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INFRASTRUCTURE ORDINANCE
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TITLE 46
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CHAPTER 46.01
Consultation Process

46.0101 **Establishment of consultation process.**

A consultation process among Persons and affected tribal infrastructure departments is hereby established by the Turtle Mountain Band of Chippewa.

46.0102 **Tribal Council establishment of infrastructure.**

The Tribal Council deems it necessary that all reservation lands be subject to uniform and consistent controls to promote sensible growth and development of infrastructure on the Reservation, to ensure public health safety, and to ensure that limited Tribal resources are managed and expended by the Tribe efficiently.

46.0103 **Purpose.**

The purpose of this Ordinance shall be to ensure that the construction of Structures on lands under the Tribe's jurisdiction are designed and built in accordance with applicable design and health and safety standards, and that design and construction on the Turtle Mountain Reservation proceeds in accordance with the consultation, review and permitting procedures set out in this Ordinance.

46.0104 **Title of consultation process.**

The consultation process shall be known as the "Tribal Involvement with Infrastructure Development."

46.0105 **Definition of terms.**

1. "BUSINESS LICENSE" mean a license issued pursuant to the Turtle Mountain Band of Chippewa Tribal Business Licenses Code under Title 18.
2. "CEASE AND DESIST ORDER" means an Order issued by the Tribal Court to a Person directing such Person to cease an act or activity following the presentation to the Court of satisfactory evidence that a violation of the laws and regulations of the Turtle Mountain Band of Chippewa has or is about to occur.
3. "CONSTRUCTION" means any activity that is directly related to building or renovating a Structure. Construction does not include minor repairs to existing Structures.
4. "CONSTRUCTION PERMIT" means the final Permit issued by the Tribal Council authorizing a Person to initiate Construction of a Structure on the Turtle Mountain Reservation.
5. "DECLARATION" means a formal response from any Infrastructure Department Director that there is a potential impact from a planned Project or that the Department has a vested interest in the Project.
6. "DESIGN PERMIT" means the approval issued by the Tribal Council to a Person which authorizes a Person to proceed with the design or engineering of a Project on the Turtle Mountain Reservation.
7. "DESIGNATED DIRECTOR(S)" means any Tribal department director of a Department listed in Section 3.1.. herein who is responsible to represent their respective program where impacts from a planned Project are express or implied.
8. "EMPLOYEE" means any person that is employed by the Turtle Mountain Band of Chippewa.
9. "EXTERIOR BOUNDARIES OF THE TURTLE MOUNTAIN BAND OF CHIPPEWA INDIAN RESERVATION" means all areas encompassing the exterior boundaries of the Turtle Mountain Band of Chippewa Indian Reservation (the geographic extent of which is defined in the Constitution of the Turtle Mountain Band of Chippewa) as well as such areas which hereafter may be acquired by or for the Turtle Mountain Band of Chippewa or its members.

10. "EXTERNAL ORGANIZATION" means any organization, agency or governmental entity not listed in the tribal financial system or which is not subject to the TMBC Employee Policy and Procedures.
11. "FEDERAL ACQUISITION REQUIREMENTS" means the governing law when dealing with tribal lands and relative issues.
12. "INFRASTRUCTURE DEPARTMENT" herein means any department employed or utilized by the Turtle Mountain Band of Chippewa such departments would include, but are not limited to, the following:
 - a. Environmental Protection;
 - b. Housing;
 - c. Land Realty;
 - d. Public Utilities.
 - e. Transportation;
 - f. Tribal Employment Rights Office;
 - g. Water Resources.
13. "INTERNAL ORGANIZATION" means any Tribal department or program listed under the TMBC financial system and/or whose employees are subject to the TMBC Employee Policy and Procedures.
14. "NOTIFICATION" means a formal invitation to Infrastructure Departments to participate in all planning and project meetings.
15. "PERMIT" refers to the authorization issued by the Tribal Council to a Person to proceed with the design or engineering plans for a Construction Project or the authorization by the Tribal Council to begin Construction of a Structure on the Reservation. A Design and Construction Permit shall be valid for one year and, upon application to the Tribal Council, may be extended up to an additional year upon a showing to the Tribal Council that the Project can be designed or completed within the additional time.
16. "PERMIT APPLICATION" means the written form and associated documents provided by the TERO Office and presented by a Person to seeking a Design Permit or Construction Permit from the Tribal Council which sets out sufficient information describing a planned Project for the Tribal Council to consider the request.
17. "PERSON" means a natural person, a tribal employee, any business partnership, limited partnership, joint venture, firm, association, corporation, cooperative, or any other entity.
18. "PROJECT" means a Structure located on the Turtle Mountain Reservation, or the planned rehabilitation or modification of an existing Structure (other than minor repairs), that requires a Permit under this Ordinance.
19. "RIGHT OF WAY" means the right to access a strip of land, measured in feet, that is required for a Project to permit entry and egress to an existing or planned Structure or area.
20. "STRUCTURE" means a permanent or temporary building, or any piece of work, including pre-fabricated units, which are installed on, above, or below the surface. The term Structure also includes roads.
21. "TRIBAL COURT" means the Tribal Court of the Turtle Mountain Band of Chippewa.
22. "TURTLE MOUNTAIN BAND OF CHIPPEWA INDIAN RESERVATION" means all areas encompassing the exterior boundaries of the Turtle Mountain Band of Chippewa Indian Reservation (the geographic extent of which is defined in the Constitution of the Turtle Mountain Band of Chippewa) as well as such areas which hereafter may be acquired by or for the benefit of the Turtle Mountain Band of Chippewa or its members.
23. "WAIVER" means that a Tribal Infrastructure Departments declaration that it has determined that there are no likely impacts or vested interests that require their participation in reviewing plans or participation in discussions concerning a particular Project.

46.0106 Tribal involvement in infrastructure development.

1. Shall be enforced with the understanding that the Turtle Mountain Tribal Council approves or declines Permits. Upon approval by the Tribal Council

of a Permit, Persons will be required to provide copies of plans to any of the Infrastructure Departments impacted by the Project.

2. Tribal Involvement with Infrastructure Development shall include, but is not limited to, ensuring that Designated Director's have input in plans, specifications, and estimates for Projects to be built on the Reservation.
3. No Person within the Exterior Boundaries of the Turtle Mountain Indian Reservation shall conduct business on the Turtle Mountain Indian Reservation without first applying for and obtaining a Business License.
4. No employee within the Exterior Boundaries or subject to the TMBC Employee Policy and Procedures of the Turtle Mountain Indian Reservation shall conduct business pertinent to the Infrastructure Departments pursuant to Section 46.0108.

46.0107 Designated directors shall serve as local experts.

1. Designated Directors shall serve as local experts when dealing with planned Projects that may impact Infrastructure Departments and/or Tribal resources.
2. Any Person and/or Employee planning on performing a Project within the Exterior Boundaries of the Turtle Mountain Indian Reservation must notify the Designated Director(s) in writing and request their assistance.
3. The Designated Directors shall be involved in Project plans at 0% complete; 10% complete; 30% complete; 65% complete; 90% complete; and must formally endorse the final Project plans and specifications.

46.0108 Designated directors shall declare a projects impact.

1. Designated Director's shall have the responsibility to declare that a Project will or is likely to have impacts on Infrastructure Departments and/or Tribal resources. By issuing a formal notification that a planned Project will or is likely to have impacts within the Reservation, Designated Directors shall commence the process of collaborative planning with any Person.
2. Not all Designated Directors will need to be involved in Project reviews. However, whenever a Designated Director notices his or her Infrastructure Department's interest in a Project, the Infrastructure Department will become involved in the review process and assist wherever needed.
3. Designated Directors will have the responsibility to declare in writing that a Project does not need their Infrastructure Department's expertise. However, a Designated Director may withdraw their declaration at a later date if it becomes evident that their Department is in fact or is likely to be impacted by the Project.

46.0109 Designated director's duties.

The Designated Director(s) shall carry out the following duties:

1. Declaring the interest of their Infrastructure Department to be involved in the review and planning of a Project.
2. Documenting findings and making recommendations to the Turtle Mountain Band of Chippewa Tribal Council concerning a Project.
3. Identifying impacts to the Tribe's infrastructure systems (utilities, water, sewer, roads, electrical) that are likely to result from a proposed Project.
4. Reviewing and providing comments and recommendations to the Tribal Council concerning Project plans, specifications and estimates concerning likely impacts to Infrastructure Departments and Tribal resources.
5. Examining design plans to determine whether such plans meet or exceed minimum health and safety and/or building or other applicable code requirements.
6. Managing the existing and future infrastructure components on the Exterior Boundaries of the Turtle Mountain Indian Reservation.
7. Assisting with the enforcement of penalties against violators.
8. Disseminating this Ordinance to all Persons and Employees who work with or plan on working with Infrastructure Departments.

46.0110 Persons with permit forms.

The Tribal Employment Rights Office of the Turtle Mountain Band of Chippewa shall prescribe Persons with Permit Forms, which may include electronic filing and such other forms as may be necessary to carry out the purposes of this Ordinance.

1. Any Person, by his signature upon said Permit, agrees that a consensual business is established with the Turtle Mountain Band of Chippewa and hereby consent to the jurisdiction of the Turtle Mountain Band of Chippewa Tribal Court over his activities on the Turtle Mountain Indian Reservation.
2. Any Person, by his signature upon said Permit, expressly agrees that a Permit remains valid only for such periods that he/she complies with provisions of this Ordinance, and any other applicable Tribal Law.
3. Any Person, by his signature upon said Permit, expressly agrees that failure to comply with applicable provisions of Tribal Law, including this Ordinance, may subject the Person to sanctions provided under Tribal Law, including this Ordinance, by the Turtle Mountain Band of Chippewa, the TERO Office, or the Tribal Court, and that said Person consents and is subject to such jurisdiction.

46.0111 Consensual process must be established.

1. Any Person employed by the Turtle Mountain Band of Chippewa agrees that a consensual process must be established concerning designated directors concerning certain Projects and hereby consents to the applicability of the TMBC Employee Policies and Procedure as to his/her actions.
2. Any Person employed by the Turtle Mountain Band of Chippewa expressly agrees that a formal notification and any declarations, provisions and/or waivers shall remain valid only for such periods that he/she complies with provisions of this Ordinance.
3. Any Person employed by the Turtle Mountain Band of Chippewa expressly agrees that failure to comply with applicable provisions of Tribal Law, including this Ordinance, may subject them to Tribal Law, including this Ordinance, and that said Designated Directors and/or Employees hereby consent to and are subject to TMBC Employee Policy and Procedures.

46.0112 Filing electronic monthly reports.

Any Person and/or Employee on the Turtle Mountain Band of Chippewa Indian Reservation shall file an electronic monthly report to the Turtle Mountain TERO or Designated Director's with specified software that shall be required to be utilized by said Persons or Employees. The reports shall contain schedules relative to progress on projects. The Person and/or Employee shall sign each report certifying that the information contained in the report is true and accurate to the best of the Person's knowledge, information and belief.

46.0113 Electronic reports due on or before the 20th day of the calendar month.

All Persons shall file monthly progress reports electronically on or before the 20th day of each calendar month with the Turtle Mountain Band of Chippewa TERO or Designated Director(s) and shall contain information as set forth in Sections 10 and 12 herein.

46.0114 Statement of work completed and remaining.

Any Person and/or Employee shall, on or before the 20th day of each calendar month, render to the Turtle Mountain Band of Chippewa TERO or the Designated Director a statement under oath setting forth the amount of work completed and remaining work anticipated on the Turtle Mountain Indian Reservation as prescribed on the schedules submitted or such other information that may be requested from time to time by the Turtle Mountain Band of Chippewa.

46.0115 Failure to comply.

Any Person or Employee subject to this Ordinance, who fails to comply and not involve respective Infrastructure Department(s) shall be subject to the following:

1. Persons shall be subject to fees or interest charges which the Tribe may calculate by pro-rating back to the date of initial meetings, discussions or planning at rates consistent with Turtle Mountain TERO fees.
2. Employees shall be subject to insubordination and disciplinary actions and any Policies and Procedures therein the TMBC Employee Policies and Procedures Manual.

46.0116 Penalties and interest.

1. Any of the Turtle Mountain Band of Chippewa Designated Director(s) are authorized and empowered by this Ordinance to recommend that Tribal prosecutors pursue legal proceedings in Tribal Court, including penalties and interest, against any Person subject to the provisions of this Ordinance, or to pursue other equitable or legal remedies related thereto.
2. Any of the Turtle Mountain Band of Chippewa Designated Director(s) are authorized and empowered by this Ordinance to pursue Personnel actions, including penalties and interest, against any Employee subject to the provisions of this Ordinance or the TMBC Employee Policy and Procedures Manual.

46.0117 To issue preliminary injunction.

The Turtle Mountain Band of Chippewa Tribal Court, upon application by the Tribal prosecutor or Turtle Mountain Band of Chippewa Designated Director(s), is empowered to issue a preliminary injunction against any person or employee to prevent the person or employee from conducting business within the exterior boundaries of the Turtle Mountain Indian Reservation, when a prima facie case has been made to the Tribal Court that required involvement by an Infrastructure Department and/or reports required to be filed under this Ordinance have not been timely issued/filed, or that a Person or Employee has not complied with Permit requirements of this Ordinance.

46.0118 Failure to comply with this ordinance.

1. A Person or Employee shall not knowingly commence any planning where any of the Infrastructure Departments are impacted in accordance with this Ordinance. Employees especially shall be responsible for making all Persons they are working with aware of this Ordinance.
2. A Person or Employee who shall fail to comply with this Ordinance shall be subject to Tribal Law or TMBC Employee Policy and Procedures.
3. Failure by any Person to secure a Business License and/or Permit from the Tribal Council for a Project may result in the Tribal Council obtaining a Cease and Desist Order or Preliminary Injunction from the Tribal Court stopping all work on the Project. Upon receipt of a Cease and Desist Order or Preliminary Injunction from the Tribal Court, all Project activities shall stop. Failure to cease Project activities may subject any Person to civil penalties, fines and fees as provided herein.

46.0119 Officers authorized and mandated to enforce sanctions.

1. Officers of the Turtle Mountain Band of Chippewa are authorized and mandated under this Ordinance and other provisions of Tribal Law to enforce sanctions provided hereinabove.
2. If, after inquiries are made, the Person is found to be in violation of Tribal Law, including this Ordinance, the Turtle Mountain Band of Chippewa Law Enforcement is, when duly empowered by an Order of the Tribal Court, authorized to arrest or detain any Person and/or seize all relevant evidence identified in a lawful warrant thereof until the violation(s) are remedied or pending final decision of the Tribal Court, including appeals from the decision(s) thereon.

3. The Designated Director(s) of the Turtle Mountain Band of Chippewa are authorized to document and bring all findings forward to the Tribal Personnel Department and Tribal Chairman to warrant disciplinary actions.

46.0120 Prior inconsistent ordinances hereby repealed.

Upon adoption and approval of this Ordinance, all prior inconsistent Ordinances of the Turtle Mountain Band of Chippewa are hereby repealed and of no further force or effect.

46.0121 Invalid or not enforceable as a matter of law.

If a court of competent jurisdiction shall hold that any provision or part of this Ordinance is invalid or not enforceable as a matter of law, all other provisions not thereby affected shall remain in full force and effect.

46.0122 Sovereign Immunity.

Nothing in this Ordinance shall be construed as amending, modifying or diminishing the sovereign immunity of the Turtle Mountain Band of Chippewa.