

TRIBAL CODE

CHAPTER 60:

LAND USE ORDINANCE

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HISTORY NOTE:

Current Ordinance:

Adopted by Tribal Resolution 8-23-88F, August 23, 1988, effective immediately.

Reenacted in Tribal Code format as part of the Tribal Code on July 5, 1995, Resolution No. 95-89, effective immediately.

Prior Actions:

Tribal Resolution 4-05-88, adopted April 5, 1988, established a Tribal zoning commission charged with the preparation of a land use ordinance.

Amendments:

Tribal Resolution 2005-101, adopted June 21, 2005, adds Subchapter IX, Odenanng Housing Development Restrictions.

TRIBAL CODE

CHAPTER 60:

LAND USE ORDINANCE

SUBCHAPTER I: PREAMBLE

60.101 Short Title.

This ordinance shall be known as the Sault Ste. Marie Tribe of Chippewa Indians Land Use Ordinance, Tribal Code Chapter 60.

60.102 Purposes.

The fundamental purpose of this ordinance is to promote the public health, safety, morals and general welfare. The provisions are intended to:

(1) encourage the use of lands and natural resources of the Tribe in accordance with their character and adaptability;

(2) limit the improper use of Tribal land;

(3) reduce hazards to life and property;

(4) provide for the orderly development of the Tribe;

(5) avoid overcrowding the population, to provide for adequate light, air and to lessen congestion on the public roads and streets;

(6) protect and conserve natural recreational areas, agricultural areas, residential areas and other areas naturally suited to particular use to facilitate the establishment of an adequate and economic use of transportation, sewage disposal, safe water supply, education, recreation and other public requirements;

(7) conserve expenditure of funds for public improvements and services to conform with the most advantageous uses of land, resources and properties; and

(8) promote the best uses of Tribal land and resources by both the community in general and the individual inhabitant.

60.103 General Procedure.

To achieve the purposes of this ordinance, Tribal land has been divided into zoning districts of varied shape, kind and area, with regulations adopted for each such district, but with due consideration for the character of each district, its peculiar suitability for particular purposes, the conservation of property values and natural resources, and the general trend and character of land, buildings and population development.

SUBCHAPTER II: DEFINITIONS

60.201 General Provisions.

For the purpose of this ordinance, certain terms are defined in this Subchapter. When not inconsistent with the context, words used in the present tense include the future, words in the singular number include the plural number, words in the plural number include the singular number, and words in the masculine gender include the feminine gender. The word "shall" is always mandatory and not merely directory.

60.202 Accessory Building.

"Accessory Building" means a supplemental building or structure on the same lot, or part of the main building occupied or devoted exclusively to an accessory use.

60.203 Accessory Use.

"Accessory Use" means a use naturally and normally incidental to, subordinate to, and devoted exclusively to the main use of the land or building.

60.204 Alley.

"Alley" means a public thoroughfare or way not less than thirty (30) feet wide and which affords only a secondary means of access to abutting property.

60.205 Altered.

"Altered" means any change in the location or use of the building or structure and/or any change in the construction or the structural members of a building or structure such as bearing walls, columns, posts, beams, girders and similar components.

60.206 Basement and Cellar.

(1) "Basement" means that portion of a building partly below the grade but so located that the vertical distance from average grade to the floor is not greater than the distance from the average grade to the ceiling.

(2) "Cellar" means that portion of a building partly below grade but so located that the vertical distance from the average grade to the floor is greater than the vertical distance from the average grade to the ceiling.

60.207 Boarding House.

"Boarding House" means primarily a family dwelling where meals with or without lodging are furnished for compensation on a weekly or monthly basis to three or more persons who are not members of the family occupying and operating the premises, but not necessarily to anyone who may apply.

60.208 Building.

"Building" means any structure, either temporary or permanent, having a roof and used or built for the shelter or enclosure of persons, animals, chattels or property of any kind. This shall include tents, awnings, vehicles whether mounted or not on wheels and situated on private property and used for purposes of a building.

60.209 Building, Height of.

"Building, Height of" means the vertical distance from the established grade at the center of the front of the building, to the highest point of the roof surface if a flat roof, to the deck line for mansard roofs, and to the mean height level between eaves and ridge for gabled, hip and gambrel roofs.

60.210 [reserved for future use]

60.211 [reserved for future use]

60.212 Dwelling.

"Dwelling" means any building or structure, or part thereof, occupied as the home, residence or sleeping place of one or more persons either permanently or transiently except cabins and trailer coaches. Where only part of a building or structure is occupied for dwelling purposes, the part so occupied shall comply with all provisions applicable to dwellings in the district in which said building or structure is located except where specific

exemption is provided by other sections of this ordinance. The various types of dwellings as used in this ordinance are as follows:

(1) "One-family dwelling" means a dwelling occupied by but one (1) family, and so designed and arranged as to provide living, cooking and kitchen accommodations for one (1) family only.

(2) "Two-family dwelling" means a dwelling occupied by but two (2) families and so designed and arranged as to provide independent living, bath and kitchen accommodations for two (2) families only.

(3) "Multiple family dwelling" means a dwelling occupied by more than two families so designed and arranged as to provide independent living, bath and kitchen facilities for each such family.

60.213 Erected.

"Erected" includes built, constructed, reconstructed, moved upon or any physical operations on the land required for building. Excavations, fill drainage and the like shall be considered part of the erection.

60.214 Essential Services.

"Essential Services" means the erection, construction, alteration or maintenance by public utilities or municipal departments or commissions, of underground or overhead gas, electrical, steam or water transmission or distribution system, collection, communication, supply or disposal system, including poles, wires, mains, drains, sewers, pipes, conduits, cables, towers, fire alarm boxes, traffic signals, hydrants, and other similar equipment and accessories in connection therewith, but not including buildings, reasonably necessary for the furnishing of adequate service of such public service by such public utilities or municipal departments or commissions or for the public health or safety or general welfare.

60.215 Family.

"Family" means any number of individuals living together and cooking together on the premises as a single non-profit housekeeping unit, as distinguished from a group occupying a hotel club or similar structure, together with all necessary employees of the family.

60.216 Farm.

"Farm" means all of the unplatted contiguous neighboring or associated land operated as a single unit on which bona fide farming is carried on directly by the owner-operator, manager, or tenant-farmer by his own labor or with the assistance of members of his household or hired employees; provided, however, the land to be considered a farm hereunder shall include a contiguous unplatted parcel of not less than five (5) acres in area; provided, further, that greenhouses, nurseries, orchards, apiaries, chicken hatcheries, poultry farms and similar specialized agricultural enterprises may be considered as farms; but establishments keeping or operating fur-bearing animals, game, fish hatcheries, dog kennels, stock yards, slaughter houses, stone quarries, or gravel or sand pits shall not be considered farms hereunder unless combined with and constituting only a minor part of bona fide farm operations on the same contiguous tract of land. Nor shall the premises operated as fertilizer works, bone yards, piggeries or for the reduction of animal matter, or for the disposal of garbage, sewage, rubbish, offal or junk constitute a farm hereunder.

60.217 Farm Building.

"Farm Building" means any building or structure, other than a dwelling, move upon, maintained, used or built on a farm which is essential or customarily used on farms in the pursuit of agricultural activities.

60.218 Farm Dwelling.

"Farm Dwelling" means any dwelling located on a farm as defined by this ordinance and occupied as the home, residence or sleeping place of the owner-operator, manager or tenant farmer of that farm.

60.219 Garage, Private and Commercial.

(1) "Private Garage" means any building, or part thereof, not over one story or fifteen (15) feet in height for storage of motor vehicles or trailer coaches where no servicing for profit is conducted.

(2) "Commercial Garage" means any garage other than a private garage.

60.220 Highway.

"Highway" means any public thoroughfare in the Tribal road system, or any county, federal or state road and highway, whether of depressed surface or elevated construction.

60.221 Home Occupation.

"Home Occupation" means a gainful occupation conducted by members of the family only within its place of residence; provided, that the space used is incidental to residential use and that no article is sold or offered for sale except such as is produced by such home occupation; and provided further, that there is no external display of such articles. Clinics, hospitals, barber shops, tea rooms, tourist homes, animal hospitals, animal boarding establishments or the production of any kind of livestock shall not be deemed home occupations.

60.222 Junk Yard.

"Junk Yard" means any parcel of land maintained or operated for the purchase, sale, storage, dismantling, demolition, or use of junk including scrap metals, motor vehicles, machinery, and building and construction materials, or parts thereof.

60.223 Junk.

"Junk" means worn out and discarded material that may be returned to some use, and rubbish of any kind.

60.224 Lot.

"Lot" means the parcel of land on which one (1) principal building and its accessories are located or intended to be located together with any open space required by this ordinance.

60.225 Lot Lines.

(1) "Front lot line" means the line dividing a lot from a street. On a corner lot only one street line shall be considered as a front line and the shorter street line shall be considered the front lot line. In the event that any lot, as defined by this ordinance, fronts upon a right-of-way, then the right-of-way line crossing such lot shall be deemed the front lot line.

(2) "Rear lot line" means the line opposite the front lot line.

(3) "Side lot line" means any lot line other than the front lot line or the rear lot line.

60.226 Mobile Home.

"Mobile Home" means any vehicle used or so constructed as to permit its being used upon the public streets or highways and duly licensable as such, and shall include self-propelled and non-self-propelled vehicles so designed, constructed, reconstructed or added to by means of enclosed room or area in such manner as will permit the occupancy thereof as a dwelling or sleeping place for one or more persons, whether mounted on wheels or dismounted and located on a foundation or other support.

60.227 Mobile Home Park.

"Mobile Home Park" means any site, lot, field, tract, or parcel of land which is utilized by three (3) or more occupied mobile homes either free of charge, or for revenue purposes, and shall include any building, structure, tent, vehicle, or enclosure used or intended for use as a part of the equipment of such mobile home park.

60.228 Motel.

"Motel" means a building made up of two or more separate living or sleeping quarters used independently of each other and used principally for overnight accommodations.

60.229 Non-Conforming Structure.

"Non-Conforming Structure" means a structure conflicting with a provision of this ordinance.

60.230 Non-Conforming Use.

"Non-Conforming Use" means the use of a structure or land conflicting with the provisions of this ordinance.

60.231 Public Utility.

"Public Utility" means any person, firm, corporation, municipal department or board duly authorized to furnish and furnishing under municipal regulation to the public transportation, water, gas, electricity, telephone, steam, telegraph, or sewage disposal and other services.

60.232 Restaurant.

"Restaurant" means a business located in a building wherein in consideration of payment of money, meals are habitually prepared, sold and served to person for consumption on or off the premises, having suitable kitchen facilities connected therewith containing conveniences for cooking an assortment of foods which may be required for ordinary meals and deriving the major portion of its receipts from the sale of food.

60.233 Retail Commercial Establishment.

"Retail Commercial Establishment" means a store, market, or shop in which commodities or services are sold or offered for sale in small or large quantities to the retail trade. Grocery and general stores, meat markets, public garages, and automobile service stations are included in this classification.

60.234 Roadside Stand.

"Roadside Stand" means a farm structure used or intended to be used solely by the owner or tenant of the farm on which it is located for the sale of only the seasonal farm products of the immediate locality in which the roadside stand is located.

60.235 Story.

"Story" means that part of a building included between the surface of any floor and the surface of the next floor or of the roof next above. When the distance from the average established grade to the ceiling of the story partly below such grade exceeds five (5) feet then the basement or cellar constituting the story partially below grade shall be constituted as a story.

60.236 Story, Half.

"Half Story" means a story which is situated within a sloping roof, the area of which at a height of four (4) feet above the floor does not exceed two-thirds (2/3) of the floor area directly below it, wherein living quarters are used only as a part of the dwelling situated in the story below.

60.237 Street.

"Street" means a public thoroughfare which affords a principal means of access to abutting property.

60.238 Structure.

"Structure" means any construction artificially built up or composed of parts joined together in some definite manner.

60.239 Tavern.

"Tavern" means a place where malt, vinous, or spirituous liquors are sold for consumption on the premises is defined as a tavern for the purpose of this ordinance.

60.240 Temporary Business.

"Temporary Business" means a business set up for a short period of time, such as asphalt plant, construction equipment yard, circus, carnival, stone crusher, etc.

60.241 Tent.

As employed in this ordinance, the term "tent" shall not include any tent used solely for children's recreational purposes.

60.242 Tourist Home.

"Tourist Home" means primarily a family dwelling where lodging with or without meals is furnished for compensation chiefly on an overnight basis and mainly to transients, but not necessarily to anyone who may apply.

60.243 Tribal Board.

"Tribal Board" means the Board of Directors of the Tribe, the Tribe's governing body elected pursuant to the Tribal Constitution.

60.244 Tribal Land.

"Tribal Land" means the area over which the Tribe exercises criminal or civil regulatory jurisdiction, and includes the following:

- (1) all land within the exterior boundaries of the Tribe's reservation; and
- (2) all lands held in trust for the Tribe by the United States; and
- (3) all lands owned by the Tribe which are 'dependent Indian communities' under 18 U.S.C. §1151.

60.245 Tribe.

"Tribe" means the Sault Ste. Marie Tribe of Chippewa Indians.

60.246 Use.

"Use" means the purpose for which land or a building thereon is designed, arranged, or intended to be occupied or used, or for which it is occupied or maintained.

60.247 Yard.

"Yard" means a space open to the sky and unoccupied or unobstructed, except by encroachments permitted by this ordinance, on the same lot with a building or structure. Yard measurements shall be the minimum horizontal distances.

(1) "Front Yard" means a yard extending across the full width of the lot between the front lot line and the nearest line of the main building.

(2) "Rear Yard" means a yard extending across the full width of the lot between the rear lot line and the nearest line of the main building.

(3) "Side Yard" means a yard extending from the front yard to the rear yard between the side lot line and the nearest line of the main building or accessory building attached thereto.

SUBCHAPTER III: GENERAL PROVISIONS

60.301 Scope.

Beginning with the effective date of this ordinance, and except as otherwise provided in this ordinance, no new building, or structure, or part thereof, shall be erected, and no existing building or structure shall be enlarged, rebuilt, or altered, and no building, structure, land premises, or part thereof shall be used on Tribal land for purposes other than in conformity with the provisions of this ordinance pertaining thereto.

60.302 Boundaries of Districts.

The boundary lines of districts established in this ordinance or set forth on the boundary lines of the zoning map adopted pursuant hereto, follow along the boundary lines

of approved plats, property lines established in recorded instruments, the shoreline of waterways, the exteriors of such lines, and similar lines, unless a contrary intent appears.

60.303 Conflicting Laws, Ordinances, Regulations, and Restrictions.

(1) It is not intended by this ordinance to repeal, abrogate, annul or in any way impair or interfere with any existing provisions of the law or ordinances, or any rules, regulations or permits previously adopted or issued pursuant to law relating to the erection or use of buildings of land; nor is it intended by this ordinance to interfere with or abrogate or annul any existing easements, covenants or other agreements between parties; provided, however, that where any provisions of this ordinance imposes more stringent requirements, regulations restrictions or limitations upon the erection or use of land or buildings, or upon the height of buildings and structures, or upon safety and sanitary measures or requires larger yard or open spaces than are imposed or required by the provisions of any other law or ordinance or any said rules, regulations, permits, or easements, then the provisions of this ordinance shall govern.

(2) The requirements of this ordinance are to be construed as minimum requirements, and shall in no way impair or affect any covenant or restriction running with the land, except where such covenant or restrictions imposes lesser requirements.

60.304 Uses of Non-Conforming Land, Buildings and Structures.

(1) At the discretion of the owner, the lawful use of any building, structure, land or premises on Tribal land existing prior to the effective date of this ordinance, although the use does not conform to the provisions of this ordinance, may be continued, and such use of any building may be extended throughout said building, provided no structural changes be made therein, except those required for safety.

(2) Whenever the non-conforming use of any building, structure, land or premises or part thereof is discontinued through vacancy, lack of operations or otherwise for a continuous period of twelve (12) months, then any future use of said building, structure, land or premises shall conform, in its entirety, to the provisions of this ordinance; provided, however, the Board of Appeals may, upon application within six (6) months after the termination of said period, permit the resumption of such non-conforming use.

60.305 Reconstruction of Damaged Non-Conforming Buildings and Structures.

Nothing in this ordinance shall prevent the reconstruction, repair or restoration and the continued use of any non-conforming building or structure by fire, collapse, explosion,

acts of God, or acts of the public enemy, subsequent to the effective date of this ordinance, wherein the expense of such reconstruction does not exceed sixty (60) percent of the fair valuation of the building or structure at the time such damage occurred; provided, that such valuation be approved by the Zoning board of the property, and provided further, that said be identical with the non-conforming use permitted and in effect at the time of said damage.

60.306 Repair, Alteration and Completion of Non-Conforming Buildings and Structures.

(1) Nothing in this ordinance shall prevent the repair, reinforcement, improvement, or rehabilitation of a non-conforming building, structure or part thereof existing at the effective date of this ordinance, that may be necessary to secure or insure the continued advantageous use of the building or structure during its natural life; provided, that such repairs, reinforcement, improvements or rehabilitation proposes no change in the use of said building or part thereof.

(2) Nor shall anything in this ordinance require any change in the plans, construction or intended use of a building for which plans have been prepared heretofore and the construction of which shall have been diligently prosecuted within one (1) month of the date of passage of this ordinance, and which has been completed within twelve (12) months after the date of passage of this ordinance.

(3) No basement, cellar, garage or any incompletely constructed structure in use as a dwelling on the effective date of this ordinance shall be used as a dwelling for more than twenty-four (24) months following said date, unless such structure has been brought to a state of completion in conformity with the regulations of this ordinance relative to dwellings in the district in which such structure is located.

60.307 Yard and Area Requirements.

(1) Where a lot abuts upon an alley, one-half (1/2) of the width of said alley may be considered a part of such lot for the purpose of computing the area of such lot and for the purpose of computing the depth of any rear yard required under this ordinance.

(2) Where shape of lot or other circumstances result in conditions to which the provisions of this ordinance governing yard requirements are inapplicable, the Board of Appeals shall prescribe such yard requirements.

60.308 Limitations of Dwelling Per Lot.

Only one single-family, two family, or multiple family dwelling shall be erected on a lot or as provided hereafter in this ordinance.

60.309 Vehicular Parking Space.

For each dwelling, commercial, industrial, manufacturing, or other similar business or service establishments hereafter erected or altered, and located on a public highway, road or street on Tribal land, and including buildings or structures used principally as a place of public assembly, there shall be provided and maintained suitable space off the public right-of-way that is in general adequate for the parking or loading of vehicles in proportions shown on the following table and such space shall be provided with safe exit to and safe entrance from the public thoroughfare, but not to exceed one (1) such exit and entrance. Said exit and entrance may be combined or provided separately. Approval for the location of such exit and entrance shall be obtained from the Michigan Highway Department for all highways and roads within their jurisdiction, and from the Tribe for all other streets and roads, which approval shall also include the design and construction thereof in the interest of safety, adequate drainage and other public requirements. A minimum of two hundred (200) square feet, exclusive of drive, entrances and exits shall comprise one (1) automobile space. All parking space as required in this section, except that required for a dwelling, shall be provided with adequate artificial lighting between any time extending from one half hour after sunset to one half hour before sunrise when the use of such space is open to the public.

<u>USE</u>	<u>MINIMUM SPACES PER UNIT</u>
(1) Banks, business offices, and professional offices of architects, engineers, lawyers, and similar professionals.	One for each four hundred (400) square feet of usable space.
(2) Barber shops and beauty parlors.	Two for each beauty or barber shop chair.
(3) Bowling alleys.	Five for each bowling lane.
(4) Churches, theaters, and auditoria.	One for each 100 square feet of usable floor space.
(5) Community clubs, dance halls, fraternal organizations, private clubs.	One for each 100 square feet of usable floor space.
(6) Dwellings.	Two for each family.
(7) Hospitals, clinics and similar establishments.	One for each 4 beds, and one for each two employees and/or staff members.
(8) Laundromats.	One for each 2 wash machines.
(9) Professional offices of doctors, dentists and similar professions.	One for each 100 square feet of usable floor area, and not less than 4 spaces, whichever is greater.
(10) Restaurants and similar establishments for sale and service of food and drinks.	One for each 100 square feet of usable floor space.

(11) Retail stores.

One for each 150 square feet
of usable floor space.

(12) Tourist, boarding and lodging
homes.

One for each guest room.

(13) Every building or structure engaged in loading goods shall provide space on the premises in addition to that required for parking for the loading, unloading, and standing of all vehicles, in addition to that required for parking, as hereinbefore provided, to avoid undue interference with public use of public highways.

60.310 Temporary Dwelling Structures.

(1) No building, mobile home, garage, tent, cellar, basement or other structure which does not conform to the provisions of this ordinance relative to dwellings shall be erected, altered or moved upon any premises and used for dwelling purposes except under the following applicable limitations.

(2) Such use of any such building, mobile home, tent, garage, basement, or other structure shall not be inimical to health, safety or the public welfare.

(3) The location of each such building, garage, cellar, basement, or other structure shall conform to the regulations governing the yard requirements governing dwellings or similar conformable structures in the district in which it is situated.

(4) Such use of any building, mobile home, tent, garage, cellar, basement, or other structure shall be for the sole purpose of providing dwelling facilities for the owner of premises during the period during which a dwelling conforming to the provisions of this ordinance is in the process of erection and completion; provided, however, that such a period shall not exceed twelve (12) months beginning with the date of issuance of the permit therefor.

(5) Application for the erection, movement, alteration and use of such building, mobile home, tent, garage, basement or other structure shall be made to the Building Administrator as provided by §60.504. Upon filing of such application with the Administrator, he shall refer the application to the Zoning Board for approval under the procedures and provisions of §60.501 for the granting of non-conforming use permits. On approval and delivery of the permit, the applicant shall certify in a space allotted for that purpose on the copy of the permit retained for filing that he has knowledge of the limitations of the permit and the penalty pertaining thereto. No permit shall be transferable to any other person. The conditions of this section shall not apply to any mobile home when located in a mobile home park.

(6) Appropriate application forms for such permits shall be furnished by the Building Administrator upon the payment of a non-refundable fee of fifty (50) dollars.

60.311 Mobile Home Parks.

No parcel of land or premises shall be used for a mobile home park without compliance with the following regulations:

(1) The location and operation of such a park shall not tend to produce noise or annoyance or prove otherwise injurious to the surrounding neighborhood, nor be inimical to the public health, safety or general welfare of the community, nor be contrary to the purposes of this ordinance.

(2) Such park shall be provided with not more than one (1) safe entrance from and one (1) safe exit to the public highway or street.

(3) Application for a permit to erect such a park shall be made in writing to the Building Administrator as provided by §60.504, who shall refer the same to the Zoning Board for approval under the procedures and provisions of §60.501 for the granting of non-conforming use permits. The application shall show the location and extent of the proposed park, and such additional information as the Zoning Board may deem essential to take proper action on the application.

60.312 Combination Business and Dwelling Buildings and Structures.

Each building or structure used for combined dwelling and business purposes shall provide an area of not less than four hundred eighty (480) square feet for that part used for dwelling purposes.

60.313 Water Supply and Sewage Disposal.

(1) Every living unit shall have available a supply of water obtained from either:

- (a) a public or municipal supply, if available; or
- (b) a drilled, driven or dug well, if public water supply is unavailable.

(2) Every building or structure hereafter erected on any premises and used in whole or in part for human occupancy or frequency shall be provided with a safe and sanitary water supply, a hook-up to a municipal sewage disposal system or, if such service is unavailable, a septic tank system of sewage disposal, and a system of waste disposal erected and maintained in accordance with the standards of material and installation recommended by the Indian Health Service.

(3) Where land conditions are inadequate for the erection and maintenance of a safe sewage disposal system, special means shall be provided to safeguard health conditions, which means shall be approved by the Indian Health Service.

60.314 Interior Plumbing.

The installation of all interior plumbing shall comply with the provisions of any applicable code.

60.315 Essential Services.

Essential services as defined in this ordinance shall be permitted as authorized and regulated by law, it being the intention hereof to exempt such services from the application of this ordinance.

60.316 Temporary Business.

A business as described in §60.240 but not limited to those listed setting up on Tribal land, whether on private or public property, must obtain a permit from the Building Administrator prior to the date of setup.

SUBCHAPTER IV: DISTRICTS

60.401 Zoning Districts.

For the purpose of this ordinance, Tribal land is hereby divided into zoning districts to be known as residential, recreational, industrial, governmental, and commercial, the locations of which are shown on the Zoning Maps.

60.402 District Maps.

The areas assigned to these districts, the designation of the same and the boundaries of said districts shown on the map, said map being designated as the "Sault Ste. Marie Tribe of Chippewa Indians Zoning Maps", are hereby established and made a part of this ordinance, and said map and the proper notations, references and other information shown

thereon, shall be as much a part of this ordinance as if the matters and information set forth by said map were fully described herein.

60.403 Residential Districts.

The following regulations shall apply to all Residential Districts.

(1) No building or structure, or any part thereof, shall be erected, altered or used, or land or premises used, in whole or in part, except by permit, for other than one or more of the following specified uses:

(a) Detached one-family dwellings.

(b) Home occupations; provided, however, that there be no external evidence of such operation except a small sign not exceeding twelve (12) square feet in area, which sign may be lighted but cannot be a flashing or blinking type of lighting. Lights will be directed so as not to bother the persons next door or any traffic on the street.

(c) Churches; schools; publicly owned buildings; public utility buildings; telephone exchanges and substations with service or storage yards; community clubs; country clubs; fraternal lodges and similar civic or social organizations when not operated for profit; land for privately owned and operated parks, picnic groves, golf courses, or similar facility for outdoor exercise and recreation which may or may not be operated for profit; provided, however, that the use of any such structure or land does not tend to produce objectionable noise of annoyance or prove otherwise injurious to the surrounding neighborhood and is not contrary to the spirit of this ordinance. Application for the location, erection, alteration or use of such land, building or structure shall be made to the Building Administrator as provided in §60.504, who shall refer the application to the Zoning Board under the provisions and procedures of §60.501 for the granting of non-conforming use permits.

(d) Multiple family dwellings are permitted in residential districts when authorized by permit issued by the Building Administrator under the procedures provided by §60.504.

(e) Two family dwellings are permitted in residential districts when authorized by a permit issued by the Building Administrator under the procedures provided in §60.504.

(f) Mobile homes may be occupied as a single family dwelling on a residential district, provided they comply with the following requirements:

(i) Only one mobile home is permitted on any lot, subject to applicable setback requirements.

(ii) Each mobile home shall be fixed upon a permanent foundation and set upon concrete block around the perimeter of such mobile home at least four blocks in height.

(iii) Mobile homes smaller than 12' x 60' are prohibited.

(2) No dwellings, except accessory dwellings, shall be erected or altered which provide less than seven hundred twenty (720) square feet of floor area, exclusive of any garage area or area in any accessory building, except for mobile homes which will have a minimum of seven hundred twenty (720) square feet (12' x 60').

(3) No other building hereafter erected or altered shall exceed two and one-half (2 1/2) stories or thirty (30) feet in height.

60.404 Agricultural Districts.

The following regulations shall apply to all Agricultural Districts:

(1) No building or structure, or part thereof, shall be erected, altered, or used or land or premises used, in whole or in part, for other than one or more of the following specified uses:

(a) Farm dwellings, farm buildings and structures including roadside stands, home occupations and portable sawmills.

(b) Farms, including both general and specialized farming and similar agricultural enterprises.

(c) Tourist homes, boarding houses, lodging houses when situated in farm dwellings.

(d) Fire control structures, airfields and ports, stone quarries, gravel or sand pits, churches, schools, publicly owned buildings, hospitals and institutions of similar nature, telephone exchanges and substations, community clubs, country clubs, fraternal lodges, and similar civic or social organizations, land for parks, picnic groves, golf courses, and similar facilities for outdoor exercise and recreation; provided, however, that the use of any such building, structure or land does not tend to produce noise or annoyance or prove otherwise injurious to the surrounding neighborhood and is not contrary to the purpose of this ordinance as set forth in the preamble. Application for the location, erection, alteration or use of such land, building or structure shall be made to the Building Administrator as provided in §60.504, who shall refer the application to the Zoning Board for its recommendation and approval by the Tribal Board under the provisions and procedures of §60.501 for the granting on non-conforming use permits.

(e) Accessory uses, buildings and structures incidental to any of the above permitted uses, including dwellings for the use of domestic employees, hired farm labor or tenants of the owner or lessee of the principal dwelling on the lot or farm.

(f) One one-family dwelling per farm in addition to any accessory dwellings, but subject to the following conditions:

(i) Such additional dwelling shall be located on a parcel of land other than that occupied by the farm dwelling and any accessory dwellings.

(ii) Such parcel shall have an area of not less than five (5) acres.

(iii) The acreage of said parcel shall be other than and in addition to the minimum of five (5) acres required for said farm under the provisions of §60.216 and §60.218.

(2) No dwelling may be erected or altered which provides less than seven hundred twenty (720) square feet of floor space, exclusive of any garage area or area of any accessory building, except for mobile homes which shall have a minimum size of 12' x 60'.

60.405 Recreational Districts.

No building, structure or part thereof shall be erected, altered, or used, or land or premises occupied in a Recreational District except by permit, authorized by special application under the procedures provided by §60.501.

60.406 Industrial Districts.

No building, structure or part thereof shall be erected, altered or used, or land or premises occupied in an Industrial District except by permit, authorized by special application under the procedures provided by §60.501. If use as a permanent residence is authorized, such dwelling shall be erected under the requirements pertaining to Residential Districts.

60.407 Governmental Districts.

No building, structure or part thereof shall be erected, altered or used, or land or premises occupied in a Governmental District except by permit, authorized by special application under the procedures provided by §60.501. If use as a permanent residence is authorized, such dwelling shall be erected under the requirements pertaining to Residential Districts.

60.408 Commercial Districts.

No building, structure or part thereof shall be erected, altered or used, or land or premises occupied in a Commercial District except by permit, authorized by special application under the procedures provided in §60.501.

SUBCHAPTER V: ADMINISTRATION AND ENFORCEMENT

60.501 Permissive Uses Requiring Application.

(1) The use of any building, structure or land not otherwise permitted under the provisions of this ordinance for use as a business or commercial establishment including trailer parks and cabin camps or other non-conforming use which does not tend to constitute a nuisance or prove otherwise injurious to the surrounding neighborhood and is not contrary to the purposes of this ordinance as set forth in the preamble may be permitted upon proper application and approval as provided in this section.

(2) Application for a permit for the location, erection, alteration or use of such land, building or structure shall be made as provided in §60.504 to the Building Administrator, who shall refer the application to the Tribal Zoning Board for its recommendation.

(3) The Tribal Zoning Board shall fix a time for hearing such application and shall give notice thereof by two (2) publications in a newspaper of general circulation; the first to be printed not more than thirty (30) days nor less than ten (10) days and the second not more than five (5) days before the date of such hearing.

(4) Upon the hearing any party may appear in person or by agent or attorney.

(5) Following the hearing, the Tribal Zoning Board shall make written recommendations to the Tribal Board to grant or deny the permit or to modify the application as in its opinion ought to be made in the premises.

(6) The Tribal Board, at its next regular or special meeting called for the purpose, shall either approve or deny the application and in the event of approval shall authorize the issuance of the permit.

60.502 Building Administrator.

(1) The provisions of this ordinance shall be administered by the Building Administrator.

(2) The duty of enforcing this ordinance shall rest with the Building Administrator including, unless otherwise provided, the issuance and revocation of permits. He shall prepare and file an annual report with the Tribal Board on the operation of the ordinance including recommendations as to the enactment of any amendments or supplements thereto. The Tribal Board shall designate the Building Administrator for a period of two (2) years by appointment.

60.503 Record of Non-Conforming Uses.

(1) Immediately following the effective date of this ordinance, the Building Administrator shall prepare a record of all instances of uses, location, size and construction of buildings, structures, premises, lots and lands which, on the effective date of this ordinance, are not in conformity with its provisions. Such record shall contain the legal description of the property and the nature and extent of all non-conformities, and on completion be deposited in the Building Administrator's office.

(2) As soon as the record is completed, the Building Administrator shall provide for the examination thereof in his office for thirty (30) successive days by any interested persons for the purpose of noting errors or omissions, and shall give notice of the provision for examination by publication in a newspaper of general circulation in the county for three (3) consecutive weeks.

(3) Errors and omissions in such record shall be corrected upon appeal and presentation of proof to the Tribal Board during its first session following the close of said examination period, following which the corrected record shall be permanently filed in the office of the Building Administrator. The corrected record shall constitute prima facie evidence of the nature and extent of non-conformance with reference to any land, premises, lot, building or structure existing at the time this ordinance becomes effective.

(4) Following the filing of the corrected record of non-conforming uses, it shall be the duty of the Building Administrator to observe these non-conformances and to report annually to the Tribal Board on the discontinuance of any non-conformance, including the date thereof. Such reports shall be kept on file with the Building Administrator.

60.504 Building Permits.

(1) Except as otherwise provided, no dwelling or building subject to the provisions of this ordinance shall be erected, altered, enlarged, or moved upon any land, lot or premises until a permit therefor has been issued by the Building Administrator in conformity with the provisions of this ordinance. Such permit shall be non-transferable and must be granted before any work of excavation, construction, alteration, enlargement or movement is begun.

(2) All applications for permits shall be submitted in duplicate to the Building Administrator not less than fifteen (15) days prior to the time when erection, alteration,

enlargement or movement of a dwelling or building is intended to begin. Such application shall be accompanied by a duplicate drawing to scale showing:

(a) the location and actual dimensions of the land to which the permit is to apply;

(b) the kind of building to be erected;

(c) the width of all abutting streets and highways, easements and public open spaces;

(d) the area, size and location of all dwellings or buildings erected or to be erected, altered or moved upon the premises;

(e) the front yard dimensions for the nearest building on both sides of the proposed dwelling or building;

(f) the location, dimensions and description of the water supply and sewage disposal facilities to be constructed, such as septic tanks and disposal fields, privies, or any other facility used in the disposition of human excreta, sink wastes and laundry wastes;

(g) the location of existing wells on the premises adjoining the premises to be built upon; and

(h) the location of existing sewage disposal facilities on such adjoining premises.

(3) The Building Administrator is hereby empowered to waive the inclusion of any details specified in sub. (2) in the case of any application where the facts are not pertinent to the purpose of this ordinance.

(4) Nothing in this section shall be construed as to prohibit the owner or his agent from preparing his own plans and specifications, provided the same are clear and legible.

(5) For each such building permit issued, a fee set by the Tribal Board shall be paid to the Treasurer who shall place the same in a separate fund to be known as the Land Use Ordinance Fund, which fund shall be used for the administration of this ordinance only, as directed by the Tribal Board. No permit shall be valid until the required fee has been paid.

(6) Within fifteen (15) days after the receipt of the application, the Building Administrator shall issue a building permit to the owner, or his duly authorized agent, provided the dwelling or the building and the land and uses thereof as set forth in the application are in conformity with the provisions of the ordinance, and when such permit is refused, he shall state such refusal in writing with cause. The Building Administrator shall file one copy of the application with proper notations thereon, or attached thereto, relative to

his approval or disapproval including the date thereof, as a record. The second copy of the application shall be returned to the applicant with similar notations.

(7) Accessory buildings when erected at the same time as the principal building on a lot and shown on the application therefor shall not require a separate building permit.

(8) The Building Administrator shall have the power to revoke or cancel any permit in case of failure or neglect to comply with any of the provisions of this ordinance or in case of any false statement or misrepresentation made in the application. The owner or his duly authorized agent shall be notified of such revocation or cancellation in writing.

60.505 Occupancy Certificate.

No dwelling or building subject to the provisions of this ordinance shall be occupied or used until the Building Administrator shall have issued a Certificate of Compliance and Occupancy to the owner or his duly authorized agent. Such certificate shall be applied for coincident with the application for a building permit. Within five (5) days after notification that the dwelling or building is ready for occupancy, the Building Administrator shall make final inspection thereof, and if it is found to be in conformity with the provisions of this ordinance, shall issue the owner or his agent a Certificate of Compliance and Occupancy. He shall also record his action, including the date, on the copy of the application retained on file as a record.

SUBCHAPTER VI: BOARD OF APPEALS

60.601 Creation of Board of Appeals.

There is hereby created a Board of Appeals which shall perform the duties and exercise the powers provided for a zoning board of appeals by Act 184 of the Public Acts of the State of Michigan of 1943, as amended, in such a way that the objectives of this ordinance shall be observed, public safety secured and substantial justice done.

60.602 Personnel of Board.

(1) The Board of Appeals shall consist of three (3) members, the first member of such board shall be the Chairman of the Tribal Zoning Board; the second shall be a member of the Tribal Board appointed by the Tribal Board; and the third member shall be selected and appointed by the first two members from among the eligible voters residing within an election unit of the Tribe, provided, that no elected officer of the Tribe nor any employee of the Tribal Board shall simultaneously serve as a member of or as an employee of the Board of Appeals.

(2) The total amount allowed any member of said Board of Appeals in any one year as per diem or as expenses actually incurred in the discharge of his duty shall not exceed a reasonable sum, which sum shall be determined annually in advance by the Tribal Board.

(3) The Tribal Board shall provide for the removal of any member for non-performance of duty or misconduct in office.

60.603 Meetings of Board of Appeals.

Meetings of the Board of Appeals shall be held at the call of the chairman and at such other times as the Board in its rules of procedure may specify. The chairman, or in his absence the acting chairman, may administer oaths and compel the attendance of witnesses. All meetings of the Board of Appeals shall be open to the public. The Board shall maintain a record of its proceedings which shall be filed in the office of the Building Administrator and shall be a public record.

60.604 Jurisdiction and Appeals.

(1) The Board of Appeals shall act upon all questions as they may arise in the administration of this ordinance, including the interpretation of the Zoning Maps, and may fix rules and regulations to govern its procedure sitting as such Board of Appeals. It shall hear and decide appeals from and review any order, requirements, decision or determination made by the Zoning Board, the Tribal Board, the Building Administrator or any administrative official charged with the enforcement of this ordinance. It shall also hear and decide all matters referred to it, or upon which it is required to act under the provisions of this ordinance. The concurring vote of the majority of the members of the Board of Appeals shall be necessary to reverse any order, requirement, decision or determination of any such board or administrative official, or to effect any variation in the matter upon which they are required to pass or to effect any variation in this ordinance. Such appeal may be taken by any person aggrieved or by an officer, department, board or bureau of the Tribe. The grounds of every such determination shall be stated.

(2) Such appeal shall be taken within such time as shall be prescribed by the Board of Appeals by general rule, by the filing with the officer from whom the appeal is taken and with the Board of Appeals of a notice of appeal specifying the grounds thereof. The officer from whom the appeal is taken shall forthwith transmit to the Board all the papers constituting the record upon which the action appealed from is taken.

(3) An appeal stays all proceedings in the furtherance of the action appealed from unless the officer from whom the appeal is taken certifies to the Board of Appeals after the notice of appeals shall have been filed with him that by reason of facts stated in the certificate, a stay would, in his opinion, cause imminent peril to life and property, in which case proceedings shall not be stayed otherwise than by a restraining order which may be

granted by the Board of Appeals on application on cause shown, after notice to the officer from whom the appeal is taken.

(4) The Board of Appeals shall fix a reasonable time for the hearing of the appeal and give due notice thereof to the parties and decide the same within a reasonable time. Upon the hearing, any party may appear in person or by the agent or by attorney. The Board of Appeals may reverse or affirm, wholly or in part, or may modify the order, requirement, decision or determination as in its opinion ought to be made in the premises, and to that end shall have all powers of the officer from whom the appeal was taken, and may issue or direct the issuance of a permit. Where there are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of this ordinance, the Board of Appeals shall have the power of passing upon appeals to vary or modify any of its ruled, regulations or provisions so that the spirit of the ordinance shall be observed, public safety secured and substantial justice done. The decision of such board shall not be final, and any person having an interest affected by any such ordinance shall have the right to appeal on questions of law and fact to the Tribal Board.

SUBCHAPTER VII: TRIBAL ZONING BOARD

60.701 Creation of Tribal Zoning Board.

There shall be a Tribal Zoning Board composed of five (5) members appointed by the Tribal Board. The members of said board shall be selected upon the basis of their respective qualifications and fitness to serve as members of a zoning board without consideration of their political activities. Of the members first appointed, three (3) shall be appointed for terms of two (2) years each. The other two (2) members shall be appointed for terms of four (4) years each. Each member of said board shall serve until his successor is appointed and has qualified. Upon the expiration of the terms of the members first appointed, successors shall be appointed in like manner, for terms of four (4) years each. Vacancies shall be filled in the same manner as is provided for the appointment in the first instance for the remainder of the unexpired term. No elected officer of the Tribe nor any employee of the Tribe shall serve simultaneously as a member or as an employee of the zoning board, and no less than two-thirds ($2/3$) of the members of such board shall be eligible voters of the Tribe who reside in a Tribal election unit. Members of the zoning board shall be removable for non-performance of duty or misconduct in office by the Tribal Board upon written charges and after public hearing.

60.702 Meetings.

The Tribal Zoning Board shall hold a minimum of two (2) regular meetings annually, giving notice of the time and place by publication in a newspaper of general circulation within the Tribe's service area not more than fifteen (15) nor less than eight (8) days prior thereto at which meetings any person having interests in the Tribe, or their duly appointed representatives, shall be heard relative to any matters that should properly come before the Zoning Board. The Zoning Board shall elect from its members a chairman, a secretary, and such other officers or committees as it may deem necessary, and may engage such employees including technical assistance for periods of one (1) year or less as it may require. The election of officers shall be held at least once in every two year period.

60.703 Compensation.

Members of the Tribal Zoning Board shall receive not to exceed twenty-five dollars (\$25.00) per diem compensation. The total annual amount to be allowed as expenses of all members of such board, including any compensation paid its employees, shall be appropriated annually in advance by the Tribal Board and shall not exceed \$5,000.00 per year.

SUBCHAPTER VIII: MISCELLANEOUS PROVISIONS

60.801 Validity.

This ordinance and the various parts, sections, subsections, phrases and clauses hereof are hereby declared to be severable. If any part, sentence, paragraph, section, subsection, phrase or clause is adjudged unconstitutional or invalid by a court of competent jurisdiction, it is hereby provided that the remainder of this ordinance shall not be affected thereby. The Tribal Board hereby declares that it would have passed this ordinance and each section, subsection, phrase, sentence and clause thereof irrespective of the fact that any one or more sections, subsections, phrases, sentences or clauses be declared invalid.

60.802 Amendments.

Amendments or supplements to this ordinance may be made from time to time in the same manner as for the enactment of this ordinance in the first instance.

60.803 Penalties.

(1) Any building or structure which is erected, constructed, reconstructed, altered, converted, maintained or used, or any use of land or premises which is begun, maintained or

changed in violation of any provision of this ordinance is hereby declared to be a nuisance per se. Any person, firm or corporation or the agent in charge of such building or land who violates, omits, neglects or refuses to comply with, or resists the enforcement of any provisions of this ordinance, or any amendment thereof, shall be assessed a civil forfeiture upon conviction of not more than one hundred dollars (\$100.00) together with the costs of prosecution, or shall be punished by imprisonment for not more than thirty (30) days, or by both such forfeiture and imprisonment in the discretion of the court; provided, that non-Indians shall not be subject to imprisonment. Each and every day during which an illegal erection, construction, reconstruction, alteration, maintenance or use continues shall be deemed a separate offense.

(2) The Tribal Board or the Tribal Clerk, the Board of Appeals, the Prosecuting Attorney of the Tribe, or any owner or owners of real estate within the district in which such building, structure, or land is situated may institute injunction, mandamus, or any other appropriate action or actions, to end such illegal erection, construction, reconstruction, alteration, maintenance or use. Jurisdiction is hereby conferred upon the Tribal Court established pursuant to Tribal Code Chapter 80 to hear and determine actions for violations of this ordinance.

(3) The rights and remedies provided herein are cumulative and in addition to all other remedies provided by law.

SUBCHAPTER IX: ODENAANG HOUSING DEVELOPMENT RESTRICTIONS

60.901 Declaration of Restrictions.

(1) The Sault Ste. Marie Tribe of Chippewa Indians (the "Tribe") is the Lessor of certain real property held in trust by the federal government known as the Odenaang Housing Development ("Odenaang") as further identified on the attached Plat.

(2) The Odenaang Plat reserves specific areas for residential use, common area use, and public works.

(3) The Tribe desires to provide for the preservation and enhancement of the property values and amenities in Odenaang and for the maintenance of the Common Area, and to this end desires to subject Odenaang to the additional restrictions set forth in this Subchapter, each and all of which is and are for the benefit of Odenaang and each Lessee of parcels therein.

(4) The Tribe has deemed it desirable, for the efficient preservation of the values and amenities in Odenaang, to direct the Housing Authority to maintain and administer the common areas, including facilities that may be construed thereon and the entrances to Odenaang, to collect and disburse the assessments and charges hereinafter created, and to undertake efforts intended to promote the recreation, health, safety and welfare of the

Lessees and other Occupants.

60.902 Definitions.

(1) “Builder” means any person or entity designated by Tribe which is engaged in the business of constructing Improvements not for their own use but for resale or pursuant to a contract with another person or entity.

(2) “Commission” means the Housing Authority Commission.

(3) “Common Area” means those areas of land within Odenaang, including the improvements situated thereon, designated on the Plat, as it may from time to time be modified or extended, as “Green Belt,” “Park,” “Pond”, or as common area for the use or benefit of all Lessees.

(4) “Housing Authority” means the Housing Authority established by Tribal Code Chapter 90: Housing Authority Ordinance.

(5) “Improvement” means any dwelling, garage, outbuilding, fence, walk, deck, pool, landscaping or other improvement constructed upon a Lot or change or alteration to any of the foregoing by any person or entity other than the Tribe, except where explicitly stated.

(6) “Lessee” means the lessee of record, whether one or more persons or entities, of a leasehold interest in any Lot.

(7) “Lot” means any numbered lot shown on the Plat or on any subsequent and contiguous additions to Odenaang so declared by the Tribe in an amendment to this Subchapter.

(8) “Occupant” means each person that is occupying a dwelling built upon a Lot, provided such occupancy is in compliance with this Subchapter and all other applicable zoning requirements in this Ordinance.

(9) Other capitalized terms used herein that are not defined above shall have the meanings given to such terms elsewhere in this Ordinance.

60.903 Construction Codes.

(1) Except as may otherwise be specifically required by the Tribe or Housing Authority, all Improvements constructed within Odenaang shall comply with all building and other construction codes required within Chippewa County, Michigan, as such codes may be adopted or amended from time to time.

(2) It is the responsibility of any Lessee constructing Improvements on any Lot to obtain all inspections necessary or otherwise required at the direction of the Commission by

an inspector approved by the Commission to monitor and verify compliance with applicable building and other construction codes.

60.904 Approval of Plans and Specifications.

No Improvement shall be commenced, erected or maintained on any Lot, nor shall any exterior change or alteration be made to an existing Improvement until the plans and specifications showing the nature, kind, size, shape, height, colors, materials, topography and location of the same on a Lot shall have been submitted to and approved in writing by the Commission or its designee, which approval will be granted in accordance with standards established by the Commission in its sole discretion.

60.905 Preliminary Plans.

Prior to submitting plans and specifications for final approval, preliminary plans and specifications may first be submitted to the Commission for preliminary approval. If the preliminary materials are disapproved or approved subject to conditions, the Commission shall state in writing the reasons for disapproval or the conditions to be met. The Commission will use all reasonable efforts to issue its decision within fifteen (15) days after receipt of the plans and specifications required hereby.

60.906 Materials Required.

Plans and specifications submitted to the Commission for final approval shall include two (2) sets of the following:

- (1) Complete plans and specifications sufficient to secure a building permit in the County, including a dimension plat plan showing Lot and placement of Improvements, construction easements, and clearly designating any trees to be removed or cleared.
- (2) Front elevation, side elevations and rear elevation of all Improvements, including grading and drainage plan.
- (3) A perspective drawing of the Improvements if deemed necessary by the Commission to interpret adequately the exterior design.
- (4) Data as to size, materials, colors and texture of all exteriors including roof coverings, fences (if any) and walls.
- (5) Foundation specifications.

60.907 No Violations.

No approval by the Commission shall be valid if the Improvement violates any restrictions otherwise set forth in this Subchapter, except in cases where waivers have been expressly

granted as provided for in this Subchapter.

60.908 Approval Standards.

The Commission may disapprove plans and specifications because of noncompliance with any of the restrictions set forth in this Subchapter or other standards established by the Commission, or because of reasonable dissatisfaction with the grading and drainage plan, the proposed location of the Improvements on the Lot, the materials or color scheme to be used, the finished design, proportions, shape, height, style, or appropriateness of the proposed Improvement, the tree removal plan or because of any matter or thing, which in the reasonable judgment of the Commission, would render the proposed Improvement inharmonious or out of keeping with the objectives of the Commission or with existing Improvements erected on other Lots. Builders may, at their election, submit a list and samples of exterior materials and color combinations for prior approval by the Commission, which approval, if given, shall satisfy the approval requirement of the exterior materials and colors on all subsequent Improvements built by such Builder provided the exterior materials and colors conform to those previously submitted and approved. All Lessees, by accepting a leasehold interest in their Lot, acknowledge that the primary purpose for providing for architectural control is to ensure the proper and harmonious development of Odenaang to maximize the aesthetic beauty of Odenaang and its blending with the surrounding area, and to enhance the feeling of community, all of which are intended to result in increased property values. To this end, the Commission shall have broad discretion in terms of determining what Improvements will be permitted and are in keeping with the aesthetic beauty and desirability of Odenaang and are otherwise consistent with the purposes of this Subchapter.

60.909 Timely Approval or Disapproval.

If the Commission fails to approve or disapprove plans and specifications within thirty (30) days after submission, then such approval will not be required, but all other limitations, conditions and restrictions set forth in this Subchapter shall apply and remain in force as to such plans and specifications and the Improvements to be constructed pursuant thereto.

60.910 Evidence of Approval.

Commission approval shall be deemed given if the plans and specifications submitted for final approval are marked or stamped as having been approved by a majority of the Commission, and are dated and signed by a majority of the members of the Commission who were validly serving on the Commission on the date of such approval; provided, however, if to grant the final approval, the Commission must waive or modify any of the restrictions contained in this Subchapter, then the plans and specifications must be approved as required by Section 60.931 and signed by the approving members.

60.911 No Liability.

In no event shall either the Tribe, the Housing Authority or the Commission have any liability whatsoever to anyone for their approval or disapproval of plans and specifications,

regardless of whether such alleged liability is based on negligence, tort, express or implied contract, fiduciary duty or otherwise. By way of example, neither Tribe, the Housing Authority nor the Commission shall have liability to anyone for approving or disapproving plans and specifications which provide for Improvements which are not in conformity with the provisions of this Subchapter. In addition, the Commission shall not be required to pass upon, and the approval by the Commission does not mean that the Commission has passed upon, any technical aspects of construction or whether the proposed construction meets building codes, safety requirements, or any other applicable law or ordinances. The Commission's approval shall merely mean that the plans and specifications are in compliance with the intent and purpose of this Subchapter as interpreted by, and the standards developed by, the Commission at the time. The Lessee shall be responsible for compliance with all laws and regulations.

60.912 Use of Lots.

(1) All Lots designated on the Plat for single family use shall be used for single family residential purposes only, only one dwelling shall be erected on each Lot, and the dwelling shall be designed and erected for occupation by one single family in compliance with the zoning restrictions contained in this Ordinance. A private garage for the sole use of the Occupants of the Lot upon which said garage is erected shall also be erected and maintained.

(2) All Lots designated on the Plat for multi-family use may be used for multi-family residential purposes only. The dwellings shall be designed and erected in compliance with the zoning restrictions contained in this Ordinance. A minimum of two (2) off-street private parking spaces shall be constructed per Occupant family for the sole use of the Occupants of the Lot.

60.913 Character and Size of Buildings.

No plan for any dwelling will be approved unless the proposed dwelling has a minimum square footage required by this Ordinance from time to time. In addition, the dwelling must have the following minimum square footage: for a one story dwelling (e.g. ranch), a minimum livable main floor area of 900 square feet; for a two story dwelling, a minimum livable floor area of 600 square feet on the first floor and a total of minimum livable floor area of 1,200 square feet. All computations of livable floor area shall be exclusive of garage, porches, terraces and basements. All garages must be attached or architecturally related to the dwelling. Carports may be permitted upon the approval of the Commission.

60.914 Minimum Yard Requirements.

No Improvement on any Lot shall be erected nearer than:

- (1) twenty-five (25) feet from the front Lot line, (front yard setbacks must vary from 25' to 40' to provide more aesthetic street appearance); nor

(2) thirty-five (35) feet from the rear Lot line; nor

(3) as otherwise may be permitted by this Ordinance with regard to the corner and side lines of the Lot.

Approval of a variance by the Commission permitting front, rear, or side yards smaller than the above minimums shall be deemed a valid waiver of this restriction.

60.915 Minimum Width.

The minimum dwelling width shall be subject to the discretion of the Commission, which shall attempt to maintain uniform standards throughout Odenaang.

60.916 Animals.

No farm animals, livestock or wild animals shall be kept, bred or harbored on any Lot, nor shall any animals be kept or bred for commercial purposes. Consistent with any tribal pet policy that may exist from time to time, domestic animals may be kept by the Occupant so long as such pets are cared for in a humane manner and are maintained and controlled so as not to be objectionable or offensive to others, as determined by the Commission. Any dog which is kept outdoors by an Occupant shall be kept either on a leash in the rear yard or in a dog run or pen. Dogs shall not be allowed to run loose or unattended and shall be on a leash when beyond the Occupant's Lot. All dog runs or pens to be erected shall be located within the rear yard adjacent to a wall of the dwelling or garage and facing the rear or the interior of the Lot, shall not extend beyond the end of the dwelling or garage into the side yard, and shall be approved by the Commission prior to construction and installation.

60.917 Fences, Walls, Hedges, Etc.

No fence, wall, hedge, or similar barrier of any kind shall be erected or maintained on any Lot without the prior written approval of the Commission. All fences, walls, hedges and similar barriers shall be subject guidelines that may be developed from time to time by the Commission or its designee. In addition, in no event shall any fence, wall or hedge be maintained or erected which blocks or hinders vision at street intersections, nor shall any fence, wall or hedge be erected, grown or maintained in front of or along the front building line of a Lot.

60.918 Easements.

(1) Easements for the installation and maintenance of utilities, underground television cable, sewer lines, water mains, drainage lines, surface drainage swales and any other improvements which would serve the Occupants of Odenaang, are reserved to the Tribe, as shown on the Plat, and also in, on, under and over a strip of land six (6) feet in width (unless a greater amount is designated on the Plat) on each side of and along the rear of each Lot. The use of all or a part of such easements may at any time or times hereafter be granted or assigned by Tribe, its successors or assigns, to any person, firm, corporation,

governmental unit or agency which furnishes such services or utilities.

(2) No building may be constructed or maintained over or on any easements created herein or by the Plat. However, after the utilities have been installed, plantings, fencing (where permitted) and other landscaping and driveways and their extensions shall be allowed in the easement areas, so long as (a) they do not violate the provisions of this Subchapter, (b) they do not interfere with, obstruct, hinder or impair the drainage plan of Odenaang, and (c) access is available for the installation and/or maintenance of the utilities, drainage lines and/or additional facilities. This access may be used by Tribe and the entities furnishing the services or utilities without liability for damage done to the landscaping permitted by this Subchapter.

60.919 Wells.

No well shall be dug, installed or constructed on any Lot.

60.920 Temporary Structures.

Trailers, tents, shacks, sheds, barns and temporary structures of any nature whatsoever are expressly prohibited and no temporary occupancy shall be permitted in unfinished dwellings. This Subsection does not prohibit structures maintained in good repair, including without limitation, storage sheds, approved in advance by the Commission. However, the erection on a Lot of a temporary storage building for materials and supplies to be used by a Builder in the construction of a dwelling upon such Lot is permitted provided the same is removed upon completion of the dwelling.

60.921 Business Office.

Notwithstanding anything to the contrary elsewhere set forth herein, the Tribe may construct and maintain a business office(s) on any Lot which the Tribe may select.

60.922 Lease Restrictions.

No Lessee or Occupant of any Lot shall lease and/or sublease less than the whole of all Improvements on any Lot and all leases shall have a term of at least three (3) months.

60.923 Exterior Surface of Dwellings.

The visible exterior walls of all Improvements shall be made of vinyl siding, wood, brick and/or stone in any combination. Stucco and/or ledge rock may also be used (but such use is not required), so long as these materials do not exceed fifty (50%) percent of the total of all visible exterior walls. The use of cement block, slag, cinder block, and/or asphalt siding is expressly prohibited. The use of any other materials for siding of the exterior walls are

subject to the discretion and approval of the Commission. Windows and doors shall not be included in calculating the total area of visible exterior walls.

60.924 Signs.

(1) No sign or billboard shall be placed, erected, or maintained on any Lot except one sign advertising the Lot, or the Improvements and the Lot for sale or lease, which sign shall have a surface area of not more than five (5) square feet, and the top of which shall be not more than three (3) feet above the ground. All signs shall be constructed and installed in a professional manner, kept clean and in good repair during its display on a Lot, and shall in no event be placed nearer than fifteen (15) feet from the front Lot line. The provisions of this Subsection shall not apply to signs installed or erected on any Lot by the Tribe or any Builder during the initial construction of Improvements, or during the period a dwelling is used as a model or for display purposes. The Commission must approve in advance the colors of all signage.

(2) Notwithstanding, political campaign signage may be placed, erected, or maintained for a period of thirty (30) days prior to any special or general election. All political campaign signage must meet the size, construction and maintenance requirements of Subsection 60.924(1) and otherwise comply with Tribal Code Chapter 10: Election Ordinance. In addition, political campaign signage is limited to one sign per candidate or issue. Political campaign signage must be removed within five (5) days of the election date. The Commission may develop additional guidelines for the placement, erection and maintenance of political campaign signage in its discretion.

60.925 Destruction of Building by Fire, etc.

Any debris resulting from the destruction in whole or in part of any Improvement on any Lot shall be removed with all reasonable dispatch from the Lot to prevent an unsightly condition.

60.926 Landscaping.

Upon the completion of a dwelling on a Lot, the Lessee or Occupant thereof (but not the Tribe or the Builder thereof), shall cause the Lot to be finish-graded and seeded or sodded and suitably landscape as soon after the lease of the Lot from Tribe as weather permits. The Lot shall be kept reasonably free of weeds by the Lessee or Occupant thereof. All landscaping and lawns shall be well-maintained at all times.

60.927 Driveways.

All driveways shall be constructed of concrete or asphalt paving material. The initial plans, submitted to the Commission in accordance with this Subchapter, shall designate the location of the driveway and the building materials to be used. Driveways must be complete prior to occupancy.

60.928 Fertilizer Usage Restriction.

Due to the sensitivity of ground and surface waters in Odenaang and surrounding areas, fertilizer mixes shall be limited to the following maximum rate ranges: Nitrogen 10-30; Phosphorous 0-1; Potassium 0-6.

60.929 Use of Pond Restricted.

No Lessee or Occupant shall wade into, swim in, boat, sail or canoe upon any Pond or use any Pond for any recreational use whatsoever. Each Lessee shall be responsible for ensuring that their family, guests, licensees, invitees, agents and contractors abide by the terms of this Subsection.

60.930 General Conditions.

(1) No Lot shall be used or maintained as a dumping ground for rubbish, trash, garbage or other waste, and the same shall not be kept on a Lot except in sanitary containers located on each Lot properly concealed from public view, which will be emptied as necessary and be properly maintained. Sanitary containers shall not be left along the roadway or in the front yard of any Lot for more than twenty-four (24) hours in any one week.

(2) No housetrailer, commercial vehicles or equipment, boat trailers, boats, camping vehicles or camping trailers may be parked on or stored on or in front or side yard of any Lot, unless stored fully enclosed within an attached garage. Commercial vehicles and trucks shall not be parked in Odenaang or on any Lot therein unless parked fully enclosed within an attached garage, or except while making deliveries or pickups in the normal course of business. However, a construction trailer may be maintained by each Builder in a location designated by Tribe during the period when new dwellings are under construction in Odenaang by the Builder, provided the construction trailer is kept in a clean and sightly condition at all times.

(3) No laundry shall be hung for drying in the front or side yard of any Lot.

(4) The grade of all Lots in Odenaang may not be changed without the written consent of the Tribe. This restriction is intended to prevent interference with the master drainage plans for Odenaang.

(5) No “through the wall” air conditioners may be installed on the front wall or in any front windows of any dwelling.

(6) Outside compressors for central air conditioning units must be located in the rear yard and must be installed and maintained and screened in such a manner so as to create no nuisance to the Occupants of adjacent dwellings.

(7) No part of any Improvement shall be used for any business activity except as may be specifically authorized by this Ordinance.

(8) No outside television antenna or other antenna or aerial saucer or similar device shall be placed, constructed, altered or maintained on any Lot or Improvement unless the Commission determines, in their sole discretion, that the absence of any such device creates a hardship for the Occupant of the Lot.

(9) It shall be the responsibility of each Lessee and Occupant to prevent the development of any unclean, unsightly, or unkept condition of Improvements or grounds on each Lessee's Lot. This responsibility shall also apply to Builders during the construction period of a dwelling on a Lot.

(10) No noxious, offensive or illegal activities shall be carried on upon any Lot, nor shall anything be done thereon tending to cause embarrassment, discomfort, annoyance or nuisance to the Lessees or Occupants of Odenaang, as determined by the Commission.

(11) No Lot shall be subdivided or its boundary lines changed except with the consent of Tribe.

(12) The Tribe hereby expressly reserves to itself the right to replat any two (2) or more Lots shown on the Plat to create a modified Lot or Lots and to take such other steps as are reasonably necessary to make such replatted Lots suitable and fit as a building site, including, but not be limited to, the relocation of easements, walk-ways, and rights-of-way to conform to the new boundaries of the replatted Lots.

(13) No Lessee or Occupant shall permit any motorized vehicle which is not in operating condition or not being used on a regular basis for transportation to be parked on its Lot unless such vehicle is completely enclosed in the attached garage.

60.931 Enforcing Authority.

The provisions contained in this Subchapter shall be interpreted and enforced by the Commission in its sole discretion in accordance with standards established by the Commission. Every restriction contained in this Subchapter may be waived by the Commission, in its sole discretion, provided it does so in writing and such waiver may only be granted on a case by case basis. Consequently, if the Commission desires to modify a restriction as it applies to all Lots, it must obtain an amendment to this Subchapter as provided below. To waive a restriction contained in this Subchapter, a majority of the Commission must vote in favor of the waiver; however, with respect to the restrictions described in Sections 60.912, 60.913, 60.914, 60.917, 60.918, 60.923, 60.929 and 60.930(1), (2), (3), (5), (6), (7), (9), (10), (12) and (13), at least sixty-six percent (66%) of the Commission must vote in favor of the waiver to be granted.

60.932 Tree Preservation.

All construction shall be carried out in strict compliance with all tree preservation laws, rules, and regulations of this Subsection, so as to promote the preservation of trees. No tree

measuring four (4) inches or more in diameter at a point four (4) feet above its base (a “major tree”) may be removed without the written approval of the Commission. Prior to commencement of construction, the Lessee of the particular Lot shall submit to the Commission, as part of its plans and specifications to be approved by the Commission, a plan for preservation of major trees in connection with the construction process. It shall be the responsibility of the Lessee to maintain and preserve all major trees on the Lessee’s Lot, which responsibility includes welling trees, if necessary. Subject to restrictions imposed by governing authorities, a Lessee may remove major trees on their Lot which are situated within the area to be used for the construction of the dwelling, provided the plans for the dwelling have been approved by the Commission. The area to be used for construction of a dwelling shall include all areas within ten (10) feet of the outer walls of the dwelling and the area within a driveway, utility easement, or right-of-way. Prior to and during construction of a dwelling upon a Lot, the Lessee shall take special precautions to protect major trees inside or within 25 feet of the dwelling being constructed. These precautions shall include additional watering and fertilizing of major trees to reduce shock and installation of snow fencing around the drift lines of major trees to protect against soil erosion and root and other damage from clearing and earth compaction.

60.933 Property Rights - Common Area.

The rights and easement of enjoyment of each Lessee in and to the Common Area shall be subject to the following prior rights of the Tribe and the Housing Authority:

(1) The Tribe may agree from time to time to increase or reduce the size of the Common Area or to grant easements through it to permit the installation of any utility lines, television cable, drainage facilities or any other improvements to the Lots or Odenaang.

(2) The right of the Housing Authority to levy and collect assessments, on behalf of the Tribe, as set forth in Section 60.934 hereof.

60.934 Membership Fees and Purpose.

To pay the cost of carrying out its responsibilities hereunder, the Housing Authority may levy fees, dues or assessments on each Lot in Odenaang. All fees, dues or assessments shall be charged equally to each Lot that is eligible and may be enforced through the lien provided for in Section 60.936 or by any other lawful means of collecting debts. The fees, dues or assessments levied by the Housing Authority shall be used exclusively to promote the recreation, health, safety and welfare of the Occupants in Odenaang, and in particular for the improvement and maintenance of the Common Areas, the facilities thereon, and other property under the control of the Housing Authority, for planting and maintenance of trees, shrubs and grass; for the operation and maintenance of recreational facilities; for maintenance of any Pond and associated fountains and wells; for caring for vacant Lots for which the Lessee is not the Tribe; and for providing community service. Anything contained herein to the contrary notwithstanding, there shall be no fees, dues or assessments for any Lot until a dwelling is constructed on the Lot.

60.935 Special Assessments for Capital Improvements.

In addition to the annual assessments authorized above, the Housing Authority may levy against each Lot a special assessment, applicable to a stated term only, for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of any improvement upon the Common Area and other areas under the control of the Housing Authority, provided that any such assessment shall have the assent of two-thirds (2/3rds) of the votes of the Commission. These special assessments shall not be collected from the Tribe.

60.936 Lien.

Any fees, dues or assessments established by the Housing Authority, and any amounts or expenses incurred in enforcing the restrictions contained in this Subsection, including attorneys' fees, shall constitute a lien on the leasehold interest, including any improvements, of each Lessee, other than Tribe, who is deemed the party responsible for such fees or expenses. The Housing Authority may enforce the lien by recording appropriate instruments confirming the existence of the lien and foreclosing the lien by appropriate legal action in Tribal Court. In such legal action, the Tribal Court shall be empowered to order a sale of the leasehold interest and its improvements subject to the lien to satisfy the lien. The lien shall be subordinate and junior to the lien of any first mortgage securing a loan for the acquisition or improvement of the Lot which is subject to lien.

60.937 Special Easement Areas.

(1) As part of its development of the Odenaang, the Tribe or the Housing Authority may construct berms or similar improvements along roadsides or where necessary or convenient at the discretion of the Commission. Each Lessee of a Lot which includes a portion of the berm or similar improvement shall cause to be maintained that portion of the berm or similar improvement which lies within that Lessee's Lot. Maintenance shall include, but not be limited to, maintaining the configuration and topography of the berm or similar improvement, keeping the berm or similar improvement free from debris, maintaining any landscaping or vegetation within the area, and cutting grass and removing unsightly vegetation.

(2) The Tribe or Housing Authority may designate an area(s) for drainage and retention on the Plat. Such designated area(s) shall be used solely for that purpose and be deemed part of the Common Area. No Lessee or Occupant shall interfere with any drainage and retention area.

