

**WAGANAKISING ODAWAK STATUTE 2001-13
ZONING**

SECTION I: SHORT TITLE AND PURPOSE

1.01. Short Title: This Statute may be cited as the "Zoning Statute."

1.02. Purpose: The purpose of this Statute is to provide for the regulation of land use; the structures, appurtenances, additions and decorations which may accompany them; and other developmental characteristics which may have an effect upon the public health, safety, and general welfare.

1.03. Repeal of Prior Statute. This Statute repeals and replaces the Land Use Regulation enacted on June 22, 1997, being Waganakising Odawak Statute 1997007.

SECTION II. EXISTING USES OF LAND AND BUILDINGS

The lawful use of any dwelling, building or structure, and of land or premises as existing and lawful at the time of enactment of this Statute may be continued at the discretion of the owner thereof even though such use does not conform with the provisions of this Statute.

SECTION III. DEFINITIONS

The following definitions of word use shall apply:

3.01. Words used in the present tense shall include the future.

3.02. Words used in the singular number shall include the plural number and the plural the singular.

3.03. The word "shall" is mandatory and not discretionary.

3.04. The word "may" is permissive.

3.05. The word "lot" shall include the words "piece", "parcel" and "plot".

3.06. The phrase "used for" shall include the phrases "maintained for" and "occupied for".

3.07. The phrase "designed for" shall include the phrases "arranged for" and "intended for".

3.08. All "measured distances" shall be to nearest foot. If a fraction is one-half foot (½') or

less, the next full number below shall be taken.

3.09. The words "dwelling", "family dwelling", "2 family dwelling", "multiple dwelling", "building", "house", "premises", or "lot" as used in this Statute shall be construed as if followed by the words "or any part thereof".

3.10. ACCESSORY BUILDING: An accessory building is a subordinate building situated upon the same lot as the main building the use of which is incidental to the main building.

3.11. ACCESSORY USE: An accessory use is a use subordinate and customarily incidental to the main use on a lot.

3.12. AIRCRAFT LANDING AREA: Any premises which are used or made available for the landing or takeoff of aircraft, including premises which are classified as a restricted landing area as contemplated by the rules and regulations promulgated by the Federal Aeronautics Administration, and including any appurtenant areas which are used or suitable for use for buildings or facilities incidental to aircraft services.

3.13. ALLEY: A narrow thoroughfare upon which the rear of premises generally abut or upon which service entrances of buildings abut, and which is not generally used as a thoroughfare by both pedestrians and vehicles, or which is not used for general traffic circulation, or which is not in excess of 30 feet in width at its intersection with a street.

3.14. ALTERATIONS: Any change, addition, or modification in construction or type of occupancy, or in the structural members of a building, such as walls or partitions, columns, beams or girders, the consummated act of which may be referred to here-in as "altered" or "reconstructed".

3.15. APARTMENTS: A suite of rooms or a room in a multiple-family building arranged and intended for a place or residence of a single-family or group of individuals living together as a single house keeping unit.

3.16. BASEMENT: That portion of a building which is partly or wholly below grade but is so located that the vertical distance from the average grade to the floor is greater than the vertical distance from the average grade to the ceiling. A basement shall not be counted as a story.

3.17. BED AND BREAKFAST: A bed and breakfast facility is a dwelling licensed to serve over night guests in a residence for a fee. Such a facility shall be owner occupied with the owner operating the facility as proprietor.

3.18. BUILDING: Any structure, either temporary or permanent, having a room supported by

columns or walls, and intended for the shelter or enclosure of persons, animals, chattels or property of any kind.

3.19. BUILDING HEIGHT: The vertical distance measured from the established grade to the highest point of the roof surface for flat roofs; to the deck line of mansard roofs; and to the average height between eaves and ridge for gable, hip and gambrel roofs. Where a building height is located on sloping terrain, the height may be measured from the average ground level of the grade at the building wall.

3.20. BUILDING, EXISTING: An "existing" building is any building actually constructed or the construction of which is started previous to the effective date of this Statute; provided that the construction of any such building continues uninterrupted and is completed within 6 months from such date.

3.21. BUILDING LINE: A line formed by the face of the building. A minimum building line is the same as the front setback line.

3.22. CLUB: A non profit organization of persons for the promulgation of culture, sports, arts, sciences, literature, politics or the like.

3.23. COMPREHENSIVE PLAN: The Comprehensive Plan for the Little Traverse Bay Bands of Odawa Indians as may be amended or updated, including graphic and written proposals indicating the general location for streets, parks, schools, public buildings and other physical development features.

3.24. CONVALESCENT OR NURSING HOME: A structure with sleeping rooms where persons are housed and furnished with meals, nursing and medical care.

3.25. DEVELOPMENT: The construction of a new building or other structure, on a zoning lot, the relocation of an existing building on another zoning lot, or the use of open land for a new use.

3.26. DISTRICT: Any section within the exterior boundaries of the Little Traverse Bay Bands of Odawa Indians Reservation, or otherwise within LTBB's jurisdiction, where the zoning regulations are uniform under the laws of LTBB.

3.27. DRIVE-IN: A business establishment so developed that its retail or service character is dependent on providing a driveway approach or parking spaces for motor vehicles so as to serve patrons while in the motor vehicle rather than within a building or structure.

3.28. DWELLING: A building or portion thereof designed or used for residential occupancy, but not including house trailers, mobile homes, hotels, motels, boarding and lodging houses,

tourist courts or tourist homes.

3.29. DWELLING, MULTIPLE: A building designed for or occupied by three or more families.

3.30. DWELLING, SINGLE-FAMILY: A building designed for or occupied by one family.

3.31. DWELLING, TWO-FAMILY: A building designed for or occupied by two families.

3.32. ERECTED: Built, constructed, altered, reconstructed, moved upon, or any "physical" operations on the premises which are required for construction, excavation, fill, drainage, and the like, shall be considered a part of erection.

3.33. ESSENTIAL SERVICES: The erection, construction, alteration or maintenance by public utilities or municipal departments of underground, surface, or overhead; gas, electrical, steam, fuel or water transmission or distribution system, including towers, poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm and police call boxes, traffic signals, hydrants, and similar equipment in connection herewith, but not including buildings, which are necessary for the furnishing of adequate service by such utilities or municipal departments for the general health, safety or welfare.

3.34. EXCAVATION: Any breaking of ground, except common household gardening, ground care, and soil tilling related to agricultural production or tree plantations.

3.35. FAMILY: One or two persons or parents, with their direct lineal descendants, dependents, and adopted children (and including the domestic employees thereof) together with not more than two persons not so related, living together as a single housekeeping unit.

3.36. FARM: A "farm" includes structures, facilities and lands for carrying on of agricultural activity or the raising of livestock or small animals as a source of income.

3.37. FLOOR AREA, USABLE: For the purpose of computing parking requirements, usable floor area is that area used for or intended to be used for the sale of merchandise or services, or for use to serve patrons clients or customers. Floor area used or intended to be for the storage or processing of merchandise, hallways or for utilities or sanitary facilities shall be excluded for the computation of usable floor area.

3.38. GARAGE, PRIVATE: Accessory building space designed or used for the storage of motor-driven vehicles.

3.39. GASOLINE SERVICE STATION: A place primarily operated and designed for the

dispensing, sale or offering for sale of motor fuels and other petroleum products, which may include a repair garage, together with the sale of accessories. Such site may also include a convenience store and/or restaurant if appropriate permits are obtained.

3.40. GRADE: For the purpose of regulating the number of stories and the height of buildings, the building grade shall be the level of the ground adjacent to the walls of the building. If the ground is not level, the grade shall be determined by averaging the elevation of the ground for each face of the building.

3.41. GREENBELT, SCREENING: A strip of land of definite width and location reserved for the planting of shrubs and/or trees to serve as an obscuring screen or buffer strip in carrying out the requirements of this Statute.

3.42. GREENBELT, SHORELINE: When bordering bodies of water, an undisturbed area of land paralleling the water's edge to a depth of the required zoning setback distance if not otherwise stipulated, which is retained in a natural condition and is essentially void of any structural improvements. Beaches and/or vegetated areas shall be defined as shoreline greenbelts.

3.43. HOME OCCUPATION: Where permitted in a district, a business use of a residential premise by the occupant that may be carried on in accordance with the restrictions contained in this Statute and other applicable law or regulation.

3.44. HOTEL: See definition "Motel, Motor Inn or Hotel".

3.45. JUNK/SALVAGE YARD: An open area where waste, used or second hand materials are bought and sold, exchanged, stored, baled, packed, disassembled or handled including, but not limited to scrap and other metals, paper, rags, rubber tires, and bottles. A "junk/salvage" yard includes automobile wrecking yards and includes any area of more than two hundred (200) square feet for storage, keeping or abandonment of junk, but does not include uses established entirely within enclosed buildings.

3.46. KENNEL, COMMERCIAL: A dwelling unit or a nonresidential building, structure, parcel of land or portion thereof in which three (3) or more dogs, cats or other household domestic animals are maintained, boarded, bred, cared for or kept for the purpose of sale, or temporary boarding but not including veterinary care or treatment.

3.47. LOADING SPACE: An off-street space for the temporary parking of a commercial vehicle while loading and unloading merchandise or materials.

3.48. LOT COVERAGE: That portion of the lot occupied by main and accessory buildings

3.49. LOT DEPTH: The horizontal distance between the front and rear lot lines, measured along the median between the side lot lines.

3.50. LOT LINES:

- (1) Front lot line: is that line which creates the abutting street right of way line (in the case of a corner lot the front line shall be that line which the front of the house faces).
- (2) Rear lot line: that line which is opposite the front line.
- (3) Side lot line: any lot line other than the front or rear lot line.

3.51. LOT OF RECORD: A lot which is part of a subdivision, the map of which has been recorded in the office of the Register of Deeds of the Bureau of Indian Affairs; or a parcel of land, the deed of which was recorded in the office of the Register of Deeds of the Bureau of Indian Affairs.

3.52. LOT WIDTH: Lot width is the distance from one side lot line to the other side lot line measured at the minimum building setback permitted in this Statute.

3.53. LOT, ZONING: A contiguous tract of land which at the time of filing for a building and zoning permit is designated by its owner or developer as a tract to be used, developed or built upon as a unit, under simple ownership or control. A zoning lot may not coincide with a lot of record, but may include one or more lots of record.

3.54. MAIN BUILDING: A building containing the principal use of the lot upon which it is situated.

3.55. MASTER PLAN: See Comprehensive Plan.

3.56. MOBILE HOME: Any structure designed and pre-manufactured as a complete and transportable housing unit to be used as a place of residence for one family. Mobile homes are structures legally transportable over a highway, but the term shall not include licensed travel trailers. The term "mobile homes" shall include double wide mobile homes, but shall exclude modular homes or pre-manufactured homes which are installed with a permanent foundation and which do not come with a steel frame attached.

3.57. MOBILE HOME-Permanent: Mobile Homes shall be considered permanent dwellings when the unit is mounted on a continuous masonry foundation or on a foundation of solid masonry pilings as specified elsewhere in this Statute. Further, the permanent mobile home shall meet the minimum floor area requirements for one-family dwellings, be securely anchored to the ground, and be taxable as real estate if such taxes be assessed.

3.58. MOBILE HOME-Temporary: Any unit other than a travel trailer or permanent mobile

home having no foundation; but which may be equipped with wheels or other devices for transporting from place to place.

3.59. MOBILE HOME PARK: A parcel or tract of land under the control of a person upon which three (3) or more mobile homes are located on a continual non recreational basis and which is offered to the public for that purpose regardless of whether a charge is made therefore, together with any building, structure, enclosure, sheet, equipment or facility used or intended for use incident to the occupancy of a mobile home and which is not intended for use as a temporary trailer park.

3.60. MOTEL, MOTOR INN OR HOTEL: A building or part of a building with a common entrance or entrances in which the dwelling units or rooming units are used primarily for transient occupancy. A hotel or motor inn may contain a restaurant, cocktail lounge and conference center facilities.

3.61. NON-CONFORMING USE: A building, structure or use of land lawfully existing at the time of enactment of this Statute, and which does not conform to the regulations of the District or Zone which it is situated.

3.62. NUISANCE: The word "nuisance" shall be held to embrace whatever is dangerous to human life or detrimental to health; or any dwelling or building which is over-crowded with occupants or is not provided with adequate ingress or egress to or from the same, or is not sufficiently supported, ventilated, sewerred, drained, cleaned or lighted in reference to its intended or actual use; or whatever renders the air or human food or drink unwholesome.

3.63. NURSERY, PLANT MATERIALS: A space, building or structure or combination thereof, for the storage of live trees, shrubs or plants offered for retail sale on the premises including products used for gardening or landscaping. The definition of nursery does not include space used for the sale of fruits, vegetables, gifts, lawn furniture and gardening or farm equipment.

3.64. OFFICIAL MAP: A map prepared by or in consultation with the Zoning Administrator and the Planning Department, and approved by the Tribal Council, that depicts LTBB's reservation and delineates the land use districts defined and located by the Tribal Council under this Statute.

3.65. OFF STREET PARKING LOT: An area of definite length and width exclusive of drives, aisles or entrances giving access thereto and fully accessible for the storage or parking of permitted vehicles.

3.66. PARKING SPACE: A parking space is an accessible either garage or surfaced area, not less than 10 feet in width and 20 feet in length, exclusive of area required for ingress or egress,

which can be used at all times for parking a motor vehicle.

3.67. PERSON: An individual, partnership, association, trust or corporation or any other legal entity or combination thereof.

3.68. PLANNED UNIT DEVELOPMENT (PUD): A residential or commercial development guided by a master design plan in which one or more of the zoning or subdivision regulations, shall be permitted to be waived or varied to allow flexibility and creativity in site and building design and location, in accordance with guidelines shown herein.

3.69. PRINCIPAL USE: The primary or chief purpose for which the lot is used.

3.70. PUBLIC UTILITY: A public utility is any person, firm, corporation, municipal department or board duly authorized to furnish or furnishing under regulation, to the public, electricity, gas, steam, communication, transportation, drainage or water.

3.71. RECREATIONAL VEHICLE: A vehicle primarily designed and used as temporary living quarters for recreational, camping or travel purposes, including a vehicle having its own motive power or a vehicle mounted on or drawn by another vehicle.

3.72. RECREATION CAMPS, LODGES & RESORTS: A recreational facility normally operated for gain, which provides overnight lodging and recreational activities including but not limited to golf, skiing, dude ranching, recreational farming, snowmobiling, pack trips, and boating.

3.73. RESTAURANT: A commercial establishment whose primary business is the preparation of food for immediate consumption, either on site or carry-out.

3.74. RETAIL STORE: Commercial establishment for public retail sale of goods, related services, food or beverage, including but not limited to convenience stores. A retail store may sell perishable items, tobacco products or alcoholic beverages if applicable permits are obtained.

3.75. ROADSIDE STAND: An accessory and temporary farm structure operated for the purpose of selling local agricultural products raised or produced by the proprietor and his employees on the same premises.

3.76. ROOM: For the purpose of determining lot area requirements and density. A room is a living room, dining room, bedroom equal to at least eighty (80) square feet in area. A room shall not include the area in kitchen, sanitary facilities, utility provisions, corridors, hallways and storage.

- 3.77. SERVICE BASED BUSINESSES:** Commercial establishments who primarily provide services, and limited related retail items.
- 3.78. SETBACK:** The distance required to obtain front, side or rear yard open space provisions of this Statute.
- 3.79. SHOPPING CENTER:** A group, cluster or complex of retail stores within a single architectural plan, and occupying a site under single ownership, management or control. At least three (3) retail stores and services, so arranged or planned, shall qualify as a shopping center for zoning purposes.
- 3.80. SIGN, ACCESSORY:** A sign which is accessory to the principal use of the premises and located on the same lot as the principal use.
- 3.81. STORY:** That part of a building, except a mezzanine and/or basement, between the surface of one floor and the surface of the next floor, or if there is no floor above, than the ceiling next above. A story shall not be counted as a story when more than fifty (50) percent, by cubic content, is below the grade level of the adjoining ground.
- 3.82. STORY, HALF:** An uppermost story lying-under a sloping roof having an area of at least two hundred (200) square feet with a clear height of seven feet six inches (7'6"). For the purposes of this Statute the useable floor area is only that area having at least four feet (4') clear height between floor and ceiling.
- 3.83. STREET:** A public dedicated right-of-way, affording the principal means of access to abutting property (excludes alleys).
- 3.84. STRUCTURE:** Anything constructed or erected, the use of which requires location on the ground or attachment something having location on the ground.
- 3.85. TEMPORARY USE OF BUILDING:** A use or building permitted to exist during periods of construction of the main building or use, or for special events.
- 3.86. TRAVEL TRAILER AND CAMPER:** A trailer coach, motor home, tent camper, demountable camper or unit designed as a vacation unit for short-term seasonal occupancy, which measures eight (8) feet or less in width and designed to be operated on highways.
- 3.87. USE, REASONABLE:** A proposed use is "reasonable" when it would be harmonious, compatible, appropriate, would not impinge unreasonably on the value or use of nearby properties, and would not impair sound communal development as and where proposed to be established. An existing use is "reasonable" when it is harmonious, compatible, and appropriate

as and where established, does not impinge unreasonably on the value or use of nearby properties, and does not impair sound communal development. Uses which are not "reasonable" are "unreasonable." No use shall be deemed "reasonable" if its establishment or actual conduct is unlawful under the statutory or common law of the Little Traverse Bay Bands of Odawa Indians.

3.88. YARD: A yard is an open space, unoccupied and unobstructed from the ground upwards, except as otherwise provided herein, and on the same lot with a building. The measurement of a yard shall be the minimum horizontal distance between the lot lines and the building or structure.

- (1) Required Yard: That portion of any lot on which the erection of a main building is prohibited.
- (2) Front Yard: A yard on the same lot with a building between the front line of the building and the front lot line and extending from one side lot line to the other side lot line.
- (3) Rear Yard: A yard on the same lot with a building between the rear line of the building and the rear lot line and extending from one side lot line to the other side lot line.
- (4) Side Yard: A yard on the same lot with a building between the side lot line and the nearest side line of the building and extending from the rear yard to the front yard.

SECTION IV. CLASSIFICATION AND DESCRIPTION OF LAND USE DISTRICTS

To achieve the aims and purposes set forth above, any lands under the jurisdiction of the Little Traverse Bay Bands of Odawa Indians are hereby divided into the following six districts:

4.01. Low Density/Suburban Residential. The purpose of this district is to maintain certain areas within the Tribe's zoning jurisdiction as primarily agricultural and sparsely developed. Low Density is defined as no more than one dwelling unit per every ten acres of land.

4.02. Medium Density Cluster Residential. It is the purpose of the Medium Density Cluster Residential District to provide for the most efficient use of limited residential land use resources while also providing open space, access to forested and riparian areas, and recreational opportunities for residents. This district has among its goals the concentration of residential areas within a larger parcel; establishment of areas for recreation, natural preservation, cultural use, and scenic views; and designation of nearby areas for multiple light density commercial uses tailored to the needs of the development. In this context, Medium Density is defined as the range of one dwelling unit per every two to three acres of land.

- 1. Uses permitted by right.** The following uses are permitted by right, and require only a zoning permit and review by the Zoning Administrator for height

and bulk requirements:

- (a) Detached single family homes, meeting the BOCA standards for construction, of not less than 960 square feet in area, not including porches and appurtenances.
- (b) Duplex-type two family homes, meeting the BOCA standards for construction, of not less than 760 square feet in area, not including porches and appurtenances.
- (c) Community centers and other quasi-governmental buildings, directly related in purpose to the development and residents thereof.
- (d) Sweat lodges and other traditional structures of a transient use.
- (e) Home Occupations that do not involve signs, customers coming to the residence, or any outdoor activity not typical in a residential area.

2. Uses permitted by special review. The following uses are permitted as a general rule, but only after a review by the Zoning Administrator to ensure compatibility with existing uses and limitations on any detrimental effects from the proposed use.

- (a) Business and industry located in designated areas
- (b) Planned or mixed use developments
- (c) Government buildings and operations
- (d) Churches
- (e) Recreational facilities
- (f) Farming
- (g) Home occupations that involve a sign, customers coming to the residence, or any outdoor activity not typical in a residential area.
- (h) Other similar uses consistent with the management objectives and purposes set forth in this Section

3. Lot, setback, and other dimensional requirements. Since it is the intent of this district to promote compact, yet secluded residential development, the dimensional requirements in this section have been selected to fulfill these contradictory elements in the most feasible manner.

- (a) Minimum overall development size is 20 acres.
- (b) Minimum individual lot size is 17,000 square feet. This assumes an overall density of not more than .5 dwelling units per acre.
- (c) Minimum front yard (setback) is 5 feet.
- (d) Maximum front yard setback is 20 feet.
- (e) Minimum side yard clearance is 10 feet.
- (f) Minimum rear yard setback is 35 feet.
- (g) Minimum lot width when abutting a residential street is 75 feet.
- (h) Maximum building height is two stories or 35 feet, consistent with equipment capabilities of local fire fighting agencies.
- (i) One accessory building is permitted, with an area not to exceed 1000 square feet, or one half the dwelling unit size, whichever is less. The sidewall of

said accessory building shall not exceed 10 feet in height. Garages for the storage of automobiles are considered accessory buildings. Accessory buildings are not permitted in the required yard set back area.

(j) Land within the right-of-way of public roads shall be included in all density calculations.

4. General Requirements.

(a) Public water and sewerage facilities shall be available to serve the cluster subdivision.

(b) Common "open space" shall not be less than fifteen percent (15%) of the gross acreage of any tract submitted for cluster subdivision

(c) A maximum of fifty percent (50%) of the required open space may be steep slopes, streams, ponds, watercourse, and flood plain.

(d) The land derived from reduction of lot sizes shall be provided and maintained as "open space", "traditional areas" or "recreational areas".

(e) Lots shall not be further subdivided and the Record Plat shall so indicate.

(f) All lots shall be designed and located to minimize potential environmental degradation of the natural resources.

(g) Access arrangements to open spaces shall be carefully designed and located to enable perpetual maintenance and accessibility.

(h) No lot shall be created or designed in which the depth is more than 5 times the width.

(i) The maximum coverage of any lot by impermeable surfaces, including structures, pavement, and sidewalks, shall be 25%.

4.03. Multi-Family/Mixed Residential. The purpose of this district is to provide an area for multi-family apartments buildings, single family and duplex dwelling units within the same neighborhood.

4.04. Forest/Recreational/Conservation. The purpose of these districts is to preserve lands for hunting, gathering, recreation, and the conservation of plants, animals and general genetic diversity. There shall be no dwelling units or commercial structures or development within this district. Only Tribal governmental developments consistent with the purposes of this district with minimal environmental impact, such as small biological services buildings, trails and minimal roads, are permitted in these districts.

4.05. Commercial. The purpose of this district is to provide sites for the development of Tribal commercial enterprises, and other businesses owned by tribal members or others when the Tribal Council determines through official action that the location of such non-member businesses within this district is in the best interests of the Tribe.

4.06. Governmental Ceremonial/Outdoor Assembly. The purpose of this district is to provide

locations for governmental administration and services, Tribal ceremonies and gatherings. Permissible structures in this district shall include buildings to house Tribal government and administration, health, education and welfare. The development of permanent outdoor seating, amphitheatres and structures used for ceremonial purposes shall also be permissible in this district under the direction and approval of the Tribal Council.

SECTION V. BOUNDARIES OF LAND USE DISTRICTS

The boundaries of specific districts will be determined by the Tribal Council, and will be published on the Official Map.

SECTION VI. USES ALLOWED BY RIGHT IN ALL DISTRICTS

Traditional ceremonial and outdoor structures utilized in traditional ceremonial and outdoor gatherings and for the purpose of siting traditional communal structures such as sweat lodges are allowed by right in all districts on members' own leasehold estates or fee lands. These structures are not to be utilized as permanent dwelling units. Their erection may be permanent, as long as occupancy is of a temporary nature for a specific, traditional purpose.

SECTION VII. ADMINISTRATION AND VIOLATIONS

7.01. The Zoning Administrator shall be hired or assigned by the Tribal Administrator.

7.02. The Zoning Administrator shall record all nonconforming uses existing at the effective date of this Statute.

7.03. The Zoning Administrator shall under no circumstances be permitted to make changes to this Statute or to vary the terms of this Statute in carrying out his/her duties as Zoning Administrator. Any and all modifications to this Statute shall be approved by the Tribal Council prior to their taking effect.

7.04. The Zoning Administrator shall not refuse to issue a permit when conditions imposed by this Statute are complied with by the applicant despite violations of contracts, such as covenants or private agreements, which may occur upon the granting of said permit.

7.05. OTHER DUTIES: The Zoning Administrator, and such deputies or assistants as are assigned shall enforce this Statute and any subsequent zoning regulations adopted by the Tribe and in addition thereto, and in furtherance of such authority, shall:

- 1.** Register all nonconforming uses when they are identified.

2. Conduct inspections of buildings, structures and uses of land to determine compliance with the provisions of this Statute.
3. Issue violation notices that require compliance within ten (10) days, and advise suspected violators of right of appeal.
4. Require that all construction or work of any type be stopped when such work is not in compliance with this Statute.
5. Forward, to the Tribal Council, applications for amendments to the Zoning Statute text or map and special uses.
6. Forward, to the Zoning Board, applications for appeals and variances.
7. Forward, to the Zoning Board, applications for temporary buildings, structures and uses of land.
8. Review all cases of encroachment into required yards.
9. Interpret the Zoning Regulations when questions arise, subject to appeal and review by the Zoning Board if requested.
10. Determine which uses, though not contained by name in a zoning district list of permitted uses, are of the same general character and permit their establishment.
11. Initiate an examination of the administrative record of variances and make a report to the Zoning Board and Tribal Council not less than once a year.
12. Maintain permanent and current records of this Statute, including but not limited to maps, amendments, variances, conditional uses, and interim use permits.
13. Receive, file and forward all applications for amendments, variances, conditional uses, interim uses, or other matters to the designated official bodies.
14. Issue citations in the name of the Tribe to prevent, to restrain, to correct, or to abate a violation or threatened violation.
15. Provide and maintain public information relative to matters arising out of this Statute.
16. Conduct inspections of land, buildings, or structures at reasonable times,

determine compliance with and enforce the provisions of this Statute.

17. Issue permits as required by this Statute.

SECTION VIII. ZONING PERMIT

8.01. Before proceeding with the erection, alteration, repair, moving, or removing of any building or part thereof, an owner or his authorized agent shall obtain a zoning permit from the Zoning Administrator. The applicant for a zoning permit must file with his request a set of plans and written specifications sufficient to clearly and fully indicate the nature of the contemplated work and the kind and quality of materials to be used therein, together with an estimated cost. Drawings shall clearly indicate the size of structural members, walls and openings, the position of the building on the site with reference to property and street lines and adjacent buildings, and such other information as may be necessary to provide for the enforcement of these regulations. It shall be the duty of all lot owners and/or lessees to have accurately located all corners and boundaries of their property prior to building thereon.

8.02. A record of such applications and plans shall be kept in the office of the Zoning Administrator for such period of time as the Tribal Council deems necessary.

8.03. When the plans submitted have been found to conform with the requirements of this Statute, the Zoning Administrator shall issue a zoning permit. He shall inform the applicant that this zoning permit does not do away with the necessity for permits showing conformity with the Building Code, and other requirements of the Little Traverse Bay Bands of Odawa Indians, and that no construction shall be commenced until these other legal requirements have been fully met.

8.04. The Zoning Administrator shall inspect the building during construction and shall make a final inspection of all buildings after completion, before occupancy begins, upon receiving notice from the owner, contractor or his/her agent, that said building is ready for such final inspection.

8.05. Use variances can only be granted by the Tribal Council. Dimension variances that do not exceed established limits by over 10% may be granted at the discretion of the Zoning Administrator if such variance would not negatively impact the interests of the tribe as described in this Statute. All other dimension variances can only be granted by the Zoning Board.

SECTION IX. ZONING BOUNDARIES

Unless otherwise specified, zone boundaries are section lines, subdivision lines, lot lines, centerlines of street rights-of-way, water courses, ridges or rim rocks, or other readily

recognizable or identifiable natural resources, or the extension of such lines.

SECTION X. SITE PLANS AND ENERGY CONSERVATION GUIDELINES

10.01. Where required, site plans shall be prepared for submission to the Zoning Board. Contained on the site plan shall be scale drawings which locate buildings, streets, driveways, parking areas, utilities, power lines, landscaping, excavation, water wells, irrigation facilities, and all other physical structures or uses which physically change the land. Buildings and other improvements shall be located to minimize disturbance to existing natural land forms, trees, shrubs and other natural vegetation. For temporary uses, such as surface mining, an additional site plan shall accompany the application depicting the land reclamation plan.

10.02. Where practical, building construction, including homes, shall be designed and located to optimize energy conservation through solar access techniques. Consideration should be given to building orientation, window usage, landscaping, overhangs, shading devices, and use of skylights to provide natural lighting and heating.

SECTION XI. COMMUNITY, SUBDIVISION AND HOMESITE DEVELOPMENT POLICY

The following Sections are intended to implement in part the following tribal policies: (1) Ensuring the orderly development of the Reservation. (2) Providing lands for tribal member homes.

11.01. Community, subdivision and Rural Housing Development Areas.

1. Development plans for community, subdivision, and rural housing areas established on the official zoning map shall be developed to provide homesites for tribal members on an orderly basis. The purposes of these plans are to encourage the orderly and efficient use of all Reservation lands; to protect public health and safety by controlling road and utility construction; to encourage design which compliments the Reservation's appearance and livability; to minimize conflicts between different land uses; to encourage cost-effective development conducive to energy efficiency in conservation; and to conserve range and agricultural lands.

2. All community, subdivision and rural housing plans shall be approved by the Tribal Council. Construction or development in accordance with an approved plan shall be a permitted use in the applicable zone.

3. Development plans may be required to include a firebreak area around the exterior

boundaries of the planned area.

4. Subdivision and community names and street names shall be included in the plan to be approved by the Tribal Council.
5. Plans submitted to the Tribal Council shall include survey data and shall be shown on a scale drawing which identifies all streets, easements, lots, utility lines and lot sizes.
6. Submitted plans may include conditions relating to housing construction standards and conditions including color and height limitations needed to protect the Reservation's scenic resources, other requirements, controls and accessory building standards.

SECTION XII. ENFORCEMENT AND PENALTIES

12.01. Upon discovery of any nuisance as defined in Section III, the Zoning Administrator shall issue a citation ordering abatement. If the responsible party fails to abate such nuisance, the Zoning Administrator shall submit the citation to the Tribal Prosecutor for enforcement in Tribal Court. Upon finding an existence of a nuisance as defined in Section III, the Court shall order the nuisance abated. The Court is authorized to impose fines and/or jail time under its contempt powers if its orders are not complied with, and make such other orders as may be necessary to abate the nuisance.

12.02. The Zoning Administrator shall submit all other citations for violations of this Statute that cannot be resolved without action of the Court to the Tribal Prosecutor for enforcement in Tribal Court.

12.03. Any person who violates any provision of this Statute or who fails to comply with any of the regulatory measures or conditions of the Zoning Administrator or Zoning Board shall be subject to a civil fine not to exceed one hundred dollars (\$100.00). Each day such violation continues shall be deemed a separate offense.

SECTION XIII. APPEALS

13.01. Any person who claims to be aggrieved by a decision of the Zoning Administrator may appeal such decision to the Zoning Board. Within fourteen (14) days of the challenged decision, the person must file a written appeal to the Zoning Board including at a minimum:

1. A copy of the Zoning Administrator's decision being challenged;
2. A clear and concise statement of the reason(s) the appellant believes the decision should be overturned by the Zoning Board; and
3. The relief requested from the Zoning Board.

The Zoning Board shall hear the appeal within sixty days (60) days of filing either during a regular meeting or special meeting called for that purpose, and issue its written ruling within ten (10) days of such hearing. The person appealing cannot proceed with any non-permitted construction while the appeal is pending.

13.02. The person who appealed to the Zoning Board may appeal the decision of the Zoning Board to the Tribal Court by filing a written appeal with the Court within ten (10) days of the Zoning Board's ruling. The Court shall only overturn the decision of the Zoning Board if it finds such decision to be clearly arbitrary, capricious, or otherwise not in accordance with this Statute or other applicable law.

SECTION XIV. ZONING BOARD

14.01. The Tribal Council shall appoint a Zoning Board consisting of three (3) LTBB Tribal members over eighteen (18) years of age. Members of the Zoning Board shall be appointed to serve for three (3) year terms. Members may be reappointed for additional terms without limitation. Provided, to stagger terms, when the Tribal Council makes initial appointments, one person shall be appointed to a one (1) year term, one person shall be appointed to a two (2) year term, and one person shall be appointed to a three (3) year term. All appointments thereafter shall be for three (3) year terms. There shall be a Chairperson of the Zoning Board, who shall be selected by the members of the Board from the Board members for a one year term. Upon enactment of this Statute, the Tribal Council shall serve as interim Zoning Board until the Zoning Board is appointed and sworn in.

14.02. Two members of the Zoning Board shall constitute a quorum.

14.03. Subject to the availability of funding and a budget approved by the Tribal Council, members of the Zoning Board may receive a stipend, mileage and expense reimbursement for attendance at properly called meetings at which a quorum is present.

14.04. The Zoning Board shall have the following duties:

1. Rule on variance applications in accordance with Section 7.05 (6) of this Statute.
2. Rule on applications for temporary building and uses in accordance with Section 7.05 (7).
3. Aid the Zoning Administrator in interpretation of this Statute and any regulations that may be adopted pursuant to it.
4. Hear and rule on appeals of decisions of the Zoning Administrator

SECTION XV. SAVINGS CLAUSE

In the event that any phrase, part, provision, paragraph, subsection or section of this statute is found by a court of competent jurisdiction to violate the Constitution, laws or ordinances of the Little Traverse Bay Bands of Odawa Indians, such phrase, part, provision, paragraph, subsection or section shall be considered to stand alone and to be deleted from this statute, the entirety of the balance of the statute to remain in full and binding force and effect.

SECTION XVI. EFFECTIVE DATE

This Statute takes effect upon enactment.

Certification

As Tribal Chairman and Tribal Secretary, the undersigned certify that this Statute was duly enacted by the Tribal Council of the Little Traverse Bay Bands of Odawa Indians at a regular meeting of the Tribal Council held on October 21, 2001 at which a quorum was present, by a vote of six (6) in favor, one (1) opposed, zero (0) abstentions, and zero (0) absent as recorded by this roll call.

	In Favor	Opposed	Abstained	Absent
George Anthony	<u> x </u>	_____	_____	_____
Gerald Chingwa	<u> x </u>	_____	_____	_____
Frederick Harrington, Jr.	_____	<u> x </u>	_____	_____
Beatrice Law	<u> x </u>	_____	_____	_____
Rita Shananaquet	<u> x </u>	_____	_____	_____
Janet Shomin	<u> x </u>	_____	_____	_____
Alice Yellowbank	<u> x </u>	_____	_____	_____

Date: 10/21/01

Gerald V. Chingwa, Tribal Chairman

Frederick R. Harrington, Jr., Tribal Secretary