construction of roads and driveways shall require a special use permit and approval by the Land Use and Zoning Administrator and the Land Use Committee. Public and private roads and driveways shall be located and designed to minimize impact to the natural environment. Roads and driveways shall meet the shoreland structure setbacks specified in Chapter 6 of this Ordinance. Driveway access to individual lots shall not be constructed within five (5) feet of the lot line.

**Section 810      Home Occupations/Home Businesses**

All Businesses within the Fond du Lac Reservation are Governed by Ordinance #5/84, Fond du Lac Band Of Lake Superior Chippewa Business License Ordinance. A permit must be applied for at the FDL Legal Licensing Dept. before conducting any business within the Fond Du Lac Reservation.

**Section 811      Shoreland Permits**

A shoreland permit shall be required for all land use activity within the Shoreland Overlay District as required by Chapter 6 of this Ordinance. Shoreland permits require the approval of the Land Use Committee and/or the Reservation Business Committee.

**Section 812      Conditional Use Permits**

- a. **General.** The Land Use and Zoning Administrator shall make recommendations to the Land Use Committee to approve or deny Conditional Use Permits. The Committee shall consider the recommendation of the Land Use and Zoning 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.

b. **Criteria.** The Land Use Committee shall apply the following criteria as applicable:

1. The conditional use shall be compatible with adjacent land uses.
2. The conditional use shall have an appearance that will not have an adverse effect upon adjacent properties.
3. The conditional use shall be reasonably related to the overall needs of the Reservation and to existing land use as determined by this Ordinance and all other plans and ordinances approved by the Reservation Business Committee.
4. The conditional use shall be consistent with the purposes of the Land Use Plan and the Land Use Districts in which the applicant intends to locate the proposed use.
5. The conditional use shall reflect the Fond du Lac Anishanabe value system.
6. The conditional use shall have adequate utilities, access roads and drainage.
7. The Land Use Committee may impose such additional conditions as required under Section 813.

c. **Non-Transferability.** A Conditional Use Permit shall be issued only to the applicant. The Conditional Use Permit may not be transferred to any other person without prior approval of the Land Use Committee and the Reservation Business Committee.

d. **Termination.** A Conditional Use Permit shall terminate if the use is discontinued for a period of six (6) months. However, a longer or shorter time limitation or review requirement may be included as a condition on any permit.

**Section 813      Additional Conditions**

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

**Section 814     Records**

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

**Section 815     Application**

- a. The applicant shall submit a site development plan that includes the following information to the Land Use and Zoning Administrator:
  1. A letter of intent indicating the proposed use of the property;
  2. Detailed plans drawn to scale and showing all details of the land area and proposed use; and
  3. Other information as may be required by the Land Use Administrator.
- b. The Land Use Committee shall have the authority to reject any application for a Conditional Use Permit not complying with subsections (a)(1) through (3) above. The Committee shall notify the applicant in writing of its reasons for rejecting the application within sixty (60) days of receiving the application.

**Section 816     Review Procedure**

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

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

**Section 817      Termination of Conditional Use Permits**

- a. Where a Conditional Use Permit has been issued according to provisions of this Ordinance, the permit shall terminate without further action by the Land Use and Zoning Administrator or Land Use Committee 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.

Section 818      Public Notice

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

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**CHAPTER 9**  
**VARIANCES**

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**Section 901      Application**

- a.    **Duties of the Land Use and Zoning Administrator.** Upon denial of a permit application, the Land Use and Zoning Administrator may assist the applicant in filing an application for a Variance to submit to the Land Use Committee and Reservation Business Committee.
- b.    **Authority of the Land Use Committee.** The Land Use Committee may recommend that the RBC grant a Variance for uses that otherwise would not be permitted 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.

**Section 902      Response; Conditions**

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

**Section 903      Resubmission**

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

**Section 904      Transferability**

The 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.

**Section 905      Public Notice**

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

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**CHAPTER 10**  
**SUBDIVISIONS**

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**Section 1001    Policy and Purpose**

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

**Section 1002    Permit Required**

After the effective date of this Ordinance, no person shall divide any lands under the jurisdictional authority of the Reservation so as to create a subdivision or any type of lot division without a permit from the Fond du Lac Land Use and Zoning Administrator.

**Section 1003    General Requirements**

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

**Section 1004    Other Considerations**

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

- a.    Susceptibility to flooding;
- b.    Existence of wetlands;

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

**Section 1005    Non-Transferability**

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

**Section 1006    Additional Conditions**

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

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

**Section 1007    Application Requirements**

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

- a. A letter of intent indicating the proposed use of the property;
- b. The legal description of the property;
- c. A Certificate of Survey by a registered land surveyor;

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

**Section 1008 Additional Application Requirements for Larger Subdivisions**

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

a. **General Requirements**

1. Location and extent of tree cover;
2. Location and extent of wetlands, streams and other waterbodies within and adjacent to the site, and the

distance of same from the existing and proposed lot lines;

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

#### **Section 1009 Review Procedure**

- a. The applicant shall meet with the Land Use and Zoning Administrator to discuss the proposal.
- b. The Land Use and Zoning Administrator shall recommend approval, conditional approval or denial to the Land Use Committee within sixty (60) days of meeting with the applicant or receiving the application, whichever is later.
- c. The Land Use Committee or RBC may hold a public hearing prior to making a decision.
  1. Notice of the public hearing shall be published in the FDL Newspaper and posted in the Fond du Lac Tribal Center Office Building, Land Use and Zoning Administrator's Office, and at each District Community Center. Notice shall be published and posted at least ten (10) days and not more than thirty (30) days prior to the hearing.
  2. Notice of the public hearing shall be mailed to all owners of property located within 1,200 feet of the outer boundaries of the property at least ten (10) days and not more than thirty (30) days prior to the hearing.

- d. The Land Use Committee shall act upon the petition within sixty (60) days of the Land Use and Zoning Administrator's recommendation. Failure of the Land Use Committee to act shall not mean approval.
- e. The Land Use Committee shall notify the applicant of its decision in writing within sixty (60) days of the hearing.
- f. No application for a Subdivision Permit shall be reconsidered by the Land Use Committee within a one (1) year period following denial of an application for the subdivision of the same, or substantially the same, parcel unless the Land Use Committee determines that new evidence or changed of circumstances warrants it.

**Section 1010 Termination of Subdivision Permits**

A Subdivision Permit shall terminate without further action by the Land Use and Zoning Administrator or Land Use Committee 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.

**Section 1011 Public Notice**

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

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CHAPTER 11  
COMMERCIAL AND INDUSTRIAL PERFORMANCE STANDARDS

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**Section 1101    Site Development Plan**

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

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

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

**Section 1102    Setbacks**

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

**Section 1103    Lighting**

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

**Section 1104    Noise**

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

**Section 1105    Odor**

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

**Section 1106    Vibration**

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

**Section 1107    Smoke**

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

**Section 1108    Vapors**

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

**Section 1109    Hazards**

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

**Section 1110    Access**

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

**Section 1111    Discharges**

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

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**CHAPTER 12**  
**NON-CONFORMING USES**

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**Section 1201    Continuances**

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.

**Section 1202    Abandonment**

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

**Section 1203    Alterations**

A non-conforming building or structure shall not be reconstructed or structurally altered unless that building or structure is brought into conformity with this Ordinance. Minor alterations, such as small unattached structures (not exceeding 100 square feet), exterior remodeling of existing structures, roofing, siding, window replacements and stops, shall not be subject to this requirement, but may require a Land Use Permit pursuant to Chapter 8 of this Ordinance.

**Section 1204    Enlargement**

A non-conforming building or structure shall not be added to or enlarged unless the additions or enlargements are made so as to bring the building or structure into conformity with this Ordinance. Minor enlargements, such as the addition of a small porch, deck or room (not exceeding 100 square feet), shall not be subject to this requirement, but may require a Land Use Permit pursuant to Chapter 8 of this Ordinance.

**Section 1205    Restoration**

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

**Section 1206    Maintenance**

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

**Section 1207    Extension**

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

**Section 1209    Movement**

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

**Section 1210    Non-conforming Lots**

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

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CHAPTER 13  
APPEALS

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Section 1301 Applicability

All appeals from any decision or action of the Land Use and Zoning Administrator, the Land Use Committee or Fond du Lac Reservation Business Committee shall be governed by this Chapter.

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

- a. Right of Appeal. The applicant, permit holder or any interested party may appeal to the Land Use Committee any decision by the Land Use and Zoning Administrator regarding a permit application or an Administrative Order. Appeals shall be in writing and shall be filed within thirty (30) days after the decision of the Land Use and Zoning Administrator.
  
- b. Duties of the Land Use Administrator. Within ten (10) days after the receipt of a notice of appeal filed pursuant to subsection (a), the Land Use and Zoning 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; and
  - (C) The memo of the Land Use and Zoning Administrator described in subsection (b) of this section.
2. Decision. The Land Use Committee shall issue a decision on an appeal within sixty (60) 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.

d. Expedited Appeal

- 1. Where there is a likelihood that the time required to complete the appeal process established by subsection 1302(c)(1) would result in substantial damage to persons, property, or natural resources, the Land Use Committee, on the petition of the Land Use and Zoning Administrator or the appellant, may order an expedited appeal with or without a public hearing. The Land Use Committee shall act on petitions for an expedited review within 48 hours of receipt. Where an expedited appeal is granted, the Land Use Committee shall issue its decision no later than seven (7) days after the petition is granted or after a public hearing, if any, is held.
- 2. Any public hearings ordered in connection with an expedited appeal shall be held no later than seven (7) days after the petition is granted. The Land Use Committee shall make reasonable efforts to notify interested parties, but notice shall be in the form and manner determined appropriate under the circumstances by the Land Use Committee.
- 3. The Land Use Committee shall base its decision on the record as described in subsection 1302 (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.

Section 1303 Appeals from a Decision of the Land Use Committee

- a. Authority of the Fond du Lac Reservation Business Committee. The Fond du Lac Reservation Business Committee may review, revise or reverse any decision of the Land Use Committee or Land Use and Zoning Administrator. In addition, the RBC may decide any question of interpretation arising under this Ordinance, including those involving measurement of setbacks from property lines, waterbodies and watercourses.
- b. Right of Appeal. Any applicant, permit holder or interested party may appeal a decision of the Land Use Committee to the Reservation Business Committee. Appeals shall be filed in writing within thirty (30) days of publication of the decision of the Land Use Committee.
- c. Procedure. Unless the RBC determines that a public hearing is necessary for the reasons stated in subsection 1302 (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 1302(c) (1), the transcript or other record of any hearing held by the Land Use Committee. Except in expedited appeals, the RBC shall issue its decision within sixty (60) days of filing the notice of appeal to the RBC or of any hearings ordered by the Reservation Business Committee, whichever is later.

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

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**CHAPTER 14**  
**ENFORCEMENT**

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**Section 1401    Remedies Available**

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

**Section 1402    Administrative Order**

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

**Section 1403    Revocation**

If the permit holder violates any conditions of a permit issued under this Ordinance, the Land Use Committee may recommend to that the RBC revoke the permit following a public hearing. The Land Use and Zoning Administrator may require that all activity cease pending the hearing and decision of the Land Use Committee and the RBC. The permit holder may demand an emergency public hearing pursuant to Section 1302(c)(2) of this Ordinance.

**Section 1404    Civil Penalties**

- a. Any person or organization who violates or fails to comply with the following shall:
  1. Any provision of this Ordinance or its requirements;

2. Any of the conditions established in connection with any Permit, Plan or Variance issued or approved under this Ordinance; or
  3. Any order issued pursuant to Section 1402.
- b. In addition, the Reservation Business Committee may pursue, through the Fond du Lac Tribal Court, the recovery of compensation 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; and
  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.

**Section 1405    Injunctions**

Violation of any provision of this Ordinance or failure to comply with any of its requirements or the conditions established in connection with any Permit, Plan or Variance issued or approved in this Ordinance, or with an order issued pursuant to Section 1402, may be enjoined by the Tribal Court in an action brought by the Reservation Business Committee in the name of the Band.

**Section 1406    Actions to Compel Performance in Tribal Court**

- a. The Reservation Business Committee may bring an action in the name of the Band in Fond du Lac Tribal Court to seek an order to compel:
1. Performance of an order issued pursuant to Section 1402;
  2. Compliance with any of the provisions or requirements of this Ordinance;
  3. Compliance with conditions established in connection with any permit, plan or variance issued or approved under this Ordinance.

- b. In any such action, the Tribal Court may require any defendant adjudged responsible to do and perform any and all actions necessary, which are reasonable and within the defendant's power, to accomplish the purposes of the Order, Provision, Permit, Plan or Variance.

CHAPTER 15  
AMENDMENTS OR RESCISSION

Section 1501 Amendments

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

Section 1502 Rescission

The Reservation Business Committee may rescind this Ordinance in its entirety by resolution.

CERTIFICATION

We do hereby certify that the foregoing Ordinance # 02/07 was duly presented and adopted by Resolution # 194/07 by a vote of 4 for, 0 against, 0 silent, with a quorum of 5 being present at a Special Meeting of the Fond du Lac Reservation Business Committee held on May 31, 2007 on the Fond du Lac Reservation.

Karen R. Diver

Karen R. Diver,  
Chairwoman

Ferdinand Martineau, Jr.

Ferdinand Martineau, Jr.,  
Secretary/Treasurer

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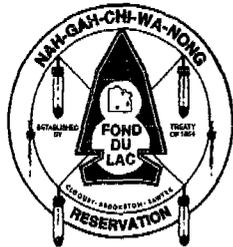
# Fond du Lac Reservation

## Business Committee

1720 Big Lake Rd.  
Cloquet, MN 55720  
Phone (218) 879-4593  
Fax (218) 879-4146

RESOLUTION # 1194/07

The Fond du Lac Reservation Business Committee, on behalf of the Fond du Lac Band of Lake Superior Chippewa, hereby enacts the following Resolution:



Chairwoman  
Karen R. Diver

Secretary/Treasurer  
Ferdinand Martineau, Jr.

Dist. I Councilman  
Eugene Reynolds

Dist. II Councilperson  
Sandra M. Shabiash

Dist. III Councilman  
Roger "Bouda" Smith, Sr.

WHEREAS, the Fond du Lac Reservation is a sovereignty, created by the Treaty of September 30, 1854, 10 Stat. 1109, as the permanent home of the Fond du Lac Band of Lake Superior Chippewa, which possesses the inherent jurisdiction and authority to exercise regulatory control within the boundaries of the Fond du Lac Reservation; and

WHEREAS, it is the sovereign obligation of the Fond du Lac Reservation Business Committee, as the Governing Body of the Fond du Lac Band, under the Indian Reorganization Act, 25 U.S.C. § 461 et seq., and in accordance with the Indian Self-Determination Act, 25 U.S.C. § 450 et seq., to assume the responsibilities of self government; and

WHEREAS, the Reservation Business Committee has determined it to be necessary and in the best interests of the Fond du Lac Band to establish land use standards for lands which are under the regulatory jurisdiction of the Fond du Lac Band; and

WHEREAS, towards that purpose, the Reservation Business Committee has developed a Land Use Ordinance;

NOW THEREFORE BE IT RESOLVED, that the Fond du Lac Reservation Business Committee hereby enacts Fond du Lac Ordinance # 02/07, to become effective immediately.

### CERTIFICATION

We do hereby certify that the foregoing Resolution was duly presented and acted upon by a vote of 4 for, 0 against, 0 silent, with a quorum of 3 being present at a Special Meeting of the Fond du Lac Reservation Business Committee held on May 31, 2007 on the Fond du Lac Reservation.

  
Karen R. Diver  
Chairwoman

  
Ferdinand Martineau, Jr.  
Secretary/Treasurer