

ORDINANCE NO. 32

ZONING AND LAND USE

STATEMENT OF PURPOSE: An Ordinance to regulate zoning and land use of Tribal Member owned fee land and Tribal owned fee land located within the boundaries of the Isabella Reservation of the Saginaw Chippewa Indian Tribe of Michigan. The controls set forth in this Ordinance are deemed necessary in order to encourage an appropriate use of the land, to protect the social and economic stability of residential, agricultural, commercial, industrial, reserved and other area within the reservation; and to assure the orderly development of such areas; and to minimize or prevent damage to land and the environment.

BE IT ENACTED, by the Saginaw Chippewa Tribe as follows:

Section 1. Short Ordinance

This Ordinance may be cited as the Zoning and Land Use Ordinance of the Saginaw Chippewa Indian Tribe of Michigan.

Section 2. Definitions

- a. AGRICULTURE. The tilling of the soil, the raising of crops, horticulture, livestock farming, dairying and/or animal husbandry.
- b. APARTMENT HOUSE. A building or portion of a building, designed for occupancy by two (2) or more families living independently of each other and containing two (2) or more dwelling units.
- c. AUTO COURT. A group of attached or detached buildings containing individual sleeping or living units where a majority of such units open individually and directly to the outside and where a garage is attached or a parking space is conveniently located to each unit, all for the temporary use by automobile tourist or transients. Such definition shall also include "Motels", "Tourist Court", and "Motor Lodges".
- d. BUILDING. Any structure built for the support, shelter or enclosure of persons, animals or chattels, and when separated by division walls without openings from the ground up, each portion of such structure shall be deemed a separate building.
- e. CONDITIONAL USE. A use listed among these classified in the industrial district but permitted to locate only after review by the Tribal Council Planning Board, and the granting of a conditional use permit

imposing such performance standard as will make the use compatible with other permitted uses in the same vicinity and use district and assure against imposing excessive demands upon public utilities.

- f. DIVIDED or DIVISION. The partitioning or splitting of a parcel or tract of land by the owner, or the owner's heirs, executors, administrators, legal representatives, successors or assigns, for the purpose of sale, transfer, or lease of more than one year, or of a building development that results in one or more parcels of 40 acres or less, and that satisfies the conditions of this Ordinance.
- g. DWELLING. A building or portion thereof designed exclusively for residential purposes, including one family, two family, and multiple family dwelling, but shall not include hotels, auto courts, boarding houses and lodging houses.
- h. DWELLING UNIT. One or more rooms in a dwelling or apartment hotel designed for occupancy by one family for living or sleeping purposes, and having only one kitchen.
- i. DWELLING, SINGLE FAMILY. A detached building designed exclusively for occupancy by one family and containing one dwelling unit.
- j. DWELLING, TWO FAMILY. A building designed exclusively for occupancy by two families living independently of each other, and containing two dwelling units. Such definition shall also include the term "Duplex".
- k. DWELLING, MULTIPLE FAMILY. A building, or portion thereof, designed for occupancy by three or more families living independently of each other, and containing three or more dwelling units.
- l. EXEMPT DIVISION. The partitioning or splitting of a parcel or tract of land by the owner, or the owner's heirs, executors, administrators, legal representatives, successors or assigns, for the purpose of sale, transfer, or lease of more than one year, or of a building development that does not result in one or more parcels of 40 acres or less, provided all resulting parcels are accessible for vehicular travel and utilities from existing public roads, or easements, or through areas owned by the owner of the parcel that can provide such access.
- m. FAMILY. An individual or all persons living in the same house who are related by Tribal custom, blood or marriage.

- n. GRADE. The average of the finished ground level at the center of all walls of a building. In case walls are parallel to and within five (5) feet of the street side of a sidewalk, the above-ground level shall be measured at the sidewalks.
- o. HOME OCCUPATIONS. Any occupation of a service character which is clearly secondary to the main use of the premises as a dwelling place, and does not change the character thereof or have any exterior evidence of such secondary use. This occupation shall be carried on or conducted only by members of a family residing in the dwelling and in connection with which there is kept no stock in trade or commodity for sale upon the premise.
- p. HOSPITAL. An Institution specializing in giving clinical, temporary, and emergency services of a medical or surgical nature to human patients and injured persons, licensed or approved by proper authority of law, approved by the Area Director of Indian Health Service, and a member of American Hospital Association to provide facilities and services in surgery and obstetrics and general medical practice as distinguished from treatment of mental and nervous disorder, but not excluding surgical or post-surgical treatment of mental cases.
- q. HOTEL. A building in which there are seven or more guest rooms where lodging with or without meals is provided for compensation, and where no provision is made for cooking in any individual room or suite, but shall not include jails, hospitals, asylums, sanitariums, or prisons, detention homes and similar buildings where human beings are housed and detained under legal restraint.
- r. INDIAN HEALTH SERVICE. That division of the United States Public Health Service charged with providing health and medical services to Indian Tribes.
- s. INSTITUTION. An establishment maintained and operated by a society, corporation, individual, foundation or public agency for the purpose of providing charitable, social, education, or similar services to the public, groups or individuals.
- t. LOT. A fractional part of subdivided land having fixed boundaries, being of sufficient area and dimension to meet minimum zoning requirements for width and area. The terms shall include "Tracts" or "Parcels".
- u. LOT AREA OR PARCEL AREA. The total horizontal area within the

boundary lines of a lot or parcel. For the purposes of determining area in the case of an irregular triangular or cone-shaped lot or parcel, a line ten (10) feet in length within the lot or parcel and farthest removed from the front lot line and at right angles to the line and at right angles to the line comprising the depth of such lot or parcel shall be used at the rear lot line.

- v. LOT, INSIDE OR INTERIOR. A lot other than a corner lot or reversed corner lot.
- w. LOT, LINE, FRONT. In the case of an interior lot, the property line separating the lot from the street. In the case of a corner lot, the front line shall be the property line separating the narrowest street frontage of the lot from the street.
- x. LOT, LINE REAR. The property line which is opposite and most distant from the front lot line. For the purpose of establishing the rear lot line of a triangular or trapezoidal lot, or of a lot the rear line of which is formed by two or more lines; the following shall apply:
 - i. For a triangular or cone-shaped lot a line ten (10) feet in length within the lot and farthest removed from the front line and at right angles to the line comprising the depth of such lot shall be used as the rear lot line.
 - ii. In the case of a trapezoidal lot, the rear line of which is not parallel to the front lot line, the rear lot line shall be deemed to be a line at right angles to the line comprising the depth of such lot and drawn through a point bisecting the recorded rear lot line.
 - iii. In the case of a pentagonal lot, the rear boundary of which includes an angle shall be employed for determining the rear lot line in the same manner as prescribed for a triangular lot.
- y. LOT LINE, SIDE. Any lot boundary line not a front lot line on a rear lot line.
- z. LOT, REVERSED CORNER. A corner lot, the side street line of which is substantially a continuation of the front lot abuts.
- aa. MOBILE HOME. A single family dwelling more than thirty-two (32) feet in length, designed for transportation after fabrication on streets and highways on its own wheels or on flatbed or other trailers, and arriving at the site where it is to be occupied as a dwelling complete and ready for

occupancy, except for minor and incidental unpacking and assembly operations, location on jacks or permanent foundations, connection to utilities and the like.

- ab. MOBILE HOME PARK. A park of land under single ownership which has been planned and improved for the placement of nontransit mobile homes for dwelling or sleeping purposes.
- ac. MOTEL. See "Auto Court".
- ad. OCCUPIED. Includes the term designated or intended to be occupied.
- ae. OUTDOOR ADVERTISING. Any card, papers, cloth, metal, glass, wooden or other display or devise of any kind whatsoever placed for outdoor advertising purposes on the ground or on any tree, wall rock structure or thing whatsoever.
- af. PLANNING COMMISSION. The Planning Commission of the Tribal Council, which consists of those five (5) members appointed by the Tribal Council.
- ag. RESERVATION. Has the meaning specified in the Order for Judgment entered on December 17, 2010 by the United States District Court of the Eastern District of Michigan in *Saginaw Chippewa Indian Tribe of Michigan v. Granholm, et al.*, Case No. 05-10296-BC (the "Court Order").
- ah. SERVICE STATION. A building to supply motor fuel and other petroleum products to motor vehicles, including lubrication facilities and providing minor repair service and sales of motor vehicle accessories.
- ai. SIGN. Any outdoor advertising display or outdoor advertising structure designed and placed so as to be readable principally from the outside.
- aj. STAND. An open structure for the display and sale of products.
- ak. STREET. Every way, lane, road, street, boulevard, and every way or place within the Isabella and Saganing Reservations open a matter of right to public vehicular travel.
- al. STRUCTURE. Anything constructed or erected which requires location on the ground or attached to something having a location on the ground, but not including fences or walls used as fences less than six (6) feet in height.

- am. TRAILER PARK, COURT, CAMP. An area or tract of land used or designed to accommodate two (2) or more travel trailers or short term period of occupancy.
- an. TRAVEL TRAILER. A trailer or other vehicle portable structure designed as a temporary dwelling for travel recreational or vacation used to be used upon the public streets and highways and which is thirty-two (32) feet or less in length and eight (8) feet or less is width.
- ao. TRIBAL COUNCIL. The governing body of the Saginaw Chippewa Indian Tribe.
- ap. TRIBAL MEMBER FEE LAND. Real property located within the boundaries of the Reservation and owned in fee simple by a member of Saginaw Chippewa Indian Tribe of Michigan.
- aq. TRIBAL MEMBER. An enrolled member of Saginaw Chippewa Indian Tribe of Michigan.
- ar. USE DISTRICT. A portion of the territory of the reservation within which certain uses of land and buildings are permitted and certain yards and other open spaces are required or within which certain lot areas are established, or within which a combination of such aforesaid regulations are applied; all as set forth and specified in this Ordinance.
- as. USE. The purposes for which land or buildings is arranged, designed or intended, or for which either land or building is or may be occupied or maintained.
- at. VARIANCE. A modification of the specified regulations of this Ordinance in accordance with the terms of this Ordinance for the purpose of assuring that no property, because of special circumstances applicable to it, shall be deprived of privilege commonly enjoyed by other properties in the same vicinity and zone.
- au. YARDS. An open space other than a court, on the same lot with the building, unoccupied from the ground upward.
- av. YARD, FRONT. The required yard extending along, and parallel to the entire length of the front line of the lot which in the street line, measured from the street to the building.
- aw. YARD, REAR. The required yard at the rear of the building, extending

the entire width of the lot and measured from the building in the direction opposite from the front yard.

- ax. YARD, SIDE. An open unoccupied space on the same lot with a building between the side wall line of the building and the side line of the lot.

Section 3. Planning Commission

There is hereby created and established the Saginaw Chippewa Planning Commission.

Section 4. Duties and Responsibilities of the Planning Commission

The following shall be the duties of the Planning Commission:

- a. To review applications for variance and special use permits. To conduct hearings regarding variance and special use permits.
- b. To render decisions on variance and special use permits.
- c. To review a final decision of the Planning Director denying a proposed land division. To conduct hearings regarding the denial of a proposed land division.
- d. To render a decision regarding an appeal of a land division denial.
- e. Designation of Zoning Areas
- f. To perform other duties and responsibilities as may be delegated by appropriate resolution.
- g. To adopt bylaws governing the operation and to Commission consistent with this Ordinance. Bylaws of the Planning Commission shall be effective upon approval by the Planning Commission and the Tribal Council.

Section 5. Duties and Responsibilities of the Tribal Planning Department

- a. To carry-out duties provided to the Planning Department and enforce provisions of this ordinance.
- b. To promulgate regulations necessary for the administration of this Ordinance. To review applications for non-exempt land divisions. To

render decisions on non-exempt land divisions. Regulations shall be effective upon approval by formal vote of the Tribal Council.

Section 6. Membership

The Planning Commission shall be comprised of five members appointed by the Tribal Council for two year terms. The members shall serve until they resign or are dismissed by Tribal Council. Tribal Council shall have authority to dismiss any Planning Commission member for any reason without notice and to fill any vacancy by appointment.

Section 7. Chairperson and Vice-Chairperson Meetings

The members of the Planning Commission shall elect a Chairman and a Vice-Chairperson at the initial meeting and the two officers shall serve throughout the tenure of their membership. The Chairman shall chair meetings of the Planning Commission and shall not vote except in the event of a tie vote of the Commission. The Vice-Chairman shall have the duties of the Chairman in the Chairman's absence.

Section 8. Quorum

A quorum of the Planning Commission shall consist of three members for any meeting. All official business of the Commission must be approved by majority vote with a quorum present.

Section 9. Compensation

All members of the Planning Commission shall serve without compensation but shall be paid mileage and per diem at a rate in accordance with Tribal policy when attending an officially scheduled meeting.

Section 10. Zoning Areas

a. Existing Use.

All existing land use for Tribal-Member-Fee Land and Tribal owned fee land on the Reservation that is reflected in the County, township, or other local zoning and land-use records at the date this Ordinance is enacted shall be recorded as the Tribally approved land use for purposes of this Ordinance. Tribal Member owned fee land or Tribal owned fee land with existing use designation may be changed by variance or special permit as provided by this Ordinance. The Tribal Planning Department shall be

responsible for the recording requirements of this Ordinance.

b. Designation of Zoning Areas.

Pursuant to this Ordinance, the Planning Commission, by written order, shall designate areas subject to the ordinance and shall designate proposed zoning areas. Existing Uses provided in Section 10. a. of this Ordinance shall not be changed by such designation. The order shall be posted in a conspicuous place in the Tribal Clerk's Office for at least 20 days. Following the 20 days notice, the Planning Commission shall post the final order in a conspicuous place in the Tribal Clerk's Office. The final order shall take effect 30 days following the posting unless an emergency requires an earlier effective date.

c. Establishment of Areas.

- i. Residential;
- ii. Commercial;
- iii. Industrial;
- iv. Agricultural;
- v. Recreational; and
- vi. Reservation restricted areas.

d. Interpretation of Boundaries.

Where uncertainty exists as to the boundaries of districts the following rules shall apply:

- i. Boundaries indicated as approximately following the center lines of streets, highways or alleys shall be construed to follow such center lines;
- ii. Boundaries indicated as approximately following plotted lot lines shall be construed as following lot lines;
- iii. Boundaries indicated as approximately following city limits shall be construed as following city limits;
- iv. Boundaries indicated as following railroad lines shall be construed to be midway between the main tracks.
- v. Boundaries indicated as following shore lines shall be construed to follow such shore lines, and in the event of change in the shore line

shall be construed as moving with the actual shore lines; boundaries indicated as approximately following center lines of streams, rivers, canals, lakes or other bodies of water shall be construed to follow such center lines;

- vi. Where physical or cultural features existing on the ground are at variance, or in other circumstances not covered by subsections 1 through 6, the Planning Board shall interpret the district boundaries.

Section 11. Agricultural

a. PURPOSE.

In order that the agricultural district shall further promote the general purpose of the Ordinance, the specific intent of the district is:

- i. To assure that those portions of the Reservations containing prime agricultural soils will be preserved for agricultural purposes;
- ii. To encourage the use and preservation of those limited and irreplaceable portions of the Reservations contain the proper combination of soil and topographical characteristics for intense agricultural development;
- iii. To prohibit any uses of the land which would interfere with the development or continuation of agricultural uses in this district;
- iv. To establish minimal development standards which will assure a continuation of the open and rural character of the district and to permit only those uses and activities which are compatible with the rural character.

b. REGULATIONS.

The following regulations shall apply to the Agricultural District:

i. Permitted Uses.

No building, structure, or land shall be used and no building or structure shall be hereafter erected, altered, enlarged or maintained in this district except for the following uses:

- (1) Agriculture, floriculture, horticulture, general farming, dairying, poultry raising, stock raising and other agricultural land uses, buildings and activities, except farms for disposal of garbage and offal by breeding same to livestock;
- (2) Plants for the processing and storage of agricultural products, such as fruit packing plants, canneries, milk plants, warehouses, fruit and vegetable cold storage plants, etc.
- (3) Stands for the display and sale of products raised or grown on the premises when located not less than twenty (20) feet from the right of way of any public street or highway;
- (4) Accessory buildings ordinarily appurtenant to the conduct of farming and agriculture and when located not less than seventy-five (75) feet from the public street or highway;
- (5) Public parks and playgrounds;
- (6) Single-family dwellings;
- (7) Home occupations;
- (8) Uses customarily incidental to any of the above uses;
- (9) Special property uses specifically allowed in this district as listed in Section 16.

ii. Area Regulations.

- (1) Lot Size.
 - (a) The minimum lot size in this district shall be five acres;
- (2) Set Back Requirements:
 - (a) Front: There shall be a minimum set-back for all buildings or other structures from the centerline of right-of-way as follows:

<u>Rights-of-way, Public</u>	<u>Set Back</u>
Major or Secondary Arteries	60 feet
Collector or Access Roads	50 feet

Rights-of-way, Private

Any road, lane, street, or other access way in private ownership	50 feet
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<u>Any Water Way</u>	200 feet
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There shall be a minimum set back for facilities belonging to any individual private or public irrigation of drainage district company or corporation or any private, or public utility except those located within the right-of-way by franchise from the Saginaw Chippewa Tribe, from the centerline of rights-of-way as follows:

<u>Rights-of-way, Public</u>	<u>Set Back</u>
Major or Secondary Arteries	40 feet
Collector or Access Roads	30 feet

<u>Rights-of-way, Private</u>	30 feet
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- (b) Side: There shall be a side set back of not less than ten (10) feet on each side of a structure.

Section 12. Residential

The Residential District is established as an area in which the principal use of the land is for residential construction and land development of varying densities designed to meet contemporary building and living standards.

a. PURPOSE.

In order that the Residential District shall further promote the general purpose of the Ordinance, the specific intent of this district is:

- i. To encourage the construction of and the continued use of the land

for various residential purposes;

- ii. To prohibit commercial and industrial uses of land and to prohibit any other use which would substantially, interfere with the development or continuation of residential uses;
- iii. To encourage the discontinuance of existing uses which would not be permitted as new uses under the provisions of this Ordinance;
- iv. To prohibit any use which because of its character or size creates requirements and costs for public services, such as police and fire protection, water supply and sewage facilities substantially in excess of such requirements and costs if the district were developed solely for residential purposes.

b. REGULATIONS.

The following regulations shall apply to the Residential District:

i. Permitted Uses.

No building, structure, or land shall be used and no building or structure shall be hereafter erected, altered, enlarged or maintained in this district except for the following uses:

- (1) Single family dwellings;
- (2) Two-family dwellings;
- (3) Multiple-family dwellings and apartment houses;
- (4) Public parks and play grounds;
- (5) Farming, gardening, orchards and nurseries provided that no retail or wholesale business office is maintained and provided that no poultry or livestock other than normal household pets, shall be housed within one hundred (100) feet of any residence other than the dwelling on the same lot;
- (6) Home occupations;
- (7) Accessory buildings such as are ordinarily appurtenant to

the permitted uses in this district;

- (8) Where the side of the lot abuts in a Commercial or Industrial district, the following transitional uses are permitted provided they do not extend more than one hundred (100) feet into the more restricted (residential) district:
 - (a) Medical or dental offices and clinics;
 - (b) Other uses of a transitional nature as determined by the Planning Board. These transitional uses shall conform to all other requirements of this Ordinance which apply.
 - (i) Special Property uses specifically allowed in this district as listed in Section 16.

ii. Area Regulations.

- (1) Lot size and percentage coverage:
 - (a) Single-family dwelling-no single family dwelling shall hereafter be erected upon any lot or plot having an area of less than seven thousand two hundred (7200) square feet, or an average width of less than sixty (60) feet. Nor shall the building, including its accessory buildings, cover more than fifty (50) percent of the total lot area.
 - (b) Two-family dwelling-no two family shall hereafter be erected upon any lot or plot having an area of less than nine thousand six hundred (9600) square feet, or an average width of less than eighty (80) feet. Nor shall the building, including its accessory buildings, occupy or cover more than fifty (50) percent of the total lot area.
 - (c) Multiple-family dwelling - no multiple-family dwelling of three or more residential units shall hereafter be erected upon any lot or plot having an area of less than ten thousand eight hundred (10,800) square feet, or an average width of less

than ninety (90) feet. Nor shall an apartment or multiple family dwelling of any type be erected in such a manner as to provide less than two thousand (2000) square feet of land area of each living unit including the land on which the unit is built, no multiple family dwelling, including its accessory buildings, shall occupy or cover more than fifty (50) per cent of the total lot area.

(1) Set-Back Requirements

- (a) Front: There shall be a minimum set-back for all buildings or other structure from the centerline or rights-of-way as follows:

<u>Rights-of-way, Public</u>	<u>Set Back</u>
Major or Secondary Arteries	60 feet
Collector or Access Roads	50 feet

Rights-of-way, Private

Any road, lane, street, or other access way in private ownership	50 feet
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<u>Any Water Way</u>	200 feet
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There shall be a minimum set back for facilities belonging to any individual, private or public irrigation of drainage district company or corporation of any private or public utility except those located within the right-of-way by franchise from the Saginaw Chippewa Tribe, from the centerline of rights-of-way as follows:

<u>Rights-of-way, public</u>	<u>Set Back</u>
Major or Secondary Arteries	40 feet
Collector or Access Roads	30 feet

<u>Rights-of-way, Private</u>	30 feet
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(b) Side: There shall be a side set back of not less than five (5) feet on each side of a dwelling except that a set-back on a corner lot shall not be less than ten (10) feet along the flanking or side street line.

(c) Rear: There shall be a rear set back of not less than fifteen (15) feet in the rear of each dwelling. Accessory buildings may be located in the rear of each dwelling. Accessory buildings may be located in the rear yard provided they shall maintain a set back of five (5) feet from any lot line.

(3) Height Requirements.

No building shall exceed a height of forty-five (45) feet or there stories, whichever is lesser.

iii. Other Regulations.

Parking requirements: Parking and loading space shall be provided as specified by Section 17.

Section 13. Commercial

The Commercial district is established as a district in which the principal use of the land is for various types of commercial activities which provide the outlets for dispensary commodities, personal services, professional services and other business uses related to the needs of the particular section of the community in which they are located. No Commercial district shall be allowed on allotted or purchase restricted land without prior permission from the Planning Commission.

a. PURPOSE.

In order that the Commercial district shall further promote the general purpose of this Ordinance, the specific intent of this district is:

i. To protect commercial development, so far as possible and appropriate in each area, against the establishment of uses which would create hazards, offensive noise, vibration, smoke, dust, orders, heat, glare or other objectionable influences, or heavy trucking traffic;

ii. To protect commercial development against congestion, so far as

possible and appropriate in each area, by limiting the bulk of buildings in relation to the land around them and to one another;

- iii. To provide sufficient space in appropriate locations for the transaction of all types of commercial and miscellaneous service activities beneficial relation to one another and thus to strengthen the economic base of the community;
- iv. To provide appropriate space, and in particular sufficient depth from the street, to satisfy the needs of modern commercial development, including the needs for off-street parking, in areas where a large proportion of customers come by automobile;
- v. To encourage the tendency of commercial development to concentrate to the mutual advantage of both customers and merchants;
- vi. To promote the most desirable use of land in accordance with a well considered plan, to promote stability of commercial development to protect the character and established pattern of desirable development in each area, conserve the value of land, and thus to promote public safety, convenience, prosperity and welfare.

b. Regulations

The following regulations shall apply to the Commercial District:

- i. No building, structure or land shall be used and no structure shall be hereafter erected, altered enlarged or maintained in this district except for the following uses:
 - (1) All activities requiring a business or professional license;
 - (2) Those structures used in connection with any profession or retail trade:

Definitions of structures used in connection with any profession or retail trade as herein used:

- (a) "Profession" means doctors, attorneys, dentists, ordained religious leaders, newspaper editors, or similar occupations;

(b) "Retail Trade" or "Business" means grocery, hardware, drug, clothing and general merchandise stores, hotels and motels, gasoline service stations, automobile repair shops, restaurants, movie theaters, barber shops, small cleaning establishments and similar personal service businesses, handicraft establishment which employ three or less paid employees (other than members of the owner's family) and other trades and businesses of similar character.

(3) Multi-family dwellings and apartment houses.

(4) Special property uses specifically allowed in this district as listed in Section 16.

ii. AREA REGULATIONS.

(1) Lot size and percent of coverage:

(a) Multiple-family dwelling: No multiple-family dwelling of three (3) or more units shall hereafter be erected upon any lot or plot having an area of less than nine thousand two hundred (9200) square feet, nor shall any MULTIPLE family dwelling hereafter be erected or altered in such a manner as to provide less than five hundred (500) square feet of open unoccupied lot area for each family unit in such multiple family dwelling.

(b) No other building, including its accessory buildings, shall occupy or cover more than fifty (50) percent of the total lot area.

(2) Set-Back Requirements.

(a) Front: There shall be a minimum set-back for all buildings or other structures from the centerline of rights-of-way as follows:

<u>Rights-of-way, Public</u>	<u>Set Back</u>
Major or Secondary Arteries	60 feet

Collector or Access Roads 50 feet

Rights-of-way, Private

Any road, street or other access way in private ownership 50 feet

Any Water Way 200 feet

There shall be a minimum set back for facilities belonging to any individual, private or public irrigation of drainage district, company or corporation, or any private or public utility except those located within the right-of-way by franchise from the Saginaw Chippewa Tribe, from the centerline of rights-of-way as follows:

Rights-of-way, Public Set Back

Major or Secondary Arteries 40 feet
Collector or Access Roads 30 feet

Rights-of-way, Private 30 feet

Any Water Way 200 feet

- (b) Side: None required except property abutting a residential district in which case the side yard on the abutting side shall be the same as that required in the residential district. On a side abutting a street, the set back shall be a minimum of ten (10) feet for all structures.

(3) Height Requirements.

No building shall exceed a height of forty-five (45) feet or three stories, whichever is lesser.

Section14. Industrial

The Industrial District is established as a district in which the principal use of the land is for the various types of industrial activities and development which are

considered to be compatible with and essential to the economic well-being of the community in which they are located. No industrial district shall be placed upon an allotment or purchase restricted land without prior approval of the Planning Commission.

a. PURPOSE.

In order that the Industrial District shall further promote the general purpose of the Ordinance, the specific intent of this district is:

- i. To establish standards for the height and size of buildings, the areas and dimensions of yards and open spaces;
- ii. To provide facilities to minimize traffic congestion;
- iii. To provide for facilities and the operation of industries to minimize noise, glare, air pollution, water pollution and fire and safety hazards in industrial districts.

b. REGULATIONS.

i. Permitted Uses:

No building, structure, or land shall be used and no building or structure shall be hereafter erected, altered, enlarged or maintained in this district except for the following uses:

- (1) Agriculture supplies, machinery and equipment sales;
- (2) All factories, manufacturing plants, storage warehouses, slaughter houses, lumber yards, large laundries, large dry cleaning plants and similar businesses.
- (3) Uses customarily incidental to any of the above listed including dwellings of shelters for occupancy of guards, watchmen, or caretakers, or dwellings for the occupancy of the operators and employees necessary to the farm or agricultural use;
- (4) Special Property Uses specifically allowed in this district as listed in Section 16.

ii. Area Regulations.

(1) Set-Back Requirements:

(a) If any use in this district abuts or faces any residential district, a set-back of fifty (50) feet on the side abutting or facing the residential district shall be provided. This area shall be landscaped and maintained with lawn tree, shrubs, hedges, etc., or other conditions necessary to protect the character of the residential district. The Planning Board shall give approval to satisfactory landscape plans.

(b) Other regulations:

(i) Parking and loading requirements: Parking and loading space shall be provided as specified in Section 17;

(2) Signs: Artificially illuminated signs not be permitted if they face an abutting residential district;

(3) Rights-of-way Preservation: There shall be a minimum set-back for all building or other structures from the center lines of right-of-way as follows:

<u>Rights-of-way, Public</u>	<u>Set Back</u>
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Major or Secondary Arteries	40 feet
Collector or Access Roads	30 feet

<u>Rights-of-way, Private</u>	<u>Set Back</u>
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Any road, lane, street, or other access way in private ownership	30 feet
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<u>Any Water Way</u>	200 feet
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There shall be a minimum set back for facilities belonging to any individual, private

or public irrigation or drainage district, company or corporation, or any private or public utility except those located within the right-of-way by franchise from the right-of-way as follows:

<u>Rights-of-way, Public</u>	<u>Set Back</u>
Major or Secondary Arteries	40 feet
Collector or Access Roads	30 feet
<u>Rights-of-way, Private</u>	<u>Set Back</u>
Any road, lane, street, or other access way in private ownership	30 feet
<u>Any Water Way</u>	200 feet

- (c) Conditional Use Permits: The Planning Board may issue Conditional Use Permits, provided that:
- (1) The Board shall assure that the degree of compatibility made in the purpose of this Ordinance shall be maintained with respect to the particular use on the particular site and in consideration of other existing and potential uses within the general area in which such use is proposed to be located.
 - (2) The Board shall recognize and compensate for variations and degrees of technological process and equipment as related to the factors of noise, smoke, fumes, vibrations, odors and hazards. Unless substantial proof is offered showing that such process and/or equipment has reduced the above factors so as to be negligible, no Conditional Use Permit may be granted by the Board unless such use is located not less than one thousand (1000) feet from any church, school, park, playground or occupied

dwelling except such dwelling as may exist on the same premises with such use.

Section 15. Recreation.

a. PURPOSE

This district and these regulations are established to provide for general recreational areas.

b. REGULATIONS

The following regulations shall apply to the Recreation District:

i. Permitted Use.

No building, structure or land shall be used and no building or structure shall be hereafter erected or altered, enlarged or maintained in this district except for the following uses:

- (1) Agricultural;
- (2) Recreation Activities;
- (3) Seasonal Dwellings;
- (4) Mobile Homes on permanent foundation on single lots;
- (5) Commercial retail establishments operated only in conjunction with the recreational uses in the district and for the convenience thereof;
- (6) Special property uses specifically allowed in this district as listed in Section 8.412.

ii Area Regulations.

- (1) Minimum lot size: Minimum width-75 feet
Minimum area-20,000 square feet

(If soil limitations for sewage disposal are severe, the Planning Board shall require a greater minimum area).

- (2) Set Back Requirements.
 - (a) Front Yard: Minimum of forty (40) feet from all frontages;
 - (b) A minimum of sixty (60) feet shall be maintained between all structures or recreation vehicle campsites and the natural shoreline of streams, rivers, lakes reservoirs or other water areas;
 - (c) Maximum height requirements: All structures-thirty-five (35) feet.
 - (d) Fences:
 - (i) None in sight line;
 - (ii) None within thirty (30) feet of natural shoreline that would restrict usual access.
 - (e) Motor vehicle parking: Adequate off-street parking shall be provided. Parking shall be permitted on set backs and yards.

iii. Conditional Uses-Recreation Vehicle Park.

The following conditions shall apply to the above.

- (1) Minimum campsite conditions shall be 2,000 square feet;
- (2) One comfort station shall be provided for every thirty (30) campsites;
- (3) Refuse disposal receptacles shall be provided within 15 feet to 150 feet for every campsite.

Said receptacles shall not be located near a water supply;
- (4) An approved water supply shall be provided within 300 feet of every campsite; and
- (5) One sanitary flushing station shall be provided for every one hundred (100) campsites.

Section 16. Reservation Restricted Cultural Area.

The Restricted Cultural Area District is established to ensure continuation of the Tribal natural resources and to ensure the treaty right of Tribal members to have an area in which they may camp and pursue the traditions of their culture.

a. PURPOSE

The Restricted Cultural Area District is established to prevent uncontrolled development which could result in irreversible damage to important Tribal historic, cultural, religious or aesthetic values or natural systems or processes or could unreasonable endanger lives and property.

b. REGULATIONS

- i. Only usual and accustomed Tribal activities are authorized in the Restricted Cultural Area District. There may be no major development in the Restricted Cultural Area District. Present roads and access ways in the Restricted Cultural Area District may be maintained as presently exist.
- ii. This District is therefore closed to all non-tribal members other than persons bearing permits. Upon the issuance of a permit of the Tribal Council with respect to Tribal lands, roads and resources, the Tribal Chief or his designee will issue permits for travel on roads in the closed areas as of January 1, 1987, to persons or firms doing business with the Saginaw Chippewa Tribe and the Bureau of Indian Affairs; employees of the Saginaw Chippewa Tribe and to others who are engaged in activities of direct benefit to the Saginaw Chippewa Indian Tribe Indian Tribe Of Michigan.
- iii. In order that the nature of the Restricted area be protected only the following uses will be permitted:
 - (1) Harvesting wild crops;
 - (2) Grazing, timber production of open field crops;
 - (3) Hunting, fishing and trapping by tribal members only;
 - (4) Camping in temporary structures;
 - (5) Tribal camps for the education and recreation of tribal

members and the continued Tribal Cultural activities;

- (6) Cutting of totem poles and fence posts; and
- (7) No building or permanent structure of any appurtenances thereto other than those allowed in Parts (a)-(f) above shall be allowed in this district.

Section 17. Nonconformance

a. DEFINITION OF NONCONFORMING USE OF STRUCTURE

Within the Reservation there are land uses and structures that conform with current government zoning regulatory schemes. These uses and structures may later be rendered nonconforming by the passage of zoning regulations. These land uses and structures were lawful before this Ordinance and or subsequent regulations were passed, but would be prohibited, regulated or Restricted under the terms of this Ordinance or future amendment.

b. INTENT

It is the intent of this Ordinance to permit these nonconformities to continue until they are removed, but not to encourage their survival. Such uses are declared by this Ordinance to be incompatible with permitted uses in the districts involved. It is further the intent of this Ordinance that the non-conformities shall not be enlarged upon, expanded or extended, nor be used as grounds for adding other structures or uses prohibited elsewhere in the same district.

c. EXISTING USE AND STRUCTURES

This Ordinance shall not require the abandonment or uses or the removal of structures in existence on the date this Ordinance is adopted, except as herein provided.

d. IMPROVEMENTS.

No person shall make any additions, improvements or repairs to a nonconforming structure where the value of the materials and labor (including his own) would be greater than 50% of the value prior to such addition, improvements or repairs, except with permission of the Tribal Council first obtained as in the case of a variance.

e. DESTRUCTION OR DETERIORATION OF NONCONFORMING STRUCTURE

If any nonconforming structure is more than 50% destroyed by fire, natural deterioration or other causes, it shall no longer be used in a nonconforming manner and shall not be rebuilt except for use in conformity with this Ordinance.

f. ABANDONMENT

Any nonconforming structure which has been abandoned, may be removed by order of the Court.

Section 18. Variance

a. APPLICATION FOR A VARIANCE OR SPECIAL USE

Any person proposing to erect a structure not in conformity with this Ordinance or to use an existing structure for a purpose not permitted by this Ordinance, may apply in writing to the Planning Commission for a variance stating the nature and location of the proposed structure or use. Any person requesting a Special Use Permit for Tribal Member owned fee lands must apply in writing to the Planning Commission for a Special Use Permit. Applications for Variance or Special Use Permits shall be obtained from and made on a form provided by the Planning Department. A copy of the application shall be posted at the Tribal Clerk's Office at least 20 days in advance to a public hearing made , so that interested parties may present their views or objections to the Planning Commission.

b. NOTICE TO ADJACENT PROPERTY OWNERS AND THE LOCAL UNIT OF GOVERNMENT WITH NON-TRIBAL ZONING AUTHORITY

The Planning Commission or the Planning Department shall provide written notice to all adjacent land owners and to the local unit of government with non-tribal zoning authority over the property for which a variance or Special Use Permit is sought for Tribal Member owned fee land at least twenty calendar days before the Planning Commission meeting to consider the variance or Special Use Permit application. Adjacent property owners and the local unit of government with non-tribal zoning authority may provide written comments to the Planning Commission for its consideration provided such comments are received by the Planning Commission no later than the date of the Planning

Commission's hearing. The Planning Commission shall consider all comments timely received under this Ordinance. The Planning Commission shall provide whatever weight to comments and information received that it deems appropriate and consistent with the requirements of this Ordinance.

c. ACTION OF THE PLANNING COMMISSION

The Planning Commission shall deny a variance unless the applicant furnished satisfactory proof:

- i. That the proposed variance would not materially interfere with the purposes of this Ordinance; and
- ii. That unless such variance is granted, the applicant will suffer severe hardship out of proportion to the public gain achieved by denying the variance.

Section 19. Special Uses

All of the following and all matters directly related thereto are declared to be uses possessing characteristics of such unique and special form as to make impractical their being included automatically in any class of use as set forth in the various use districts herein defined, and the authority for the location and operation thereof shall be subject to review and the issuance of a Special Use Permit by the Planning Commission, provided that Special Use Permits may not be granted for use in a Restrictive district from which it is specifically excluded. Special Property Use Permits may contain conditional limitations.

a. AUTOMOBILE DISMANTLING, WRECKING OR JUNK YARDS:

Provided that such uses shall be specifically excluded from all but the Agricultural and Industrial Districts.

b. CEMETERIES:

Provided that such uses shall be specifically excluded from the Commercial and Industrial Districts, and further provided that the following requirements are met:

- i. External boundaries of a cemetery shall be devoted to the planting of sight-obscuring trees and shrubs;

- ii. No plot within a cemetery shall lie closer than ten (10) feet to any lot line.

c. CHURCHES

Provided that such uses shall be specifically excluded from the Commercial and Industrial Districts and further provided that the following requirements are met:

- i. Churches may exceed the height limit of the district in which a church may propose to locate provided that such buildings are set back from all property lines at least one (1) additional foot for each foot of excess height;
- ii. The height of the spire tower or similar feature may exceed the height limit of the district in which a church may propose to locate, provided that it is not intended for human occupancy and further provided that it is removed not less than twenty (20) feet from any adjoining lot line.

d. Outdoor commercial amusements of a permanent nature involving a large assembly of people:

Provided that these uses shall be specifically excluded from all districts except the Commercial and Industrial districts and further provided that the following requirements are met:

- i. There shall be no direct entrance to or exit from such use on any major or secondary arteries;
- ii. Access to such uses shall be only from full width streets or roads;
- iii. Parking areas shall be paved and surfaced to eliminate dust and mud.

e. FRATERNAL ORGANIZATIONS, LODGES, AND CLUBS:

Provided that these uses, whose chief activity is a service customarily carried on as a business shall be specifically excluded from the Residential District.

f. LIVESTOCK FEEDING OR SALES YARDS:

Provided that such uses shall be excluded from all but the Agricultural and Industrial Districts.

g. MOBILE HOME PARKS

Provided that when minimum requirements are developed, that they are met.

h. MOBILE HOME AND/OR TRAVEL TRAILERS:

When used as a residence shall be considered as a dwelling and shall conform to the requirements established for dwellings in the use district in which it is located. Lot size requirements shall not include the area required to support any other type of dwelling. All sanitary requirements of the Indian Health Service shall be fulfilled. Mobile Homes and/or Travel Trailers used as dwellings not in mobile home parks or trailer courts, shall be specifically excluded from the Residential, Commercial and Industrial Districts.

i. PUBLIC BUILDINGS:

Including police stations, fire stations, art galleries, museums and libraries.

j. Public utilities or utilities operated by mutual agencies consisting of water wells, electrical substations, gas metering stations, power booster or conversion plants within the necessary buildings, apparatus or appurtenances thereto, but not including distribution mains.

k. RADIO AND TELEVISION BROADCASTING STATIONS AND TRANSMITTERS:

Provided that such be specifically excluded from the Residential District.

l. Schools, including private schools in which prescribed courses of study are given and are graded in a manner similar to public schools or are of a higher degree, kindergarten and nursery schools and institutions of higher learning-provided that these uses shall be specifically excluded from the Commercial and Industrial Districts.

m. TRAILER PARK, COURT CAMP:

Provided, that these uses shall be specifically excluded from the Residential, Industrial and Reservation Restricted Areas and further

provided that the following requirements are met:

- i. Access to such use shall only be from a major or secondary arteries;
 - ii. All requirements of the Indian Health District shall be fulfilled.
- n. AREA REGULATIONS.
- i. Unless otherwise specified by the Planning Commission, the provisions for required front and side yards applicable to the particular district in which any such use is proposed to be located shall prevail.
 - ii. HEIGHT AND AREA REGULATIONS:

Unless otherwise specified by the Tribal Council, the provisions for height, area requirements, and lot coverage applicable to the particular district in which any such use is proposed to locate shall prevail.
- o. In granting a permit for any of the above-listed Special Property Uses, the Planning Commission shall ascertain that the present and future needs of the community as a whole will be benefitted rather than injured. The Planning Commission may attach additional conditions to the issuance of a Special Use Permit to insure that structures and areas proposed are surfaced, arranged and screened in such a manner that they are in harmony with and not detrimental to existing or reasonable expected future development of the neighborhood. In the case of Special Property Uses for which no requirements have been listed, the Planning Commission may allow any reasonable height, yard dimensions or lot size provided that it is satisfied that there is no adequate off-street parking playground area in the case of schools, that height restrictions and yard requirements and of the conditions imposed are sufficient to prevent detrimental effects on adjoining land or structures.

Section 20. Off-Street Parking and Loading

The following regulations shall apply in all districts:

- a. MINIMUM OFF-STREET PARKING AND LOADING REQUIREMENTS:

At the time of the erection of a new structure or the addition to an existing structure or the use of an existing building, structure, or land use is changed, off-street parking and loading space shall be provided according to the following requirements:

Amusement Park	one space for each 1000 sq. ft. of patron serving area
Auto Courts, motels and trailer parks	one space for each sleeping unit and/or one space for each trailer space
Churches, mortuaries, funeral homes	one space for each five seats in the chapel or nave
Commercial recreation facilities	one space for each 100 sq. ft. of gross floor area
Dance halls, exhibition halls, clubs and lodges and other places of assembly without fixed seats	one space for each 75 sq. ft. of gross floor space
Dwelling, one, two multiple	one space for each dwelling unit
Manufacturing uses, including research and testing, laboratories, creameries, bottling establishments	one space for each three employees, based on the maximum working shift
Medical and dental clinics	one space for each 200 sq. ft. of gross floor area
Restaurants, and any establishment for the sale and consumption on the premises of food, or refreshments	one space for each 100 sq. ft. of gross floor area

Retail stores, except otherwise specified:

Having not more than 7000 sq. ft of gross floor area one space for each 300 sq. feet of gross floor area

Having more than 7000 sq. ft. of gross floor area one space for each 150 sq. ft. gross floor area in excess of 7000 sq. ft.

b. Parking requirements for uses not specified:

Where the parking requirements for a use are not specifically defined herein, the parking requirements for such use shall be determined by the administration official, and such determination shall be based upon the requirements for the most comparable use specified herein.

c. GENERAL REQUIREMENTS: PARKING

- i. Size and access: Each off-street parking space shall have an area of not less than two hundred (200) square feet exclusive of drives and aisles, and a width of not less than eight (8) feet. Each such space provided with adequate ingress and egress;
- ii. Location: Off-street parking facilities shall be located according to the following:
 - (1) For one, two or multiple family dwellings, parking facilities shall be located on the same lot or building site as the buildings they are required to serve;
 - (2) For uses other than those specified above--not over five hundred (500) feet from the buildings they are required to serve;
 - (3) Required parking or loading spaces not within a garage; carport or other structure may be located within the required front, side or rear yard or courts on the lot of the primary use in any district, unless otherwise specified

herein.

- iii. Joint Usage: Owners of two (2) or more adjoining uses, structures or parcels of land may utilize jointly operation do not overlap. In the event the owners of one or more utilize joint facilities concurrently, the total requirements shall be the sum of the requirements for each individual use.
- iv. Improvements and maintenance: Every lot or parcel of land used as a public or private parking lot and having a capacity of five (5) or more vehicles shall be developed and maintained in the following manner:
 - (1) Off-street parking areas shall be surfaced with screened gravel or crushed rock, or better, and shall be graded and drained to dispose of all surface water. In no case shall drainage be allowed across sidewalks;
 - (2) Every parking area that abuts property located in the Residential District shall be separated from such property by a solid wall, view obscuring fence or compact evergreen hedge at least six (6) feet in height. The screening shall be provided and maintained along the side of such lot except in the required front yard.

d. GENERAL REQUIREMENTS: LOADING

- i. Location: Every building hereafter erected or structurally altered to be used for commercial or industrial purpose, if the use of such building entails deliveries to it or shipments from it, shall be provided with off-street loading space. Such loading space shall be located only on or abutting the property served.
- ii. Size: The required loading space shall be of adequate size to accommodate the maximum number and size of vehicles simultaneously loading or unloading in connection with the business being conducted in such building. Each off-street loading space shall have a minimum dimension of twelve (12) feet in length and no part of a vehicle using the loading space shall project into the right-of-way or public thorough fare.

Section 21. Schedule of Fees, Charges and Expenses

The Planning Department may establish, by regulation, a uniform schedule of fees, charges and expenses and a collection procedure, appeals and other matters pertaining to this Ordinance.

Section 22. Amendments

- a. The regulations restrictions and boundaries set forth in this Ordinance may from time to time be amended, supplemented, changed or repealed by action of the Tribal Council

- b. The Tribal Member owners of any property may petition the Planning Commission for a change in use district classification. Any Tribal Member desiring a reclassification of any property shall file a petition with the Planning Commission and shall convey the following information:
 - i. Legal description of property to be reclassified;
 - ii. Signature of owner or owners of property;
 - iii. Names, addresses and legal description of the owners of all property lying within a distance of 300 feet (streets, and alleys included) of the proposed reclassification; and
 - iv. Such other information as the Planning Commission may require to classify the application.

With each petition for a use district reclassification there shall be paid a fee as may be established by the Tribal Council to cover costs incurred by the Tribe in processing the petition.

Section 23. Enforcement

The Planning Department shall be responsible for enforcement of this Ordinance. The Planning Department or may file an action in Community Court for violations of this Ordinance. In addition, any member of the Tribe aggrieved by violation or threatened violation of this Ordinance or the ordinances may file an action in Tribal Court for appropriate relief.

Section 24. Violations, Jurisdiction

- a. The Saginaw Chippewa Community Court shall have exclusive jurisdiction over all causes of action under this ordinance.

- b. The Director of the Tribal Planning Department or other designee of the Planning Department approved by Council, shall have the authority to bring actions in the name of the Saginaw Chippewa Indian Tribe in the Saginaw Chippewa Indian Tribal Court for the enforcement of the provisions of this Ordinance or regulation promulgated as provided by this Ordinance. The Director of Tribal Planning Department may seek any appropriate civil remedy in such actions. The Tribal Court shall have the authority to enforce the Ordinance and duly enacted regulations.
- c. A lawsuit filed pursuant to this section shall comply with procedures of the Saginaw Chippewa Civil Code.
- d. Except as otherwise provided by this Ordinance, there shall be no private cause of action or third party action to enforce the provisions of this Ordinance or its implementing regulations.

e. SERVICE OF PROCESS:

The offending party shall be served as in other civil cases. Where the removal of abandoned property is sought and the owner is unknown or cannot be located after reasonable and diligent search, notice of the action shall be posted in a conspicuous place in the Tribal Clerk's Office and on the structure sought to be removed for at least 30 days before the Court hears the action.

f. JUDGMENT TO REMOVE STRUCTURE:

The Court may order the offending party to remove, within a time fixed by the Court, any offending structure, and if the party fails to comply, may authorize the Tribe to remove the structure and the Court may render judgment for the cost of removal against the offending party including the owner.

g. PENALTIES:

Any violations of this Ordinance will be actionable in the Community Court of the Saginaw Chippewa Tribe as a civil action and shall be punishable by a fine not exceeding five hundred dollars (\$500) for any first time violation. Subsequent violations shall be punished by a fine not to exceed one thousand dollars (\$1,000).

Section 25. Judicial Review of Final Planning Commission Decisions.

- a. Except as specifically provided in this Section, the Saginaw Chippewa Tribal Courts shall not have jurisdiction to hear appeals from or lawsuits challenging final decisions of the Planning Commission made pursuant to this Ordinance.
- b. Lawsuits seeking judicial review of final Planning Commission decisions may only be brought by a Tribal Member who is the subject of a final decision of the Planning Commission or other Tribal Members who are deemed by the Tribal Court to have standing for such review.
- c. Judicial review of decisions of the Planning Commission following a hearing and final decision from the Planning Commission may be made to the Community Court pursuant to the deadlines and procedures set out in this Section. Judicial Review in the Tribal Court shall be based on the administrative record developed before the Planning Commission, including any record of hearing, the Planning Commission's findings, all submissions of the parties, the decision of the Planning Commission and any comments of the Planning Commission made in support of the Planning Commission's decision. Legal counsel for the Tribe shall be responsible for defending actions of the Planning Commission as to which judicial review is sought pursuant to this Ordinance or otherwise, or for otherwise responding to all such court proceedings after consultation with the Tribal Council.
- d. A final decision of the Planning Commission under this Ordinance may be appealed to the Tribal Court by filing a Notice of Appeal with the Tribal Court and serving such Notice on the Planning Department and the Tribal Legal Department within 7 calendar days after the filing. Any appeal under this Section shall be filed within thirty days after the Planning Commission has provided actual written notice of its decision, or has mailed such written notice to the Tribal Member by United States mail.
- e. The Tribal Court shall make its ruling on any appeal under this Section within one hundred and eighty (180) days after the filing of the Notice of Appeal.
- f. The Tribal Court may affirm or reverse the decision of the Planning Commission, or may remand the matter to the Planning Commission for additional action consistent with this Ordinance when in its sound discretion the Tribal Court deems such remand appropriate and necessary. The Community Court shall review the final Planning Commission decision on the administrative record that was before the Planning Commission to determine if the decision was arbitrary, capricious, an

abuse of discretion or in clear violation of law. The Tribal Court shall not award attorneys' fees, costs, or extraordinary or punitive damages against the Tribe.

- g. The decision of the Tribal Court on an appeal under this Section shall be final and shall not be subject to appeal to the Saginaw Chippewa Tribe Appellate Court or any other court.
- h. All actions seeking judicial review of final Planning Commission decisions shall be brought as lawsuits in the Saginaw Chippewa Community Court and shall be subject to the exclusive jurisdiction of that Court. Lawsuits brought under this Section shall name the Planning Commission and the Planning Department in their official capacities as defendants and shall be served upon the Tribal Chief, the Planning Department and the General Counsel for the Tribe. The rules of civil procedure provided in Title III of the Tribal Code of Laws shall apply to lawsuits brought under this Section except where specific rules are prescribed in this Ordinance. Lawsuits under this Ordinance may not be heard by a jury. The Tribe consents to suits seeking judicial review under this Section, in satisfaction of the requirements of Title III, subsection 3.102(c) of the Saginaw Chippewa Tribal Code, and waives the Tribe's common law immunity from suit subject to the limitation that the relief granted in lawsuits seeking judicial review of final Planning Commission decisions may only include prospective injunctive relief and declaratory judgments and shall not include any monetary damages.

Section 26. Severability of Provisions.

If any provision under this Ordinance is later found to be unconstitutional under the Tribe's Constitution or the United States Constitution it shall be considered null and void, but the rest of the provisions in this Ordinance shall remain in effect.

Section 27. Sovereign Immunity

Nothing in this Ordinance shall be construed as a waiver of the sovereign immunity of the Tribe or any subordinate government unit or official except to the extent such immunity is explicitly waived in such ordinance or by resolution of the Tribal Council.

Section 28. Effective Date

This Ordinance shall become effective immediately.

Legislative History

Enacted by Resolution 11-092 approved on July 6, 2011. Section 2, 4, 5 and 10 amended by Resolution 12-113 approved on June 27, 2012.