

ZONING ORDINANCE NO: RI-6

RESERVATION BAY MILLS DATE APPROVED April 22, 1968

600. Purpose and Policy

1. Purpose: The purpose of this code is to promote the health, safety and economic welfare of the residents of the reservation.

2. Policy: This code shall be implemented in order to achieve purposes which shall include, but not need be limited to the following:

- a. To protect the public health by preventing overcrowding and by segregating unsanitary and dangerous undertakings;
- b. To establish residential areas where families may live in privacy and in a wholesome environment;
- c. To increase public safety by reducing the possibilities of fire, traffic accidents and other dangers;
- d. To facilitate the planning and development of public facilities such as roads, schools and utility services;
- e. To prevent the deterioration of property values occasioned by random location of homes, stores and facilities.

601. Applicability

1. The Bay Mills Executive Council shall from time to time designate areas within the reservation to which this code shall apply.

2. The following areas are hereby designated pursuant to Section 601.1:

Tribal land within the reservation boundaries.

602. Zoning Districts

1. There shall be six categories of zoning districts: (a) residential; (b) commercial; (c) industrial; (d) institutional; (e) recreational and (f) disposal.

2. There shall be three types of residential zoning districts:
 - a. Class 1, containing public housing units and single-family houses valued at over \$5,000;
 - b. Class 2, containing houses valued between \$1,000 and \$5,000;
 - c. Class 3, containing structures valued between \$1,000; and
 - d. Class 4, containing trailers.

3. The Executive Committee shall establish one or more separate geographical areas for each category of zoning districts, and for each class of residential district.

603. Designation of Zoning Districts

1. Within six months after this code has taken effect, the Bay Mills Indian Community Executive Council shall pass a resolution designating on an attached map the location of the various zoning districts within the areas subject to this code. Such resolution and map shall be posted at the Tribal Office with the notice that interested persons may appear at the next following meeting of the Bay Mills Indian Community Executive Council to voice any objections. After each meeting, the tribal governing body shall consider the testimony received and shall within 10 days post notice of the changes it has made or a notice stating that no changes have been made. If no appeal is filed under Section 603.2, the resolution shall take effect thirty days following the posting of such notices.

2. Any person aggrieved by the resolution of the Bay Mills Indian Community Executive Council designating the location of the zoning districts, may appeal such resolution to the Executive Council by filing a notice of appeal with the Secretary of the Bay Mills Indian Community Executive Council. The tribal governing body shall at its next meeting consider the resolution and make such amendments or changes, if any, as it deems proper. If the Executive Council shall approve the resolution, in original or amended form, it shall go into effect on the date of such approval.

3. The Bay Mills Indian Community Executive Council order designating the zoning districts may be amended by the procedures specified in this section or upon the initiative of the Council.

604. Permissible Use in Residential Districts

1. Types of use in general

No building or structure shall be used or erected in any residential district of any class except for use as:

- I. A place of human habitation or use as a structure normally accessory thereto; or
- II. A community or recreation building. No farming or raising of livestock may be carried on in a residential district, but this restriction shall not apply to gardening, and raising poultry, pigeons, and rabbits.

2. Districts

- a. A residence of Class I may be built in the zoning districts reserved for Classes 1, 2, and 3.
- b. A residence of Class 2 may be built only in the zoning districts reserved by Classes 2 and 3.
- c. A residence of Class 3 may be built only in the zoning districts reserved for Class 3.
- d. A trailer may be located only in the zoning district reserved for Class 4.

3. Non-conforming Uses

Any residence located in a district which is reserved for residences of another class shall be considered a non-conforming use.

4. Lots and distance requirements

No building used as a place of human habitation shall be erected on a lot of less than 5000 square feet or closer than 10 feet from the boundary lines of the lot in question.

605. Permissible uses in Commercial Districts

1. Types of Use

No building or structure shall be erected in a commercial district except structures used in connection with any profession or any retail trade.

- a. The term "profession" shall refer to persons trained as a doctor, attorney, dentist, newspaper editor, minister, or a similar endeavor.
- b. The term "retail trade" or business shall refer to grocery, hardware, drug, clothing or general merchandise stores, to hotels and motels; to gasoline service stations and automobile repair shops, cleaning establishments and similar personal service businesses; to handicraft establishments which employ three or fewer paid employees (other than members of the owner's family); and to all other trades and businesses of similar character.
- c. No farming or raising of livestock may be carried on in a commercial district.

2. Extraordinary Hazards

If in the judgment of the Bay Mills Indian Community Executive Council any use would otherwise be permitted in a commercial district created an extraordinary hazard to health or safety, such use shall be required to located in an industrial district. The order of the tribal governing body under this subsection shall be subject to the review of the Executive Council.

606. Permissible Uses in Industrial Districts

No building or structure shall be erected in an industrial district except factories (other than handicraft establishments permitted in a commercial district); storage warehouses, slaughter houses, lumber yards; large-scale laundries and cleaning establishments and similar businesses.

607. Permissible Uses in Institutional Districts

1. No building or structure shall be erected in an institutional district except:
 - a. A church and related structures;
 - b. A community or recreation building;
 - c. A police station, jail, library, fire house or similar public service building;
 - d. All cemeteries shall be located in institutional districts.

608. Permissible Uses in Recreation Districts

Land in recreation districts shall be reserved exclusively for recreation uses including parks, playgrounds, recreation buildings and campsites, and outdoor dance and fair grounds.

609. Permissible Uses in Disposal Districts

No buildings or structures may be erected on a disposal area except as required by the sanitary disposal of garbage, trash and other waste products.

610. Variances

1. Any persons proposing to erect a structure not in conformity to this zoning code or to use an existing structure for a purpose not permitted by the code may apply to the tribal governing body in writing for a variance by stating the nature of the proposed structure. The application shall be posted in a public place, together with notification of when and where interested persons may appear before the Bay Mills Indian Community Executive Council to present objections. After holding a meeting as stated in the notice, the tribal governing body shall decide in accordance with the standards of Section 610.3 whether or not to grant a variance in whole or in part, but no variance shall be permitted unless 4 of the 5 members of the governing body shall agree.
2. Any party aggrieved by the decision of the Bay Mills Indian Community Executive Council may appeal within 10 days by filing a notice of appeal with the Secretary of the Tribe. He shall be afforded opportunity to present his objections in person at the next council meeting and the decision of the council shall be final but no variance shall be permitted unless 3/4ths in number of the members of the council shall agree.
3. A variance shall be granted only if the applicant can show:
 - a. That the proposed use will not materially interfere with the object of this zoning ordinance, and
 - b. That unless such variance is granted, he will sustain severe hardship out of all proportion to the public gain achieved by compliance with the ordinance.

611. Removal of Non-conforming Uses

1. Scope: The zoning Code shall not be construed to require the abandonment of existing uses or the removal of existing structures except as herein provided.
2. Definition: A non-conforming structure is one that is devoted to a use which is not permitted in the category or type of District in which it is located.
3. Removal: All trailers shall be removed to the District reserved for Class 4 residences as soon as water and sewage is provided at the site selected by the Executive Council for a trailer park.
4. Improvements: No person shall make any additions, improvements, or repairs to a non-conforming structure which requires a total investment in materials and labor (including his own) which is equal or greater than 50% of the value of the premises prior to such addition, improvement or repairs. Permission to improve non-conforming structures which would otherwise violate this section may be obtained in the same manner and under the conditions as variance. The tribal governing body or any person adversely affected may apply to the Bay Mills Indian Community Executive Council for an order to enjoin any person acting in violation of this subsection.
5. Destruction: If any non-conforming structure is more than 50% destroyed by fire, natural deterioration, or other causes, it shall no longer be used in a non-conforming manner and shall not be rebuilt except for use in conformity with this code. The Bay Mills Indian Community Executive Council or any person adversely affected may apply to a court of appropriate jurisdiction for an order authorizing a removal of any structure used in violation of the subsection. The court may, if it finds such action fair and just, order the cost of removal charged to the owner.
6. Abandonment: Upon the application of the Bay Mills Indian Community Executive Council or any other person adversely affected, the tribal governing body may authorize the removal of any non-conforming structure which has been permanently abandoned, and, if it finds such action fair and just, charge the cost of such removal to the former owner.

If the former owner is not given personal notice of the pending action, the Executive Council shall, before issuing an order pursuant to this subsection, make every reasonable effort to notify him. Such effort shall include:

- a. Mailing a notice of the pending action to the former owner at his last known address; and
- b. Posting such notices conspicuously upon the structure sought to be removed, each to be accomplished at least 90 days prior to the issuance of an order under this subsection.

612. Enforcement

Except as herein provided, compliance with this code shall be governed by the Code Enforcement Ordinance.