

**TITLE 31
ZONING OF SHORELANDS
TABLE OF CONTENTS**

CHAPTER 31.01

Definitions

31.0101 Definitions as used in this ordinance..... 1

CHAPTER 31.02

Purpose

31.0201 Purpose..... 1

CHAPTER 31.03

Tribal Zoning Agency

31.0301 Establishment of a planning and zoning committee..... 1
31.0302 Appoint of planning and zoning committee members..... 1
31.0303 Election of committee chairperson..... 1
31.0304 Powers and duties of Tribal Zoning Agency..... 1
31.0305 Rules and regulations of Tribal Zoning Agency..... 1
31.0306 Financial authority of Tribal Zoning Agency..... 2

CHAPTER 31.04

Tribal Zoning Agency Authority

31.0401 Tribal Zoning Agency authority..... 2
31.0402 Public Hearings..... 2
31.0403 Amendments to shoreline Zoning..... 2

CHAPTER 31.05

Shorelands Preservation Plan

31.0501 Shoreland development plan..... 2
31.0502 Development plan contents..... 2
31.0503 Identifying goals and objectives of plan..... 2
31.0504 Format of development plan..... 2
31.0505 Public hearing required prior to approval..... 3

CHAPTER 31.06

Extent of Authority

31.0601 Establishment of zoning districts..... 3
31.0602 Powers granted shall be in ordinance form..... 3

CHAPTER 31.07

Formation of Zoning Ordinances

31.0701 Public hearing follow-up..... 3
31.0702 Procedure of review or ordinance..... 3
31.0703 Repeal of ordinances..... 4
31.0704 Procedures for amendments..... 4

CHAPTER 31.08

Zoning Variances

31.0801 Application for variance..... 4
31.0802 Procedures for variance review..... 4
31.0803 Requirements of a variation..... 4

CHAPTER 31.09

Nonconforming Uses

31.0901 Nonconforming use unlawful..... 5

CHAPTER 31.10

Procedure for Enforcement of Shoreland Zoning Ordinance

31.1001	Rules, regulations and administrative procedures established by Tribal Council.....	5
31.1002	Enforcement of ordinances	5

**TITLE 31
ZONING OF SHORELANDS**

**CHAPTER 31.01
Definitions**

31.0101 **Definitions as used in this ordinance.**

1. "COUNCIL" means the Turtle Mountain Band of Chippewa Tribal Council.
2. "RESERVATION" means the Turtle Mountain Band of Chippewa Reservation.
3. "Tribal Secretary" means the secretary of the Turtle Mountain Band of Chippewa Indians.
4. "SHORELANDS" means the area within the following distances from the ordinary high-water mark of: one thousand feet from a lake, pond or flowage and three hundred feet from a river or stream or to the landward side of a floodplain, whichever distance is greater.
5. "TRIBE" and "TRIBAL" means the Turtle Mountain Band of Chippewa Indians.

**CHAPTER 31.02
Purpose**

31.0201 **Purpose.**

It is the purpose of this chapter to promote the public health, safety, convenience and general welfare; to encourage planned and orderly shoreland development; to recognize the needs of agriculture, forestry, industry and business in future growth; to encourage the protection of groundwater resources; to preserve wetlands; to conserve soil, water and forest resources; to protect the beauty and amenities of the landscape; to provide healthy surroundings for family life; and to promote the efficient and economical use of Tribal funds.

**CHAPTER 31.03
Tribal Zoning Agency**

31.0301 **Establishment of a planning and zoning committee.**

The Council shall create a planning and zoning committee as a Tribal Council agency consisting wholly of persons who are not members of the Council, designated the Tribal Zoning Agency, authorized to act in all matters pertaining to shoreland planning and zoning.

31.0302 **Appointment of planning and zoning committee members.**

The Chairman shall appoint the commission, subject to confirmation by the Council.

31.0303 **Election of committee chairperson.**

From its members, the Tribal Zoning Agency shall elect a chairperson whose term shall be for 2 years, and the Tribal Zoning Agency may create and fill other offices.

31.0304 **Powers and duties of Tribal Zoning Agency.**

The Tribal Zoning Agency shall have the administrative powers and duties specified for the Tribal Zoning Agency under this section, and the Tribal Zoning Agency shall be only a policy-making body determining the broad outlines and principles governing such administrative powers and duties and shall be a quasi-judicial body with decision-making power that includes but is not limited to conditional use, planned unit development and zoning.

31.0305 **Rules and regulations of Tribal Zoning Agency.**

Subject to change by the Council, the Tribal Zoning Agency may adopt such rules and regulations governing its procedures as it considers necessary or advisable. The Tribal Zoning Agency shall keep a record of its planning and zoning studies, its resolutions, transactions, findings, and determinations.

31.0306 Financial authority of Tribal Zoning Agency.

Tribal Zoning Agency may accept, review and expend funds, grants and services and may contract with respect thereto and may provide such information and reports as may be necessary to secure such financial aid and services. Within such funds as may be made available, the Tribal Zoning Agency may employ, or contract for the services of, such professional planning technicians and staff as are considered necessary for the discharge of the duties and responsibilities of the Tribal Zoning Agency.

CHAPTER 31.04

Tribal Zoning Agency Authority

31.0401 Tribal Zoning Agency Authority.

To accomplish the purpose of this section, the Tribal Zoning Agency shall be authorized to act in all matters pertaining to planning and zoning of all shorelands located within the Turtle Mountain Reservation.

31.0402 Public hearings.

Whenever a public hearing is specified under this section, the hearing shall be conducted by the Tribal Zoning Agency in the Turtle Mountain tribal offices. The Tribal Zoning Agency shall give notice of the public hearing by publication in an appropriate newspaper.

31.0403 Amendments to shoreline zoning.

Whenever a development plan, part thereof or amendment thereto is adopted by resolution or zoning ordinance or amendment thereto is enacted by the Council, a duplicate copy shall be certified by the Tribal Secretary and sent to the tribal clerks of the Turtle Mountain Tribal Court.

CHAPTER 31.05

Shoreland Preservation Plan

31.0501 Shoreland Development Plan.

The Tribal Zoning Agency shall direct the preparation of a shoreland development plan for the physical development of shorelands within the Turtle Mountain Reservation.

31.0502 Development plan contents.

The development plan may include: comprehensive surveys, studies and analysis of the history, existing land use, population and population density, economy, soil characteristic, forest cover, wetland and flood plain conditions and other human and natural features of the county.

31.0503 Identifying goals and objectives of plan.

Based on the comprehensive surveys, studies and analysis, the plan may identify goals and objectives for the future physical development of the shorelands with respect to: public and private use of land and other natural resources; highways including bridges, viaducts, parkways and other public ways; parks, playgrounds, hunting and fishing grounds, forests and other facilities of a recreational nature; public buildings including schools; sanitary and storm sewers, drainage and measures for disposal of refuse and waste; reducing and preventing stream and lake pollution; flood control; public and private utilities including water, light, heat, transportation, pipelines and other services; industrial and commercial sites; historic districts; and other factors which will improve the physical and economic situation of the Reservation.

31.0504 Format of development plan.

The development plan may be in the form of descriptive material, reports, charts, diagrams or maps. Each element of the development plan shall describe

its relationship to other elements of the plan and to the statements of goals, objectives, principles, policies or standards.

31.0505 Public hearing required prior to approval.

The Tribal Zoning Agency shall hold a public hearing on the development plan before approving it by resolution. The development plan shall serve as a guide for public and private actions' and decisions to assure the appropriate development of shoreland property.

**CHAPTER 31.06
Extent of Authority**

31.0601 Establishment of zoning districts.

For purposes of promoting the public health, safety and general welfare the Council may by ordinance establish districts of such number, shape, and area, and adopt regulations for each district as the Council considers best suited to carry out the purposes of this ordinance.

31.0602 Powers granted shall be in ordinance form.

The powers granted by this section shall be exercised through ordinances which may determine, establish, regulate and restrict:

1. The areas within which agriculture, forestry, industry, mining, trades, business, and recreation may be conducted.
2. The areas in which residential uses may be regulated or prohibited.
3. The areas in and along natural watercourses, channels, streams and creeks in which trades or industries, filling or dumping, erection of structures and the location of buildings may be prohibited or restricted.
4. Trailer camps, tourist camps, motels, and mobile home parks.
5. Designate certain areas, uses or purposes which may be subjected to special regulation.
6. The location of buildings and structures that are designated for specific uses and designation of uses for which building and structures may not be used or altered.
7. The location, height, bulk, number of stories and size of buildings and other structures.
8. Location of roads and schools.
9. Building setback lines.
10. The density and distribution of population.
11. The percentage of a lot which may be occupied, size of yards, courts and other open spaces.
12. Places, structures or objects with a special character, historic interest, aesthetic interest or other significant value, historic landmarks and historic districts.

**CHAPTER 31.07
Formation of Zoning Ordinances**

31.0701 Public hearing follow-up.

When the Tribal Zoning Agency has completed a draft of the proposed zoning ordinance, the Tribal Zoning Agency shall hold a public hearing thereon, following publication in an appropriate newspaper. After such hearing the Tribal Zoning Agency may make such revisions in the draft as it considers necessary, or it may submit the draft without revision to the Council with recommendations for adoption.

31.0702 Procedure of review or ordinance.

When the draft of the ordinance, recommended for enactment by the Tribal Zoning Agency is received by the Council, it may enact the ordinance as submitted, or reject it, or return it to the agency with such recommendations as the Council may see fit to make. In the event of such return, subsequent

procedure by the Tribal Zoning Agency shall be as if the Tribal Zoning Agency were acting under the original directions;

31.0703 Repeal of ordinances.

The Council may, by a single ordinance, repeal an existing shoreland zoning ordinance and reenact a comprehensive revision thereto in accordance with this chapter. "Comprehensive revision," in this paragraph, means a complete rewriting of an existing zoning ordinance which changes numerous zoning provisions and alters or adds zoning districts.

31.0704 Procedures for amendments.

The Council may amend an ordinance or change the district boundaries. The procedures for such amendments or changes are as follows:

1. A petition for amendment of a shoreland zoning ordinance may be made by a property owner in the area to be affected by the amendment, by any member of the Council, or by the Tribal Zoning Agency. The petition shall be filed with the Tribal Secretary who shall immediately refer it to the Tribal Zoning Agency for consideration, report, and recommendations. A report of all petitions referred under this paragraph shall be made to the county board at its next succeeding meeting.

Upon receipt of the petition by the Tribal Zoning Agency, the Tribal Zoning Agency shall call a public hearing on the petition. Notice of the time and place of the hearing shall be given by publication in an appropriate newspaper.

2. As soon as possible after the public hearing, the Tribal Zoning Agency shall act on the petition either approving, modifying and approving, or disapproving it. If the action is favorable to granting the requested change or any modification thereof, it shall cause an ordinance to be drafted effectuating its determination and shall submit the proposed ordinance directly to the board with its recommendations. If the Tribal Zoning Agency after its public hearing recommends denial of the petition it shall report its recommendation directly to the Council with its reasons for the action.

Upon receipt of the Tribal Zoning Agency report the Council may enact the ordinance as drafted by the Tribal Zoning Agency or with amendments, or it may deny the petition for amendment, or it may refuse to deny the petition as recommended by the agency in which case it shall re-refer the petition to the agency with directions to draft an ordinance to effectuate the petition and report the ordinance back to the Council which may then enact or reject the ordinance.

**CHAPTER 31.08
Zoning Variances**

31.0801 Application for variance.

Any persons proposing to erect a structure not in conformity to this ordinance or to use an existing structure for a purpose not permitted by this ordinance may apply to the Tribal Zoning Agency in writing for a variance by stating the nature of the proposed structure, which shall be posted in a public place, together with notification of when and where interested persons may appeal before the Tribal Zoning Agency to present objections.

31.0802 Procedures for variance review.

After holding a meeting as stated in the public notice, the Tribal Zoning Agency shall decide in accordance with the standards of 31.0703 whether or not to grant a variance in whole or in part.

31.0803 Requirements of a variation.

A variance shall be granted only if the applicant can show:

1. That the proposed use will not materially interfere with the object of the zoning ordinance as defined in Chapter 31.02 of this Code; and

2. That unless such variance is granted, applicant will sustain hardship in disproportion to the public gain achieved by compliance with the ordinance.

CHAPTER 31.09
Nonconforming Uses

31.0901 **Nonconforming use unlawful.**

An ordinance enacted under this title may not prohibit the continuation of the lawful use of any building or premises for any trade or industry for which such building or premises is used at the time that the ordinances take effect, but the alteration of, or addition to, or repair in excess of 50% of its assessed value of any existing building or structure for the purpose of carrying on any prohibited trade or new industry within the district where such buildings or structures are located, may be prohibited. The continuance of the nonconforming use of a temporary structure may be prohibited. If the nonconforming use is discontinued for a period of 12 months, any future use of the building and premises shall conform to the ordinance.

Procedure for Enforcement of Shoreland Zoning Ordinance

31.1001 **Rules, regulations and administrative procedures established by Tribal Council.**

The Council shall prescribe rules, regulations and administrative procedures and provide such administrative personnel as it considers necessary for the enforcement of this section and all ordinances enacted in pursuance thereof. The rules and regulations authorized by this title shall be prescribed by ordinances which shall be declared to be for the purpose of promoting the public health, safety and general welfare.

31.1002 **Enforcement of ordinances.**

The ordinances shall be enforced by appropriate forfeitures. Compliance with such ordinances may also be enforced by injunctive order at the suit of the Tribe or an owner of real estate affected by the regulation. All jurisdiction over such actions is vested with the Tribal Court.