

PENOBSCOT NATION
Nonpoint Source
Management Plan
for the Tribal Trust Lands and the Indian
Island Portion of the Reservation



"Beaver Deceivers" are used on the Tribal Trust Lands to prevent road erosion and to protect the water quality of streams (Skip Lisle photo).

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1.0 OVERVIEW

1.1 Purpose of Management Plan

This management plan was prepared by the Penobscot Nation Water Resources Program to address nonpoint source pollution problems documented in the Tribe's nonpoint source (NPS) assessment report. This plan describes actions the tribe plans to take to bring nonpoint source problems under control for waters of the Tribal Trust Lands and the Indian Island portion of the Tribal Reservation. The remainder of the Reservation was assessed using a broad brush approach because the majority of the nonpoint source impacts are from non-tribal sources. A proper assessment of the Reservation will require a cooperative effort with other agencies. This management plan distinguishes between controls that the tribe will conduct independently versus those that will require cooperation with other agencies and organizations.

1.2 Organization of Report

The management plan is organized to cover the information summarized in Table 1. The process used to identify impaired waters and rank them is described in part 2, along with the process used to select Best Management Practices (BMPs). The tribe's legal authority to implement the proposed management program is verified in part 3. Nonpoint source programs that will be used to implement the BMPs are described and the public participation process are also explained in part 3. Recommended BMPs are indicated in part 5. A schedule and milestones for their implementation are shown in part 6. Organizations and programs that provide funding and technical assistance and their consistency with federal programs is evaluated in part 6.

Table 1. Information in the Management Plan

Process Used to Identify Impaired Waters
Process Used to Select Best Management Practices
Certification of Legal Authority
Nonpoint Source Programs
Public Participation Process
Recommended BMPs
Schedule and Milestones
Programs Providing Funding and Technical Assistance
Consistency with Federal Programs

1.3 Major Findings

As requested by the U.S. EPA, the assessment report has identified the major categories of nonpoint source pollution that affect tribal lands and resources. The assessment report identified the water bodies that require attention and the best management practices (BMPs) that are needed. This management plan proposes a program and schedule to implement the BMPs. The plan includes administrative, monitoring, and education components and a public participation process.

2.0 INTRODUCTION

2.1 Goals and Objectives

This management plan is a multi year strategy document designed to meet the tribe's goal of bringing NPS pollution under control. This plan will describe how the tribe intends to correct or prevent existing or potential NPS problems identified in the Assessment Report. The plan identifies projects that will be implemented to prevent nonpoint source pollution of tribal waters.

2.2. Steps Used to Identify NPS Problem Areas

Steps used in the assessment to identify NPS problem areas are summarized in Table 2a.

Table 2a. Steps Used to Identify NPS Problems

<p>Step 1. Consultation with Tribal Natural Resource Professionals Water Resources, Fisheries, Wetlands, Forestry, Land Management, Geology, Air Quality</p> <p>Step 2. Consultation with Other Natural Resource Agencies Maine DEP, NRCS, Water Research Institute at U-Maine</p> <p>Step 3. Analysis of Water Quality Data</p> <p>Step 4. Watershed Survey Field check Tribal Roads and Camp Lots</p>

The assessment identified the most important NPS problems that require tribal action. These represent NPS concerns that are under tribal control as opposed to problems that require cooperation from other agencies. Repair of washouts on logging roads is the number one need. Covering the sand and salt storage shed is number two. Other needs include restoring riparian buffers, removing old trash piles, and upgrading wastewater systems at the Trust Land camp lots.

2.3 Steps Used to Identify Priority Waters

The steps that were used in the NPS Assessment to Identify Priority Waters are summarized in a series of screening questions shown in Table 2b.

Table 2b. Screening Questions Used to Identify Priority Waters

1.	Do waters fail to meet current state water quality standards due to NPS pollution, or will waters fail these standards in the future?
3.	Do waters fail to support tribal beneficial uses (aquatic life support, fish consumption, swimming, boating, aesthetics, cultural and ceremonial, drinking water supply) or fail to support them in the future?
5.	Do watershed surveys rate on-site NPS conditions as poor to very poor?
6.	Does water quality impair or threaten a tribally managed fisheries resource?
7.	Does NPS pollution impair or threaten Atlantic salmon restoration habitat?

2.4 Process Used to Select BMP Solutions

To select appropriate Best Management Practices (BMPs) on Penobscot Trust Lands, the Penobscot Nation Water Resources Program has first consulted with other Penobscot Nation Tribal Programs within the Tribe's Department of Natural Resources (Forestry, Wildlife, and Fisheries) and then with other Tribal Departments and Committees that regulate and manage land use: the Department of Trust Responsibility, Land Committee, Chief and Council.

As the management plan is implemented, the Tribe will continue to consult with appropriate federal, state, county, and municipal agencies. Core participants for the selection, funding, and implementation of Tribal BMPS include the U.S. Environmental Protection Agency (EPA), Natural Resources Conservation Service (NRCS), the Penobscot County Soil and Water Conservation District (PCSWCD), and University of Maine Cooperative Extension Service (UMCES). The tribe will also seek to establish MOA's and cooperative processes with these and other appropriate entities to implement BMP's on adjacent lands that affect water quality of Tribal waters.

Other potential participants for future Tribal BMP selection include the Maine Department of Environmental Protection (MDEP), Bureau of Indian Affairs (BIA - Forestry Section), U.S. Fish and Wildlife Service (USFWS), the U.S. Forest Service and the Soil and Water Conservation Districts of Somerset and Piscataquis Counties. The Tribe will also consult and work cooperatively with adjacent landowners where appropriate (e.g. owners of camps on outlots). All these entities share the goal of controlling NPS pollution and protecting water quality.

The process that was used in the NPS assessment to select BMPs is summarized in Table 2c.

Table 2c. Steps Used to Select BMPs

Step 1.	Site Visit and Problem Identification Watershed Survey
Step 2.	Consultation with Tribal Natural Resource Professionals Water Resources, Fisheries, Wetlands, Forestry, Land Management, Air Quality
Step 3.	Consultation with Other Natural Resource Agencies Maine DEP, NRCS, U.S. EPA
Step 4.	Differentiation Between Problems Needing Tribal Action vs. Interagency Actions

3.0 SUMMARY OF PROPOSED MANAGEMENT PROGRAM

3.1 Legal Authority for Proposed Program

Section 319 of the Federal Clean Water Act requires a certification of adequacy of tribal ordinances by the tribal attorney that existing laws and ordinances provide adequate authority to implement the proposed NPS management program. The appropriate documentation for Penobscot Nation is attached as Appendix A.

3.2 Management Agency for Proposed Program

The Penobscot Nation Department of Natural Resources is the designated agency for the management of the Tribal NPS Management Program. Tribal Council Resolution created the Department of Natural Resources in 1979. One of the responsibilities given this Department was the development of a watershed management program. The Department Director is responsible for all operations in the Department and reports directly to the Tribal Chief and Tribal Council. This Department has programs in Water Resources, Forestry, Fisheries, Wetlands, and a Warden Service. The Water Resources Program will implement the Tribal NPS Management Program.

3.3 Administration

The Director of the Penobscot Nation Department of Natural Resources will be responsible for overall coordination and administration of the NPS Management Program. Specific activities will be carried out by staff of the Director's Water Resources Program. These include the implementation of management strategies to address each category of NPS pollution; interagency coordination; periodic updates to the overall plan; and obtaining funding to carry out the program.

3.4 Assessment

The current NPS Assessment Report represents a snapshot in time. As land uses change and new monitoring techniques evolve, it will be important for the tribe to continue updating the assessment. It is anticipated that the Tribe's NPS Assessment will need to be updated in four to five years. In the meantime, the tribe will continue assessing NPS conditions using routine water quality monitoring data and the best professional judgment of tribal and non-tribal natural resources professionals.

3.5 Monitoring

An extensive water quality monitoring program is in place within the Water Resources Program. New chemical, biological, and physical parameters are continually added to better characterize water quality, quantify impairments, evaluate trends, and identify sources of threats and impairments. Additional evaluation efforts will be added as necessary to evaluate the success of BMP implementation and demonstration projects.

3.6 Education

The development of an information and education program will be key to the success of the Tribal NPS Management Plan. The success of many NPS pollution controls relies on the

voluntary cooperation of camp owners and land managers. This management plan proposes the development of a community wide education program to address NPS pollution as a whole. The program will be directed at landowners, land managers, industry, other users, and young people. Ultimately, educational efforts should reach outside the tribal community to educate neighbors who share tribal watersheds.

Increasing community awareness of nonpoint source pollution controls will be central to the educational program. The primary audience will be the tribal community and the non-tribal owners of outlots within the Tribal Trust Lands. Effective approaches are needed to educate camp owners about management and restoration of riparian zones and proper disposal of graywater and solid waste. The owners of new camp lots will be identified and targeted for education about management of the riparian zone and protection of water bodies during construction activities.

In some cases, there is a need for education beyond the tribal lands and watersheds. Road washouts from clogged culverts are a regular event across North America because of natural damming activities by beaver. The Penobscot Nation is probably the only large landowner in North America to use strictly non-lethal methods to beaver-proof Tribal roads (flow devices, called "Beaver Deceivers"). Others may wish to learn about this successful Best Management Practice.

The Department of Natural Resources will cooperate with the Land Committee and the Department of Trust Responsibilities to ensure that existing land protection ordinances are communicated to the tribal community. Slide or video presentations will be developed about the tribal NPS program for presentation to other land use agencies and neighbors who wish to understand the scope of the NPS program on tribal lands. The tribe will continue to cooperate with the U-Maine Extension Service and Soil and Water Conservation Districts on the development of educational materials such as brochures and newsletters. The tribe will send staff to seminars and trainings to learn the latest BMPs and the latest techniques in public communication and education

3.7 Public Participation

Before being submitted to EPA, the NPS Assessment Report and Management Plan will undergo review by the Tribal Council at a public meeting that is open to the Tribal community. Notice of the meeting and guidance on obtaining a copy of the plan will be posted in the Community Flyer, a weekly publication on the Reservation. At this meeting, a recommendation will be made to the Department of Natural Resources regarding the interest of the community in holding additional public forums during the implementation of the management plan.

4.0 BUDGET/FUNDING REQUIREMENTS

An annual budget for the NPS management program and the funding requirements for the implementation of specific BMPs will be developed and submitted with the annual 319 applications. This budget will include provisions for administration, monitoring, education, along with the BMPs that are planned for road and bridge construction and maintenance, salt control, on-site disposal systems, and riparian restoration.

5.0 MANAGEMENT PROGRAM IMPLEMENTATION

5.1 Problems and Needs for each Nonpoint Source Category

The following categories and subcategories of nonpoint sources have been designated by EPA and used in this report. NPS problems that were identified in the assessment of tribal waters that relate to each of these categories are specified. Almost all of the categories are believed to pose a threat to Penobscot Nation water resources, particularly the waters of the Reservation.

Table 3A. AGRICULTURE

- non-irrigated crop production
- irrigated crop production
- specialty crop production
- pasture land
- feedlots
- aquaculture
- animal holding/management areas
- rangeland (grazing)
- streambank erosion

Problem: Agricultural Practices in the upper Penobscot River Basin and tributaries are believed to threaten water quality of the Penobscot River (Tribal Reservation)

Need: There is a need to work cooperatively with state and federal agencies to fully inspect and address non-tribal agricultural practices that affect tribal water resources.

Table 3B. CONSTRUCTION

- highway/road/bridge
- land development
- streambank erosion

Problem: Construction projects on the Indian Island portion of the Reservation have the potential to threaten the water quality of the Penobscot River (Tribal Reservation).

Non-tribal construction adjacent to the Reservation may threaten tribal water resources.

Need: Indian Island construction practices should be reviewed and evaluated to determine if there is need to revise codes that are in place. Stabilization measures may be needed to control streambank erosion and road runoff. There is a need to work cooperatively with state and federal agencies to fully inspect and address non-tribal construction practices that affect tribal water resources.

Table 3C. URBAN RUNOFF

- storm sewers
- combined sewers
- surface runoff
- streambank erosion

Problem: Urban Runoff in the upper Penobscot River Basin and tributaries may threaten water quality of the Penobscot River (Tribal Reservation); There is potential for urban runoff on Indian Island.

Need: There is a need to work cooperatively with state and federal agencies to fully inspect and address non-tribal urban runoff that may affect tribal water resources. There is a need to evaluate and address urban runoff on Indian Island.

Table 3D. RESOURCE EXTRACTION/DEVELOPMENT

- surface mining
- subsurface mining
- petroleum activities
- streambank erosion

Problem: There is potential for non-tribal petroleum transport and storage activities and mining for gravel to affect water resources in the Reservation.

Need: There is a need to cooperate with state and federal agencies to inspect and address resource extraction and development practices that affect tribal water resources.

Table 3E. LAND DISPOSAL

- sludge
- wastewater
- landfills
- on-site wastewater systems (septic tanks, etc)
- hazardous waste

Problem: Greywater runoff and household dumps from camps may threaten water quality at the Trust Lands. Non-tribal landfills and hazardous waste sites and sludge applications in the upper Penobscot River Basin may affect Reservation water resources.

Need: There is a need for the tribe to address greywater and dump issues at camps on the Tribal Trust Lands. There is a need to work cooperatively including education with state and federal agencies to address problems associated with the non-tribal campowners. There is a need to work cooperatively with state and federal agencies to fully inspect and address non-tribal hazardous waste sites and landfills and sludge disposal practices that may affect tribal water resources of the Reservation.

Table 3F. HYDROMODIFICATION

- dam construction/operation
- flow regulation/modification
- streambank erosion
- removal of riparian vegetation
- streambank modification/destabilization

Problem: Channelization, dam operation, and flow regulation, and removal of riparian vegetation in the upper Penobscot River Basin and tributaries impair water quality of the Penobscot River (Tribal Reservation). The removal of riparian vegetation by non-Tribal camp owners threatens water quality at the Trust Lands.

Need: There is a need to work cooperatively with state and federal agencies to address non-tribal hydromodification practices that affect tribal water resources of the Reservation. There is a need to restore riparian vegetation at Trust Land shorelines.

Table 3G. POINT SOURCE

- industrial point source
- municipal point source

Problem: Non-tribal industrial point sources in the Penobscot River Basin impair water resources of the Reservation. The non-tribal and tribal municipal point sources are believed to threaten water quality.

Need: There is an urgent need to work cooperatively with state and federal agencies to address the impairments to the tribal reservation that are caused by industrial point sources. There is a need to evaluate and upgrade the non-tribal and tribal municipal point sources.

Table 3H. SILVICULTURE

- road construction/maintenance
- harvesting

Problem: Twenty one sites of road erosion were identified on the Tribal Trust lands.

Need: There is a need for BMPs including the installation of "Beaver Deceivers." Non-tribal forestry practices within the Penobscot River Basin may threaten tribal water quality. There is a need to work cooperatively with state and federal agencies to fully inspect and address non-tribal forestry practices that may affect tribal water resources.

Table 3I. OTHER

- atmospheric deposition
- highway maintenance and runoff
- accidental spills
- recreational activity
- natural

Problem: Atmospheric deposition of mercury impairs all tribal waters. Acid deposition threatens some tribal waters. Road runoff and spills have the potential to threaten almost all tribal waters. An uncovered and poorly sited sand-salt pile on Indian Island has the potential to threaten the tribal waters. Unregulated recreational boating may contribute to shoreline erosion. Healthy beaver populations have the potential to flood unprotected areas of roads.

Need: There is a need to cooperate with state and federal agencies to monitor and address atmospheric deposition. There is a need to evaluate present regulations regarding road runoff and spills and revise them as necessary. There is a need to evaluate codes regarding boat speeds. The tribe needs to acquire funds to cover or move a poorly sited sand/salt pile. There is a need to maintain flow devices and install new "beaver deceivers" as needed.

5.2 Primary Pollutants and Problem Areas

Tribal Reservation - The primary pollutants of concern for the Tribal Reservation are nutrients, bacteria, sediments, industrial chemicals (dioxin, PCBs, mercury, and others), biological oxygen demand, land fill wastes (unknown), acidic deposition, salt. Most of these problems originate from non-tribal sources. Specific pollutants that were found to originate from the Indian Island portion of the Reservation are listed in Table 4.

Table 4. Primary Pollutants and Problem Areas – Indian Island

<u>NPS Pollutant</u>	<u>Water Bodies</u>
<u>Nutrients/Sediments</u> (Removal of Riparian Vegetation and associated Bank Erosion)	Penobscot River
<u>Wastewater</u> (Municipal Point Source)	Penobscot River
<u>Road Maintenance</u> (Sand/Salt Storage)	Penobscot River Groundwater

Trust Lands - The primary pollutants of concern at the Tribal Trust Lands are nutrients, sediments, mercury and acid deposition. In addition, Matagamom Lake is impaired by riparian zone dewatering. There is also concern about unknown contaminants that may be associated with camp dumps and graywater. Problem areas associated with different types of pollutants and their probable sources are listed in Table 5 for the Tribal Trust Lands.

Table 5. Primary Pollutants and Problem Areas – Tribal Trust Lands

<u>NPS Pollutant</u>	<u>Water Bodies</u>
<u>Nutrients and Sediments</u> (Landfill)	Round Mountain Pond Little Mattamiscontis Lake
(Graywater)	Round Mountain Pond Birch Stream Grand Lake Matagamon
(Riparian Vegetation Removal/Bank Erosion)	Round Mountain Pond Alder Stream Grand Lake Matagamon Mattamiscontis Lake Little Mattamiscontis Lake
(Logging Road)	Little Alder Stream Alder Stream 2 nd Alder Stream Tributary 7 th Alder Stream Tributary Middle Branch Alder Stream Blanchard Pond Outlet North Branch Dead River Kettlehole Stream West Branch Pleasant River Stinking Brook Birch Stream Birch Stream Tributary Wadleigh Brook Mountain Catcher Brook Squirrel Brook Mountain Brook & Tributary Sam Ayers Stream Say Ayers NW Tributary Johnny Ayers Brook
<u>Miscellaneous Contaminants</u> (Landfill)	Round Mtn Pond Ltl Mattmscontis Lake
<u>Mercury</u> (Atmospheric Deposition)	All waters
<u>Acid Deposition</u> (Atmospheric Deposition)	East Branch Lake
<u>Dewatering</u> (Flow Regulation)	G Lake Matagamon

5.2 Percent of Land Use Associated with each Category

EPA's guidance for preparation of NPS Management Plans requests information on the percent of tribal lands affected by each category of NPS pollution. Our best estimate is presented, with separate calculations for Trust Lands and the portion of the Tribal Reservation that was assessed.

NPS Category	Trust Lands	Indian Island
Forestry	96%	80% (not harvested)
Agriculture	0 %	< 1%
Urban/Paved	0 %	15%
Land Disposal	< 1 %	< 1 %
Unpaved Road	2 %	2 %
Mowed Grass	< 1 %	2 %

5.3 Percent of Nonpoint Source Pollution Attributed to each Source

EPA's guidance for preparation of NPS Management Plans requests information on the percent of NPS pollution that can be attributed to each source category. It is difficult to quantify a problem which by its very definition, is unquantifiable. However, we can compare the relative magnitude of each type of nonpoint source problem. For Trust Land waters, the greatest nonpoint source problem is the atmospheric deposition of mercury. Next most important is the maintenance and upkeep of many miles of logging roads. Healthy beaver populations pose continual challenges to the integrity of these roads. The condition of riparian buffers at shoreline camps, the resulting runoff, and the potential for shoreline erosion is next in importance. Last, but not least, is the issue of land disposal in terms of solid waste and domestic graywater from shoreline camps. At Indian Island, the two greatest problems that affect water quality are from non-tribal sources of industrial point source pollution and flow regulation. Additional problems from non-tribal sources that are thought to affect water quality at Indian Island are agriculture, silviculture, land disposal, and urban runoff. Tribal sources on Indian Island, which are believed to affect water quality to a lesser degree, include sand and salt storage, removal of riparian buffers, and urban runoff.

5.4 Proposed BMPs for each NPS Category

A summary of the Tribal Best Management Practices that are proposed for category of NPS pollution appears in Table 8. More detailed recommendations are to be spelled out in the Tribe's 319 Applications and in Appendix B.

Table 8. Proposed BMPs for each NPS Category

Category	Sub-Category	Proposed BMPs
Agriculture 1000	Pastureland 1400	Interagency Inspection
Construction 3000	Land Development 3200	Interagency Inspection
Urban Runoff 4000	Surface Runoff 4300	Interagency Inspection
Resource Extraction 5000	Gravel Mining 5100	Interagency Inspection
	Petroleum Transport 5500	Interagency Inspection
Land Disposal 6000	Landfills 6300	Inspect, Remove
	On-site Wastewater 6500	Inspect, Evaluate, Mitigate
	Hazardous Waste	Interagency Inspection
Hydromodification 7000	Flow Regulation 7400	Interagency Inspection
	Removal Riparian Veg 7600	Inspect, Evaluate, Mitigate
	Bank Modification 7700	Inspect, Evaluate, Mitigate
Point Source 0100	Major Industrial 0110	Interagency Inspection
Silviculture 2000	Road Cons/Maint 2300	Logging Road BMPs
Other 8000	Atmospheric Dep 8100	Interagency Inspection
	Highway Maintenance 8300	Cover Sand/Salt Pile
	Accidental Spills 8400	Interagency Inspection
	Recreational Activity 8700	Inspect and Evaluate
	Natural 8800	Beaver Flow Devices

6.0 SCHEDULE AND MILESTONES

6.1 Short Term Goals and Objectives

Desired four year goals for BMP installation for categories that will be dealt with soon are shown in the table that follows along with the specific product, or milestone that is expected and the schedule for completion.

<u>Category</u>	<u>Year 2000</u>	<u>Year 2001</u>	<u>Year 2002</u>	<u>Year 2003</u>
Roads and Bridges				
Install BMPs	X	X	X	
Identify Funds for Additional Silvicultural BMPs Needed			X	
Sand/Salt Control				
Properly Site/Cover Salt Pile	X			
On-Site Disposal				
Review Regulations		X		
Evaluate Regulations with Land Committee		X		
Modify Codes as Needed		X		
Educate			X	
Inspect			X	
Retrofit			X	
Stream Bank Stabilization/Riparian Protection				
Inspect		X		
Educate		X		
Restore			X	
Monitor			X	

6.2 Lead and Cooperating Agencies for each BMP

Roads and Bridges – Penobscot Nation is the lead agency for management of tribal roads and bridges. The Tribal Department of Natural Resources is coordinating this work under the Forestry Program. Cooperating Agencies who provide funding for this type of work include the Bureau of Indian Affairs (BIA), the USDA NRCS (EQIP funding) and the U.S. EPA (Wetlands protection funds).

Salt Control – Penobscot Nation is the lead agency for management of the tribal sand/salt pile. Cooperating tribal departments who seek outside sources of funding

include the Tribal Department of Economic Development, the Tribal Administration, and the Tribal Department of Natural Resources. The Tribal Administration will manage the project.

On-Site Disposal – Penobscot Nation is the lead agency for management of graywater and trash disposal at camplots on the Tribal trust Lands. The Tribal Department of Trust Responsibilities and the Tribal Department of Natural Resources are involved in resolving this issue along with the Tribe’s Land Committee. Funding is available from USDA NRCS and U.S. EPA. Technical assistance for education is available from the University of Maine Cooperative Extension Service.

Stream Bank Stabilization/Riparian Protection – Penobscot Nation is the lead agency for shoreline stabilization and restoration of riparian vegetation on tribal lands. Funding is available from USDA NRCS and U.S. EPA. Technical assistance for education is available from the U-Maine Cooperative Extension Service. Control of the dam at Lake Matagamon is by a non-tribal owner. Resolving the matter of riparian dewatering will involve the cooperation of the Maine DEP in addition to the dam owner.

6.3 Potential Impacts of BMPs on Ground Water

Most of the BMPs that will be undertaken by the Penobscot Nation and its cooperators focus on the improvement of surface water quality. One specific BMP that targets groundwater protection is the management of the salt storage pile. There is no reason to believe that any of the BMPs will have negative impacts on groundwater resources.

7.0 EXISTING AUTHORITIES AND PROGRAMS

7.1 Tribal NPS Pollution Ordinances and Programs

Tribal Land Management Goals - The Draft Penobscot Nation Comprehensive Land Use Plan and Ordinance adopted in December of 1994 states that the following broad goals shall guide the actions of the Penobscot Nation with respect to its Trust Lands:

1. *Conserve, protect and enhance the natural resources of the Trust Lands for this and future generations of Tribal members for non-intensive recreation, fisheries and wildlife habitat, and sustained yield timber management.*
2. *Manage all the resources of the Trust Lands based on the principles of sound planning and multiple use, to enhance the spiritual, living, working and recreational condition of Tribal members, to ensure the separation of incompatible uses, to assure the continued availability of outstanding water quality, fisheries, wildlife habitat, forest resources, groundwater, scenic and other natural resource values.*
3. *Maintain the natural character of special areas within the Trust Lands which have significant natural, spiritual, and cultural values.*

Policies - The plan lists specific goals and policies for development and conservation practices that are protective of Trust Land surface waters, groundwater, wetlands, wildlife, soils and geological resources, scenic resources, air resources, and energy resources. Goals and policies are detailed for these specific land uses: timber management, mineral exploration, mineral extraction, individual wood harvesting, and land development. Site specific policies are spelled out for individual water bodies on the Trust Lands. Environmentally Sensitive Areas and Set-Asides have been identified for heightened environmental protection.

Land Use – Tribal land use policies designed to control nonpoint source pollution include a ban on structures in environmentally sensitive areas, and a ban on structures on slopes greater than 20%. Plumbing code compliance (certification of soils suitability for subsurface sewage disposal systems) is required prior to issuance of construction permits. Recreational vehicles are allowed for camping purposes, but are not allowed within 100 feet of the normal high water mark of a lake or pond. Primitive camps require a structure permit and evidence of suitable soils. ATV use by tribal members is discouraged during periods when erosion could be a problem and permits for non-member ATV use are required. Site-specific policies for shorelines are described below.

Shoreline Protection – Setbacks of varying distance are required, depending on the management goals of a specific water body. There is a no-cut buffer along lakes and streams. Selected water bodies have a ban on shoreside development (a 500 foot setback) to maintain them in an

undeveloped, undisturbed state. Other water bodies have specific setbacks for camps and dwellings that range from 75 - 250 feet depending on the sensitivity or significance of the water body. Setbacks for accessory structures range from 75 - 100 feet depending on the site. Development guidelines for Trust Land water bodies are summarized below.

No development

Big Logan, Mountain Catcher Pond, Birch Point, all islands in First Grand Lake Matagamon and islands on East Branch Lake and islands in Mattamiscontis Lake, the East Branch Lake wetlands and campsite, south shore of Little Mattamiscontis Lake, Mattamiscontis Lake wetlands and western shore.

500 foot setback (no shoreline development)

Blanchard Pond, Snow Mountain Pond, Round Mountain Pond south shore (wetland and set-aside), Alder Stream Falls, Sarampus Falls, Morrell Pond, Mountain Catcher Pond, Big Logan, Penobscot River at Matagamon, West Branch Pleasant River, all wetland/lowland areas as shown on the land use map.

250 foot setback

Alder Stream, Dead River, Penobscot River at Argyle Trust Land

150 foot setback

Round Mountain Pond except as otherwise designated, First Grand Lake Matagamon except as otherwise designated,

100 foot setback

East Branch Lake except as otherwise designated, Little Mattamiscontis Lake except as otherwise designated, Portions of Mattamiscontis Lake except as otherwise designated

75 foot setback

All Tribal Trust Land Streams unless otherwise designated or where a greater setback is required because of a wetland.

Performance Standards – The Tribal Land Use Plan and Ordinance for the Tribal Trust Lands has specific performance standards that relate to the control of NPS pollution. These standards are for Agriculture, Boat Ramps, Clearing (Vegetative Buffers), Docks and Piers, Filling and Grading, Mineral Exploration/Extraction, Roads and Water Crossings, Solid Waste, Hazardous Waste, Radioactive Waste, Subsurface Sewage Disposal, and Timber Harvesting.

Administration and Enforcement – The Tribal Land Use Plan and Ordinance for the Tribal Trust Lands specifies the roles and responsibilities of the Tribal Environmental Compliance Officer, the Land Committee, the Department of Natural Resources, the Tribal Fire Department, the Department of Trust Responsibilities, and the Tribal Court. Permits for development are issued by the land community and undergo review by appropriate departments, with final

approval by the Tribal Council.

7.2 Federal NPS Pollution Laws and Programs

Applicable Federal Laws include the Federal Clean Water Act and Amendments. Specific Programs under the Act that relate to the development of the Tribal NPS Management Program, include, but are not limited to: Section 303 (water quality standards), Section 314 (biennial reports on water quality), Section 319 (Management of NPS Pollution).

7.3 Programs Providing Financial or Technical Assistance

Programs that can provide financial and/or technical assistance to Penobscot Nation for carrying out its NPS Management Plan include the following:

U.S. EPA – CWA 106 Program	Environmental Monitoring
U.S. EPA – CWA 104(b) 3 Program	Watershed and Wetlands Protection
U.S. EPA – CWA 319 Program	NPS Management
U.S. EPA – GAP	
U.S. Department of Interior B.I.A.	Forest and Fisheries Management
	Roadwork
	Water Resource Monitoring & Management
U-Maine Cooperative Extension	Technical Assistance with education
U.S.D.A. NRCS – EQIP	NPS/Wildlife Management

7.4 Consistency of Federal Programs with Tribes NPS Programs

The Tribe is required to include a section in this Management Plan that identifies inconsistencies between the Federal Programs and the Tribal NPS Programs. No inconsistencies have been identified during the period of time in which the Management Plan has been drafted.

8.0 REFERENCES

- FPAST. 1993. Fort Peck Tribes Nonpoint Source Management Plan. Fort Peck Assiniboine and Sioux Tribes. Office of Environmental Protection. Poplar, MT.
- Michigan State University. 1998. HOME*A*SYST: Home Assessment System. Shoreline Property Management. Michigan State University Extension Service. E. Lansing, MI.
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- MDEP and COLA. 1992. A Citizen's Guide to Lake Watershed Surveys. Maine Dept Env rotection, Augusta, Maine; Congress of Lake Associations, Yarmouth, Maine.
- Penobscot Nation Department of Natural Resources. 1993 File. Water Quality Data - Penobscot River Secchi Data. Water Resources Program. Indian Island, Maine.
- Penobscot Nation. 1991. Forest Management Plan: Penobscot Trust Lands in Maine. Penobscot Nation Department of Natural Resources - Forestry Program. Indian Island, Maine.
- Penobscot Nation. 1994. Penobscot Nation Comprehensive Land Use Plan and Ordinance.
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- U.S. EPA. 1993. Guidance Specifying Management Measures for Sources of Nonpoint Pollution in Coastal Waters. U.S. Environmental Protection Agency Office of Water, Washington, D.C.
- U.S. EPA. 1994. A Tribal Guide to the Section 319(h) Nonpoint Source Grant Program. Office of Water. Washington, DC.
- U.S. EPA. 1997. Nonpoint Source Guidance. U.S. Environmental Protection Agency Office of Water and Office of Water Regulations and Standards. Washington, D.C.
- U.S. EPA. 1997. Tribal Nonpoint Source Planning Handbook. Office of Water. EPA-841-B-97-004. Washington, D.C.

APPENDIX A. CERTIFICATION OF LEGAL AUTHORITY (DRAFT)

January 28, 2000

Mindy Lubber, Regional Administrator
EPA-Region 1
JFK Federal Building
1 Congress Street
Boston, MA 02203

DRAFT

RE: Penobscot Nation Application for Treatment as a State under CWA, Section 319

Dear Ms. Lubber:

The Penobscot Nation (the "Nation") is hereby formally requesting treatment as a state ("TAS") status for purposes of receiving funding under Section 319 of the Clean Water Act ("CWA"). The Nation currently has limited TAS for purposes of receiving funding under Section 106 of the CWA to develop a Water Quality Management Plan for the Nation's water resources on the Penobscot River in Maine. This application for TAS is being submitted in conjunction with a Management Plan for non-point source pollution and covers the same areas as set forth in such plan.

As I understand the application process, the Nation must apply separately for TAS status for each program for which funding is sought. However, once the Nation has received TAS status for any one program, subsequent applications for additional programs need only provide additional information unique to that program. Accordingly, this application is somewhat abbreviated. It is also my understanding that the criteria for TAS remains the same for each such application. This criteria is that the Nation must have: (1) federal recognition by the Department of the Interior; (2) the requisite governmental authority; (3) jurisdiction over the resources affected by the statute or program; and (4) capability to implement and manage the grant.

As demonstrated by the existing EPA grant of TAS status to the Nation for purposes of Section 106 funding, the Nation is a federally recognized Indian tribe. The Nation appears on the list of federally recognized tribes established and maintained by the Secretary of the Department of the Interior. Secondly, as set forth in this previous TAS approval, the Nation has the requisite governmental authority for purposes of TAS. The governing body of the Penobscot

Nation is its Chief and twelve member Council. This fact is recognized by both the Federal and State portions of the Maine Indian Claims Settlement Act of 1980 (collectively referred to as the "Settlement Act"). See 25 U.S.C. §1721(a)(3), 1722(k) and 1726; 30 Maine Revised Statutes Annotated (MRSA) §6203(10), 6206. With regard to the capability to implement and manage the grant, the Nation has an established track record of successfully operating many environmental and public grant programs. Again this fact is recognized by the existing TAS approval. The Nation has a well organized Natural Resource Department that is quite capable of implementing the Section 319 program as set forth in the Management Plan.

Finally, the Nation has jurisdiction over the resources affected by the program. The areas covered by the Management Plan, Indian Island and Penobscot Trust Lands, are part of Penobscot Indian Territory as defined by the Settlement Act. The Nation has jurisdiction over its territory pursuant to its retained and inherent authority as a federally recognized Indian tribe. Further, the Nation has jurisdiction exclusive of the State of Maine over its internal tribal matters as set forth in the Settlement Act. See 30 M.R.S.A. §6206(1). Also, the Nation has the authority to enact ordinances to govern activities within its territory. Again based on its inherent authority and powers recognized in the Settlement Act. See 30 M.R.S.A. §6206(3). Finally, the Settlement Act also granted the Nation the powers of a municipality of the State of Maine over its territory. Based on these authorities, the Nation has jurisdiction over the resources sufficient for purposes of this Section 319 program. Thus, the Nation satisfies the criteria for TAS in order to receive funding under Section 319, and EPA should recognize that status pursuant to this application.

If you have any questions, comments or concerns regarding this application, please do not hesitate to contact me. I thank you for your time and consideration in this matter, and the Nation looks forward to working with EPA for purposes of this TAS application.

Sincerely,

Mark A. Chavaree
Staff Attorney

MAC:cl

cc: Chief Richard Hamilton
Tribal Council
John Banks, Director DNR
Dan Kusnierz, DNR
Kaighn Smith, Esq.

APPENDIX B. LIST OF SPECIFIC BEST MANAGEMENT PRACTICES

Silviculture—road and bridge construction/maintenance

1. Blade and reshape road to conserve existing surface material.
2. Clear road inlet and outlet ditches, catch basins, culverts, and road crossing structures of obstructions.
3. Maintain road surfaces by patching or resurfacing as necessary.
4. Wherever possible, completely close the road to travel and restrict access by unauthorized persons by using gates or other barriers.
5. Revegetate to provide erosion control and stabilize the road surface and banks.
6. Replace open-top culverts with cross drains (water bars, dips or ditches) to control and divert runoff from road surfaces.
7. Periodically inspect closed roads to ensure that vegetational stabilization measures are operating as planned and that drainage structures are operational. Conduct reseeded and drainage structure maintenance as needed.
8. Install 'Beaver Deceiver' flow devices where needed.
9. Construct/repair bridges and culverts when streamflow is low.
10. Revegetate or stabilize disturbed areas, especially at stream crossings
11. Construct stream crossings to minimize erosion and sedimentation.

Road Maintenance—Salt Control

1. Cover salt storage piles and other de-icing materials to reduce contamination of surface waters.
2. Regulate the application of de-icing salts to prevent oversalting of pavement.
3. Use specifically equipped salt application trucks.
4. Use alternative de-icing materials, such as sand or salt substitutes, where sensitive ecosystems should be protected.
5. Prevent dumping of accumulated snow into surface waters.

Land Disposal—On-Site Disposal Systems (OSDS)

1. Perform regular inspections of OSDS—use educational outreach and brochures to educate homeowners on how to determine if their OSDS is functioning properly.
2. Perform regular maintenance of OSDS—educate homeowners on pumping frequency of their septic systems.

3. Retrofit or upgrade improperly functioning systems—construct backup soil absorption fields and encourage water conservation where necessary.
4. Use denitrification systems where conditions indicate that nitrogen-limited surface waters may be adversely impacted by excessive nitrogen loading.
5. Discourage the use of phosphate in detergents.
6. Discourage the use of acid and organic chemical solvent septic system additives.
7. Promote proper operation and maintenance of OSDS through public education and outreach programs

Hydrologic/Habitat Modification—streambank modification/destabilization

1. Use soil bioengineering and other vegetative techniques to restore damaged habitat along shorelines and streambanks wherever conditions allow—these techniques include: Live Staking, Live Fascines, Brushlayering, Brush Mattressing, Branchpacking, Joint Planting, and Live Cribwalls.
2. Use properly designed and constructed engineering practices for shore erosion control in areas where practices involving marsh creation and soil bioengineering are ineffective—these techniques include: vegetative dune stabilization, vegetative streambank stabilization, vegetated buffer strips, culverts, grassed swales, diversion, structures to channelize water down steep slopes, shoreline riprap, streamline riprap, and temporary check dams.
3. In areas where existing protection methods are being flanked or are failing, implement properly designed and constructed shore erosion control methods such as returns or return walls, toe protection, and proper maintenance or total replacement.
4. Establish and enforce no-wake zones to reduce erosion potential from boat wakes. Establish setbacks to minimize disturbances of land adjacent to streambanks and shorelines to reduce other impacts.
6. Establish and maintain Streamside Management Areas (SMAs) along surface waters, which is sufficiently wide and which includes a number of canopy species to buffer against detrimental changes in the temperature regime of the waterbody, to provide bank stability, and to withstand wind damage.
7. Establish appropriate flow regime for hydro dams at Mattagamon Lake that would control water levels to minimize dewatering of shoreline and resultant bank erosion.

**LAND USE ORDINANCE
OF THE
PENOBSCOT NATION**

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Land Use Ordinance of the Penobscot Nation

LAND USE ORDINANCE

OF THE

PENOBSCOT NATION

SECTION 1. GENERAL PROVISIONS

A. TITLE

This Ordinance shall be known and cited as the Land Use Ordinance of the Penobscot Indian Nation, and will be referred to as "this Ordinance."

B. AUTHORITY

This Ordinance is adopted pursuant to the provisions of Title 30 MRSA Section 6201 et. seq.

C. PURPOSES

The purposes of this Ordinance are:

1. To implement the provisions of the Penobscot Nation's Comprehensive Plan and Forest Management Plan as they apply to the Trust Land of the Penobscot Nation.
2. To preserve water quality and the long term productivity of the forest.
3. To protect significant natural resources such as fisheries, wildlife habitat, and recreation areas.
4. To implement alternative methods of managing the natural resource areas identified on the Trust Land.
5. To protect fish and wildlife habitat as specified by the Penobscot Nation Fish and Game Committee and as reflected in the Forest Management Plan.
6. To enhance Tribal member job opportunities where possible.
7. To harvest timber at levels which will not exceed the net growth of timber on operable acres, as set forth in the Forest Management Plan.
8. To maintain and protect Trust Land for recreational use by Tribal members.
9. To ensure the availability of natural resources for the use of Tribal members (firewood, brown ash, etc.).

Land Use Ordinance of the Penobscot Nation

10. To allow for mineral exploration and the potential to develop mineral resources.
11. To regulate the manner in which Trust Land are used to achieve the above purposes.

D. APPLICABILITY

1. The provisions of this Ordinance shall govern all land and all structures within the Trust Land of the Penobscot Nation, including:

Alder Stream	(T2R5 W.B.K.P.)
Matagamon	(T6R8 W.E.L.S.)
Mattamsicontis	(T2,3R9 N.W.P.)
Williamsburg	(T6R8 N.W.P.)
Argyle	
T3R1	

2. The provisions of this Ordinance shall also apply to the 24.3 acres of land designated as Reservation in Matagamon.
3. The provisions of this Ordinance shall apply to additional Trust Land established by the Federal Government. The Land Committee shall establish zones as set forth in Section 4 for such additional Trust Land.

E. CONFLICTS

Whenever a provision of this Ordinance conflicts with or is inconsistent with another provision of this Ordinance or of any other law, ordinance or regulation enacted by the Penobscot Nation, the more restrictive provision shall control.

F. VALIDITY AND SEVERABILITY

Should any section or provision of this Ordinance be declared by the courts to be invalid, such decision shall not invalidate any other section or provision of this Ordinance.

G. EFFECTIVE DATE

The effective date of this Ordinance shall be the date of adoption by the General Meeting.

H. AMENDMENTS

- I. This Ordinance may be amended by majority vote of the General Meeting.

SECTION 2. NON-CONFORMING USES

Notwithstanding any provisions contained in this Ordinance:

1. Normal maintenance and repair of any lawfully existing structure or use shall not require a permit.
- II. No lawful structure which predates the adoption of this Ordinance shall be required to be altered or moved to comply with the dimensional requirements of this Ordinance.

Land Use Ordinance of the Penobscot Nation

SECTION 3. BASIC REQUIREMENT

Except as hereinafter specified, no building, structure, or land use shall hereafter be used or occupied, and no building or structure or part thereof shall hereafter be erected, constructed, moved or altered unless it is in conformity with all of the regulations specified in this Ordinance.

The following activities shall be deemed to require a permit or approval from the Penobscot Nation:

KEY:

P	=	Permit required
-	=	No permit required
NO	=	Not permitted
S	=	License from State
L	=	License from Department of Natural Resources

Use	Tribal Member	Non-Member
Agriculture	P	NO
Assignments	P	NO
ATV Use	-	P
Brush Burning	P	P
Camping - Tents	-	P
Camping - Recreation Vehicles	-	P
Campfires	P	P
Docks, piers	-	NO
Filling, grading, dredging	P	NO
Fishing	L	S
Group Tours	-	P++
Harvesting		
Brown Ash	P	NO
Canoe Birch	P	NO
Firewood	P	P
Fir tips - not for commercial use	-	P
Fir tips - for commercial purposes	P	P
Fiddleheads	-	P
Christmas trees	-	P
Other Resources	P	NO

Land Use Ordinance of the Penobscot Nation

Use	Tribal Member	Non-Member
Hunting/Trapping	L +++	S +++
Hazardous Waste/Radioactive Waste Disposal	NO	NO
Mineral Exploration (includes gravel)	P	P
Mineral Extraction (includes gravel)	P	P
Off-Road Vehicle Use	-	P
Outdoor Recreation +	-	- ++
Research (e.g. Geological, Archaeological)	-	P
Road Construction	P	P
Sewage Disposal Systems	P	NO
Solid Waste Disposal	NO	NO
Snowmobile Use	-	P
Structures		
Family Compound	P	NO
Primitive Camp	P	NO
Seasonal Camp	P	NO
Year-Round Dwelling	P	NO
Change of Use	P	NO
Timber Harvesting, Land Management Roads	P	P
Water Crossings/Timber Harvesting	P	P
Water Impoundments	P	P

+ Wildlife study and photography, horseback riding, canoeing, cross-country skiing, hiking.

++ Not allowed during general hunting season (big game: deer, bear, moose).

+++ Requirements vary, depending upon species and type of hunting activity. Refer to Chapter 7, Inland Fish and Game Tribal Ordinance.

SECTION 4. LAND USE ZONE REQUIREMENTS

A. ZONE CLASSIFICATIONS

For the purposes of this Ordinance, the Trust Land of the Penobscot Nation are divided into the zones set forth below and as adopted by the Tribal Council in 1990 as part of the Forest Management Plan. The zones apply differently, depending upon whether a particular Trust Land has been designated in the Forest Management Plan as forest management Alternative 3 or Alternative 4. Alternative 3, which applies to Alder Stream, Matagamon, Williamsburg and T3R1, restricts timber harvesting in some areas to protect fish, wildlife and recreation. Alternative 4, which applies to Mattamiscontis and Argyle, provides greater restrictions to protect these same resources.

Fisheries Management Protection Zones

The purposes of these zones are to provide undisturbed buffers along water bodies, to provide wildlife travel lanes, and to provide diversity in timber stands, thus protecting the water quality of lakes, great ponds and streams, as well as their associated fisheries and wildlife resources.

<u>Zone</u>	<u>Description</u>
FMP-1 <u>Alternative 3</u>	250 feet (horizontal distance) from the normal high water mark of standing bodies of water 10 acres or greater (Great Ponds) and flowing waters downstream from the point where such waters drain 50 square miles or more (LURC PSL-I).
<u>Alternative 4</u>	Same as Alternative 3 except 500 feet wide.
FMP-2 <u>Alternative 3</u>	150 feet from the normal high water mark of ponds less than 10 acres and significant flowing waters (as determined by the Penobscot Fish and Wildlife staff) which drain less than 50 square miles.
<u>Alternative 4</u>	Same as Alternative 3 except 250 feet wide.

Land Use Ordinance of the Penobscot Nation

FMP-3 Alternative 3

75 feet from normal high water mark of flowing waters which drain less than 50 square miles but are not included in FMP-2.

Alternative 4

Same as Alternative 3.

General Wildlife Management and Protection Zones

The purposes of these zones are to provide additional wildlife habitat along reverting fields, along water bodies, and along public and gravel roads, to protect big game habitat and to protect wetlands.

Zone

Description

GWM-1 Alternative 3

Open or reverting fields and a 300 foot strip surrounding them. The objective is to maintain the field and the surrounding forest canopy.

Alternative 4

Same as Alternative 3, except for a 600 foot strip surrounding the field.

GWM-2 Alternative 3

A 300 foot strip along the outside boundary of FMP-1 and FMP-2 zones. The objective is to maintain adequate browse and cover for wildlife.

Alternative 4

Same as Alternative 3, except for a 600 foot strip surrounding FMP-1 and FMP-2 zones.

GWM-3 Alternative 3

A 300 foot strip on both sides of public roads and all season gravel roads. The objective is to maintain and improve the aesthetics along these roads and increase diversity.

Alternative 4

Same as Alternative 3, except for a 600 foot strip along the roads.

Land Use Ordinance of the Penobscot Nation

- DWA Alternatives 3 and 4
(Deer Wintering Areas) Areas which have been mapped by the Maine Department of Inland Fisheries and Wildlife or the Penobscot Fish and Wildlife staff, which includes an area extending 300 feet out from softwood types.
- DCA Alternatives 3 and 4
(Deer Cover Areas) Areas which have been identified as important deer cover areas by the Penobscot Fish and Wildlife Staff.
- SPL Alternatives 3 and 4
(Special Habitat Areas) Areas reflecting special or unique wildlife needs or occurrences. Areas for inclusion would be eagle nest sites, heron rookeries, moose wallows, salt/mineral licks.
- WL Alternatives 3 and 4
(Wetlands) Areas of swamps, marshes or bogs which have soils and vegetation indicative of wetlands, and flooded timber areas or areas which show indications of past flooding.
- SA Alternatives 3 and 4
(Set-Asides) Areas which have been mapped by the Maine Department of Inland Fisheries and Wildlife or the Penobscot Fish and Wildlife staff, which includes an area extending 300 feet out from softwood types.
- TMZ Alternatives 3 and 4
(Timber Management Zone) All remaining Trust Land not otherwise shown as being in one of the previous zones.

B. MAPS

The boundaries of the zones are shown on Land Use Maps on file with the Penobscot Nation. These maps, and all amendments thereto, are incorporated by reference into this Ordinance.

C. INTERPRETATION OF ZONE BOUNDARIES

In cases where two (2) or more zones apparently apply to a single land area, the Tribal Council will designate the land area for inclusion in that zone which best achieves the purposes of the Comprehensive Plan and this Ordinance.

Except as otherwise provided, a zone designation appearing on the official land use map applies throughout the whole area bounded by such zone boundary lines.

Land Use Ordinance of the Penobscot Nation

D. ZONE REGULATIONS

Land uses permitted in each zone, in conformance with the performance standards of this Ordinance and the limitations imposed by paragraph E, following, are shown in the following table. Some of the land uses which are indicated as being permitted as a matter of right apply only to Tribal members; the same activity, if conducted by a non-member, may require a permit (see Section 3). Likewise, some of the activities which are indicated as requiring a permit apply only to Tribal members; the same activity, if it is proposed by a non-member, may be prohibited. (See Section 3.)

KEY

- No - Not permitted
- - No permit required
- L - Requires a license from Penobscot Nation
Department of Natural Resources
- LC - Requires a prior permit from the Land Committee/Council
- NR - Requires a prior permit from the Department of Natural
Resources
- TR - Requires a prior permit from the Department of Trust
Responsibility
- FD - Requires a prior permit from the Penobscot Nation
Fire Department

ZONES

Use	FMP -1	FMP -2	FMP -3	GWM -1	GWM -2	GWM -3	DWA	DCA	SPL	WL	SA	TMZ
Agriculture	NO	NO	NO	LC	LC	LC	NO	NO	NO	NO	NO	LC
Assignments	LC	LC	LC	NO	LC	LC	NO	NO	NO	NO	NO	LC
ATV Use	-	-	-	-	-	-	NO	NO	NO	NO	-	-
Brush Burning	NO	NO	NO	FD	FD	FD	NO	NO	NO	NO	NO	FD
Camping-Tents	TR	TR	TR	TR	TR	TR	NO	NO	NO	NO	TR	TR
Camping-Rec.Vehicles	TR	TR	TR	TR	TR	TR	NO	NO	NO	NO	TR	TR

Land Use Ordinance of the Penobscot Nation

Use	FMP -1	FMP -2	FMP -3	GWM -1	GWM -2	GWM -3	DWA	DCA	SPL	WL	SA	TMZ
Docks, Piers	-	-	NO	NO	NO	-	NO	NO	NO	NO	-	-
Filling, Grading, Dredging	LC	LC	LC	LC	LC	LC	NO	LC	NO	NO	NO	LC
Fishing	L	L	L	L	L	L	L	L	L	L	L	L
Harvesting												
Brown Ash	NR	NR	NR	NR	NR	NR	NR	NR	NO	NO	NO	NR
Canoe Birch	NR	NR	NR	NR	NR	NR	NR	NR	NR	NR	NR	NR
Fiddleheads	NR	NR	NR	NR	NR	NR	NR	NR	NR	NR	NR	NR
Firewood	NR	NR	NR	NR	NR	NR	NR	NR	NO	NO	NO	NR
Fir Tips	NR	NR	NR	NR	NR	NR	NR	NR	NO	NO	NO	NR
Other Resources	NR	NR	NR	NR	NR	NR	NR	NR	NO	NO	NO	NR
Christmas Trees	NR	NR	NR	NR	NR	NR	NR	NR	NO	NO	NO	NR
Hunting/Trapping *	L	L	L	L	L	L	L	L	L	L	NO	L
Hazardous/Radioactive Waste Disposal	NO	NO	NO	NO	NO	NO	NO	NO	NO	NO	NO	NO
Mineral Exploration (including gravel)	LC	LC	LC	LC	LC	LC	LC	LC	LC	LC	LC	LC
Mineral Extraction (including gravel)	LC	LC	LC	LC	LC	LC	LC	LC	LC	LC	LC	LC
New Tribal Community Areas	NO	NO	NO	LC	LC	LC	NO	NO	NO	NO	NO	LC
Off-Road Vehicles	-	-	NO	-	-	-	NO	NO	NO	NO	-	-
Outdoor and Recreation	-	-	-	-	-	-	-	-	-	-	-	-
Road Construction	LC	LC	LC	LC	LC	LC	LC	LC	NO	NO	LC	LC

Land Use Ordinance of the Penobscot Nation

Use	FMP -1	FMP -2	FMP -3	GWM -1	GWM -2	GWM -3	DWA	DCA	SPL	WL	SA	TMZ
Sewage Disposal Systems	LC	LC	NO	NO	LC	LC	NO	NO	NO	NO	LC	LC
Snowmobile Use	-	-	-	-	-	-	NO	-	NO	NO	-	-
Solid Waste Disposal	NO	NO	NO	NO	NO	NO	NO	NO	NO	NO	NO	NO
Small Business Ventures	NO	NO	NO	NO	LC	LC	NO	NO	NO	NO	NO	LC
Structures												
Family Compound	LC	LC	NO	NO	LC	LC	NO	NO	NO	NO	NO	LC
Primitive Camp	LC	LC	NO	NO	LC	LC	NO	NO	NO	NO	NO	LC
Seasonal Camp	LC	LC	NO	NO	LC	LC	NO	NO	NO	NO	NO	LC
Year-Round Dwelling	LC	LC	NO	NO	LC	LC	NO	NO	NO	NO	NO	LC
Change of Use	LC	LC	NO	NO	LC	LC	NO	NO	NO	NO	NO	LC
Timber Harvesting	NO	NO	NO	LC	LC	NO	LC	LC	NO	LC	NO	LC
Water Crossing/ Timber Harvesting	LC	LC	LC	LC	LC	LC	LC	LC	NO	NO	LC	LC
Water Impoundments	LC	LC	LC	LC	LC	LC	LC	LC	NO	NO	LC	LC

* Requirements vary; refer to Chapter 7, Inland Fish and Game Tribal Ordinance.

Land Use Ordinance of the Penobscot Nation

E. ADDITIONAL USE RESTRICTIONS

Notwithstanding the use designations shown in paragraph D, above, structures shall be prohibited in certain portions of the Trust Land as indicated in the table below.

STRUCTURE PROHIBITIONS FOR SPECIFIC TRUST LANDS

Trust Land	Structure Prohibited:
Alder Stream	Land within 500 feet of Snow Mountain Pond Land within 500 feet of Blanchard Pond Land within 500 feet of Alder Stream Falls Land within 500 feet of Sarampus Falls Land within 500 feet of Set-Asides, Round Mountain Pond Land within 150 feet of Round Mountain Pond, exclusive of set-asides Land within 250 feet of Dead River Land within 250 feet of Alder Stream Land within 50 feet of Round Mountain Pond Road
Matagamon	Land within 500 feet of Morrell Pond Land within 500 feet of Mountain Catcher Pond Land within 500 feet of Big Logan Land on all islands, Big Logan, Mountain Catcher Pond Land on Birch Point as shown on land use map Land on all islands in First Grand Lake, Matagamon Land within 150 feet of First Grand Lake, Matagamon Land within 150 feet of all rivers and streams Land within 500 feet of Penobscot River Land within 50 feet of all roads
Mattamiscontis	Land on all islands in East Branch Lake Land within 100 feet of East Branch Lake Land within 100 feet of the western shore of Little Mattamiscontis Land along the northern, eastern and southern shore of Little Mattamiscontis for a depth of 500 feet Land on all islands in Mattamiscontis Lake Land within 100 feet of the road leading from the Loop Road to the western shore of the lake and to the Mattamiscontis Lake campsite Land within 100 feet of Mattamiscontis Lake Land within 50 feet of all roads

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Williamsburg	Land within 500 feet of the West Branch Pleasant River Land within 50 feet of all roads
Argyle	Land within 250 feet of the Penobscot River Land within 50 feet of all roads
T3R1	Land within 50 feet of all roads

F. DIMENSIONAL REQUIREMENTS

The following dimensional requirements shall apply to all assignments and structures located in the Penobscot Nation's Trust Land unless greater dimensional requirements are required by other provisions of this Ordinance, including paragraph E, above.

1. Assignment Size: Each assigned lot shall consist of a minimum of 40,000 square feet provided that for seasonal camps and year-round dwellings, the Penobscot Nation may, at its own discretion, assign more land if some of the land is unsuitable or if more land is deemed unnecessary for such uses as tree nurseries or agriculture, or to provide for adequate subsurface sewage disposal. Only one primitive camp, seasonal camp, or year-round dwelling shall be permitted on each assigned lot, unless the Land Committee/Council has specifically approved the development of a family compound, or cluster development.
2. Shore Frontage: Each assigned lot that abuts a lake or a great pond shall have a minimum shore frontage of 200 feet; each assigned lot that abuts a flowing body of water shall have a minimum shore frontage of 100 feet. Shore frontage shall be measured in a straight line between the points of intersection of side lot lines with the normal high water mark.
3. Road Frontage: Each assigned lot that abuts a road shall have a minimum road frontage of 50 feet, provided that the road frontage along State Route 27 in the Alder Stream Trust Land shall be 100 feet.
4. Shore Setbacks: Unless a greater setback is required by Paragraph E, above, all structures shall be set back from flowing water bodies a minimum of 75 feet and 100 feet from the normal high water mark of lakes and great ponds.

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5. Wetland Setbacks: Unless a greater setback is required by Paragraph E, above, all structures shall be set back a minimum of 75 feet from the edge of wetlands identified as such on the land use map contained in the Comprehensive Plan.
6. Road Setbacks: Unless a greater setback is required by Paragraph E, above, all structures shall be set back 50 feet from all roads.
7. Property Lines: Each structure shall be set back a minimum of 15 feet from side and rear boundaries of the assigned lot.
8. Camp Sites: Camp sites shall be set back a minimum of 50 feet from roads, 25 feet from any assigned lot boundary lines, and 75 feet from shorelines, provided that where a campsite includes a cleared or graded area with fire rings, tables and related construction, the setback requirement from shorelines shall be 100 feet. The Land Committee/Council may require a greater setback where it is deemed necessary due to site conditions to avoid accelerated erosion or sedimentation of surface waters.
9. Building Height: Structures within 500 feet of a great pond of 10 acres or more in size shall be no higher than the screening vegetation or 25 feet, whichever is greater. The Land Committee/Council may apply this provision at greater distances from the normal high water mark of great ponds having significant or outstanding scenic values where there is no likelihood that such structures would have adverse impact on scenic values. Features of buildings which contain no floor area such as chimneys, towers, ventilators and spires may exceed these maximum heights with the approval of the Land Committee/Council.
10. Delegation of Authority to Land Committee/Council for Cluster Development: The Land Committee/Council may reduce dimensional requirements other than shoreline setbacks to allow for cluster development involving more than one primitive camp, seasonal camp, and/or year-round dwelling on a proportionately larger lot provided that, in the aggregate, dimensional requirements are met within the development. The Land Committee/Council may approve a cluster development, such as a family compound, on land that could be developed under normal applicable standards provided that the cluster development provides for efficient use of land and the protection of a significant amount of open space.

SECTION 5. PERFORMANCE STANDARDS

The following performance standards shall govern all activities undertaken on Penobscot Nation Trust Land. Activities not in conformance with these standards may be allowed upon the issuance of a permit from the Land Committee/Tribal Council upon a showing by the applicant (or, in the case of activities conducted by the Penobscot Nation, a finding) that the activity which is not in conformance with the standards shall be conducted in a manner which produces no unreasonably adverse impacts upon the resources of the Penobscot Nation or upon neighboring uses.

This Section contains land use standards for the following:

1. **Access**

- A. **Designation.** The Land Committee/Council may periodically designate access points to various water bodies for use by all Tribal members. The Land Committee shall maintain a map or maps of such access points, as well as a description in sufficient detail such that they may be located on the ground. At least one such access point shall be designated on each of the great ponds lying within the Trust Land. Access points shall include a minimum of 100 feet of shore frontage.
- B. **Use.** Access points shall be designated for the purpose of hiking, fishing, boating and the passive enjoyment of water bodies, and may be used for such purposes. Access points shall not be used for camping, tenting, or the placement of permanent or temporary structures by Tribal members. No Tribal member or non-member may block or otherwise obstruct access points for Tribal members. However, the Land Committee/Council may periodically close or block access points to prevent erosion or undertake repairs, maintenance or improvements. The Land Committee/Council may erect signs or structures to enhance the use of the site by Tribal members.
- C. **Protection of Access.** No designated access point shall be included in any assignment to a Tribal member unless an alternate site, equally or more suited to the intended purpose, shall be identified as an access point by the Land Committee/Council.

2. **Accessory Structures**

- A. A permit shall not be required for accessory structures. Accessory structures shall comply with all setback requirements.

3. **Agriculture**

- A. **Manure.** There shall be no spreading of manure, other than for individual gardens, on any Trust Land without a permit from the Penobscot Nation.
- B. **Tilling of Soil.** Exposed mineral soil created by tilling of soil shall

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occur no closer to the normal high water mark of any standing or flowing water than is indicated by the following table:

Average Slope of Land Between Exposed Mineral Soil and Normal High Water Mark (Percent)	Width of Strip Between Exposed Mineral Soil and Normal High Water Mark (Feet Along Surface of the Ground)
0	50
10	90
20	130
30	170
40	210
50	250
60	290
70	330

4. **Assignments**

A. **Prohibited Zones.** Assignments shall not be made in the following zones:

GWM-1 Zones (Open or Reverting Fields)
DWA Zones (Deer Wintering Zones)
DCA Zones (Deer Cover Areas)
SPL Zones (Special Habitat Areas)
WL (Wetlands)
SA (Set-Asides)

B. **Soils.** No assignment shall be made unless the applicant, at his or her own expense, provides evidence that suitable soils exist on the property for a pit, privy, or subsurface sewage disposal system. (See Subsurface Sewage Disposal.)

5. **Boat Ramps**

The Land Committee/Council may construct, or may issue a permit for the construction, of one or more boat ramps on great ponds lying within the Trust Land. No person may construct, erect, or locate a boat ramp on any great pond without first obtaining a permit from the Land Committee/ Council in addition to any State permits that may be required.

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6. Clearing

A. **Unassigned Land.** No person shall cut any trees for campfires, firewood, lumber, or any other purposes without the required permits, as specified in Section 4, provided that such cutting shall be prohibited in the following no-cut zones:

<u>Zone</u>	<u>The Land Area Within:</u>
FMP-1	Alternative 3: 150 feet of the normal high water mark Alternative 4: 250 feet of the normal high water mark
FMP-2	Alternative 3: 75 feet of the normal high water mark Alternative 4: 150 feet of the normal high water mark
FMP-3	Alternatives 3 and 4: 75 feet of the normal high water mark
SA	(Set-Asides): All land within the designated set-asides

B. **Assigned Land.** The following clearing standards shall apply to assigned lots:

- 1) A vegetative buffer strip shall be maintained within 100 feet of the normal high water mark. Within the buffer strip:
 - a. There shall be no cleared opening greater than 250 square feet in the canopy, measured from the outer limits of the tree crown.
 - b. A footpath is permitted as long as it does not exceed 6 feet between tree trunks, and has at least one bend to divert channeled runoff.
 - c. Well-distributed selective cutting is permitted, as long as no more than 30 percent of the total volume of trees 4" or greater DBH are removed within any 10 year period.
 - d. Existing vegetation under 3 feet in height and other ground cover shall not be removed nor shall the soil be disturbed, except for a footpath or other permitted use.
 - e. Pruning is permitted only on the bottom one-third of a tree provided that tree vitality will not be adversely affected.
 - f. If storm-damaged, diseased, unsafe, or dead trees are removed and create a clearing greater than 250 square feet, these openings shall be reestablished with native tree species.

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- 2) At distances greater than 100 feet from a 10+ acre water body, the selective cutting is limited to 40 percent by volume of trees 4" or greater DBH in any 10 year period. Furthermore, in no instance shall cleared openings exceed, in the aggregate, 10,000 square feet, including land previously cleared.

7. Docks. Piers

- A. Prohibitions. Docks and piers shall be prohibited on the following water bodies:

Lakes less than 10 acres in size
Snow Mountain Pond (Alder Stream)
Blanchard Pond (Alder Stream)
Morrell Pond (Matagamon)
Mountain Catcher Pond (Matagamon)
Big Logan (Matagamon)
E. Branch Penobscot River (Matagamon)
West Branch Pleasant River (Williamsburg)
Streams

- B. Temporary Docks. Temporary docks may be used on great ponds other than those specified in paragraph A, provided that such docks are limited to one per assigned lot, and that no dock extends more than 25 feet from the shore of the great pond. Permanent docks shall be prohibited on all great ponds.

8. Filling and Grading

The purpose of this section is to allow minor filling and/or grading of land without a permit, provided the performance standards set forth below are met. If the standards are not met, a permit is required.

These standards do not apply to filling or grading activities which constitute forest or agricultural management activities or the construction, reconstruction and maintenance of roads. Such activities are separately regulated.

- A. Within 250 feet of water bodies and wetlands, the maximum size of a filled or graded area, on any single assignment, shall be 5,000 square feet. This shall include all areas of mineral soil disturbed by the filling or grading activity; and
- B. Beyond 250 feet from water bodies and wetlands, there shall be no limit to the size of filled or graded areas.
- C. Clearing of areas to be filled or graded is subject to the Clearing Standards of Section 5.6
- D. Imported fill material to be placed within 250 feet of water bodies shall not contain debris, trash, rubbish or hazardous or toxic materials. All fill, regardless of where placed, shall be free of hazardous or toxic materials; and
- E. Where filled or graded areas are in the vicinity of water bodies and wetlands, such filled or graded areas shall not extend closer to the normal high water mark of such water bodies or wetlands than the distance indicated in the following table:

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Average Slope of Land Between Exposed Mineral Soil and Normal High Water Mark (Percent)	Width of Strip Between Exposed Mineral Soil and Normal High Water Mark (Feet Along Surface of the Ground)
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0	25
10	45
20	65
30	85
40	105
50	125
60	145
70	165

F. All filled or graded areas shall be promptly stabilized to prevent erosion and sedimentation.

9. Mineral Exploration/Extraction

A. The following requirements shall apply to mineral exploration activities:

- 1) All excavations, including test pits and holes, shall be promptly capped, refilled or secured by other equally effective measures so as to reasonably restore disturbed areas and to protect the public health and safety;
- 2) Mineral exploration activities or associated access ways where the operation of machinery used in such activities results in the exposure of mineral soil, shall be located such that an unscarified filter strip of at least the width indicated below is retained between the exposed mineral soil and the normal high water mark of surface water areas:

Average Slope of Land Between Exposed Mineral Soil and Normal High Water Mark (Percent)	Width of Strip Between Exposed Mineral Soil and Normal High Water Mark (Feet Along Surface of the Ground)
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0	25
10	45
20	65
30	85
40	105
50	125
60	145
70	165

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The provisions of this subsection (2) apply only on a face sloping toward the water, provided, however, no portion of such exposed mineral soil on a back face shall be closer than 25 feet; the provisions of this subsection do not apply where access ways cross such waters;

- 3) Except when surface waters are frozen, access ways for mineral exploration activities shall not utilize stream channels bordered by FMP-2 and FMP-3 zones except to cross the same by the shortest possible route; unless culverts or bridges are installed in accordance with Section 5.10, such crossings shall only use channel beds which are composed of gravel, rock or similar hard surface which would not be eroded or otherwise damaged;
- 4) Access way approaches to stream channels shall be located and designed so as to divert water runoff from the way in order to prevent such runoff from directly entering the stream.
- 5) In addition to the foregoing minimum requirements, when conducting mineral exploration activities and creating and maintaining associated access ways, provision shall be made to effectively stabilize all areas of disturbed soil so as to reasonably avoid soil erosion and sedimentation of surface waters. These measures shall include seeding and mulching if necessary to insure effective stabilization.

B. The following requirements shall apply to mineral extraction activities in all zones:

- 1) No portion of any ground area disturbed by the extraction activity on a face sloping toward the water, shall be closer to the normal high water mark of a flowing or standing body of water than is indicated by the following table provided, however,

no portion of such ground area on a back face shall be closer than 50 feet.

Average Slope of Land Between Exposed Mineral Soil and Normal High Water Mark (Percent)	Width of Strip Between Exposed Mineral Soil and Normal High Water Mark (Feet Along Surface of the Ground)
0	50
10	90
20	130
30	170
40	210
50	210
60	250
70	290
	330

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- 2) No portion of any ground area disturbed by the extraction activity shall be closer than 250 feet from any public roadway, or 250 feet from any Trust Land border in the absence of the prior written agreement of the owner of such adjoining property;
- 3) Within 250 feet of any water body the extraction area shall be protected from soil erosion by ditches, sedimentation basins, dikes, dams, or such other control devices which are effective in preventing sediments from being eroded or deposited into such water body. Any such control device shall be deemed part of the extraction area for the purposes of Subsection (1) above;
- 4) A natural vegetative screen of not less than 50 feet in width shall be retained from any facility intended primarily for public use, excluding privately owned roads; and
- 5) If any mineral extraction operation located within 250 feet from any Trust Land border or public roadway or facility intended primarily for public use is to be terminated or suspended for a period of one year or more, the site shall be rehabilitated by grading the soil to a slope of 2 horizontal to 1 vertical, or flatter.

10. **Roads and Water Crossings**

The following road and water crossing requirements shall apply to such activities in the FMP-1, FMP-2, FMP-3 and WL Zones.

A. The following requirements shall apply to construction and maintenance of roads:

- 1) All cut or fill banks and areas of exposed mineral soil outside the roadbed within 75 feet of a flowing or standing body of water shall be revegetated or otherwise stabilized so as to prevent erosion and sedimentation of water bodies;
- 2) Road banks shall have a slope no steeper than 2 horizontal to 1 vertical;
- 3) Drainage ditches shall be provided so as to effectively control water entering and leaving the road area. Such drainage ditches shall be properly stabilized so that the potential for unreasonable erosion does not exist;

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- 4) In order to prevent road surface drainage from directly entering water bodies, roads and their associated drainage ditches shall be located, constructed, and maintained so as to provide an unscarified filter strip, of at least the width indicated below, between the exposed mineral soil of the road and the normal high water mark of a surface water body:

Average Slope of Land Between Exposed Mineral Soil and Normal High Water Mark (Percent)	Width of Strip Between Exposed Mineral Soil and Normal High Water Mark (Feet Along Surface of the Ground)
0	25
10	45
20	65
30	85
40	105
50	125
60	145
70	165

This requirement shall not apply to road approaches to water crossings.

- 5) Drainage ditches for roads approaching a water crossing shall be designed, constructed, and maintained to empty into an unscarified filter strip of at least the width indicated in the table set forth in subsection (4) above, between the outflow point of the ditch and the normal high water mark of the water. Where such filter strip is impracticable, appropriate techniques may include the installation of sump holes or settling basins, and/or the effective use of additional ditch relief culverts and ditch water turnouts placed so as to reasonably avoid sedimentation of the water body;
- 6) Ditch relief (cross drainage) culverts, drainage dips and water turnouts shall be installed in a manner effective in getting drainage onto unscarified filter strips before the flow in the road or its drainage ditches gains sufficient volume or head to erode the road or ditch.
- Drainage dips may be used in place of ditch relief culverts only where the road grade is 10 percent or less;
 - On roads having slopes greater than 10 percent, ditch relief culverts shall be placed across the roads at approximately a 30 degree angle downslope from a line perpendicular to the center line of the road;

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- c. Ditch relief culverts, drainage dips and water turnouts shall direct drainage onto unscarified filter strips as required in paragraphs (4) and (5) above;
- d. Ditch relief culverts shall be sufficiently sized and properly installed in order to allow for effective functioning, and their inlet and outlet ends shall be stabilized with appropriate materials; and
- e. Ditch relief culverts, drainage dips and associated water turnouts shall be spaced along the road at intervals no greater than indicated in the following table:

<u>Road Grade</u> (Percent)	<u>Spacing</u> (feet)
0-2	500-300
3-5	250-180
6-10	167-140
11-15	136-127
16-20	125-120
21+	100

- B. The following requirements shall apply to water crossings when surface waters are unfrozen:
- 1) Bridges and culverts shall be installed and maintained to provide an opening sufficient in size and structure to accommodate 10 year frequency water flows or with a cross-sectional area at least equal to 2 1/2 times the cross-sectional area of the stream channel.
 - 2) Culvert and bridge sizes may be smaller than provided in paragraph (1) if techniques are employed such that in the event of culvert or bridge failure, the natural course of water flow is reasonably maintained and sedimentation of the water body is reasonably avoided; such techniques may include, but are not limited to, the effective use of any or all of the following:
 - a. removing culverts prior to the onset of frozen ground conditions;
 - b. using water bars in conjunction with culverts; or
 - c. using road dips in conjunction with culverts.
 - 3) Culverts utilized in water crossing shall:
 - a. be installed at or below stream bed elevation;
 - b. be seated on firm ground;
 - c. have soil compacted at least halfway up the side of the culvert,
 - d. be covered by soil to a minimum depth of 1 foot or according to the

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- culvert manufacturer's specifications, whichever is greater; and
- e. have a headwall at the inlet end which is adequately stabilized by rip-rap or other suitable means to reasonably avoid erosion of material around the culvert.
- C. Ditches, culverts, bridges, dips, water turnouts and other water control installations associated with roads shall be maintained on a regular basis to assure effective functioning.
- D. Maintenance of the above required water control installations shall continue until the road is discontinued and put to bed by taking the following actions:
- 1) water bars shall
 - a. be constructed and maintained across the road at intervals established below:

<u>Road Grade</u> (Percent)	<u>Distance Between</u> <u>Water Bars</u> (feet)
0-2	250
3-5	200-135
6-10	100-80
11-15	80-60
16-20	60-45
21+	40

- b. be constructed at approximately 30 degrees downslope from the line perpendicular to the center line of the road;
 - c. be constructed so as to reasonably avoid surface water flowing over or under the water bar; and
 - d. extend sufficient distance beyond the traveled way so that water does not reenter the road surface.
- 2) Any bridge or water crossing culvert in such road shall satisfy one of the following requirements:
- a. it shall be designed to provide an opening sufficient in size and Structure to accommodate 25 year frequency water flows;
 - b. it shall be designed to provide an opening with a cross-sectional area at least 3 1/2 times the cross-sectional area of the stream channel; or
 - c. it shall be dismantled and removed in a fashion so as to reasonably avoid sedimentation of the water body.

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- E. Provided they are properly applied and used for circumstances for which they are designed, methods including but not limited to the following are acceptable to the Land Committee/Council as means of calculating the 10 and 25 year frequency water flows and thereby determining crossing sizes as required in paragraphs B and D of this Section:
- 1) The USDA Soil Conservation Service (SCS) Methods; specifically: "Urban Hydrology for Small Watersheds," June 1986 Soil Conservation Service Technical Release #55.
 - 2) The United States Geological Survey (USGS) Methods; specifically: U.S. Geological Survey, 1975, "A Technique for Estimating the Magnitude and Frequency of Floods in Maine." Open-file Report 75—292.
- F. Tribal roads may be constructed in a fashion that is not in strict conformity with the provisions of this section, provided that other measures are applied that are effective in reasonably avoiding sedimentation of surface waters.
- G. Except that subsection H below always applies, trail crossings of minor flowing waters shall be exempt from the standards of this section, provided such crossings are constructed in a manner that causes no disturbance to the stream bed, and no substantial disturbance to the banks or shoreland areas in the vicinity of the crossing, and provided such crossings do not impede the flow of water or the passage of fish. If property undertaken, acceptable methods may include but not be limited to the laying of logs from bank to bank, or placement of bed logs and stringers with decking.
- H. In addition to the foregoing minimum requirements, provision shall otherwise be made in the construction and maintenance of roads and water crossings in order to reasonably avoid sedimentation of surface waters.

11. Set-Asides

- A. Exclusive Use. Set-asides identified for traditional, spiritual and Cultural use, including Birch Point, are designated for the use and enjoyment of Tribal members. The Penobscot Nation may erect signs identifying any such areas for use by members and specifying that use by non-members is subject to a permit.
- B. Prohibitions. No person shall harvest trees, construct shelters other than those authorized by the Penobscot Nation for use by all members, or harvest other resources or otherwise damage, spoil, or degrade such set-aside areas.

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- C. Identification of Set-Asides. Set-asides shall include the following areas, as identified on the Land Use Maps:

Alder Stream

AS - 1	Blanchard Pond
AS - 2	Snow Mountain Pond
AS - 3	Round Mountain Pond
AS - 4	Round Mountain Pond
AS - 5	Round Mountain Pond
AS - 6	Round Mountain Pond
AS - 7	Alder Stream Falls
AS - 8	Gravel Pit
AS - 9	Meadow Fork in Road
AS - 10	Campsite on Little Alder Stream

Mattamiscontis (T2&3 R9)

MS - 1	E. Branch Lake Campsite (established)
MS - 2	Lake Mattamiscontis campsite (established)
MS - 3	Mattamiscontis Lake campsite (established)
MS - 4	Gravel Pit (parking, camping area near Mattamiscontis Stream)
MS - 5	Camping area on Mattamiscontis inlet
MS - 6	Moose Ridge
MS - 8	Sam Ayers Stream campsite
MS - 9	Spring for public use
MS - 10	Cranberry bog
MS - 11	All islands in Mattamiscontis Lake, E. Branch Lake
MS - 12	Gravel Pit
MS - 13	Gravel Pit
MS - 14	<u>Canoe Birch</u>

Matagamon

MT - 1	Birch Point
MT - 2	East Branch Penobscot River
MT - 4	Mountain Catcher Pond
MT - 6	Deep Cove
MT - 7	All islands in First Lake Matagamon
MT - 8	Big Logan

12. Signs

The occupant of an assigned lot may erect one nonlit name sign not to exceed 8 square feet in area, and not to extend more than 15 feet above ground level.

13. Solid Waste. Hazardous Waste. Radioactive Waste

- A. Disposal of Solid Waste. There shall be no disposal of solid waste on any portion of any Trust Land including household garbage, paper, cans, bottles, construction debris, furniture and furnishings and vehicle parts and supplies

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including fires. This provision shall not apply to fish and animal parts taken as a result of fishing and hunting activities, or to slash generated as a result of timber management activities.

- B. Storage of Solid Waste. No solid waste may be stored on any assigned lot or camping area except on a temporary basis during the period of occupancy. All such solid waste which is temporarily stored shall be secured so as not to attract animals or insects and in a manner that avoids the scattering of trash by animals.
- C. Storage and Disposal of Hazardous Waste, Radioactive Waste. There shall be no storage or disposal of hazardous or radioactive waste on any Trust Land.

14. Subsurface sewage Disposal

- A. Soil Test. Prior to the issuance of any permit for a structure involving subsurface sewage disposal, the applicant, at his or her own expense, shall provide the Penobscot Nation with evidence of suitable soils, as determined by a Licensed Site Evaluator, for a subsurface sewage disposal system.
- B. System Installation. A system shall be installed in accordance with the State of Maine Subsurface Waste Water Disposal Rules unless the applicant demonstrates to the Land Committee/Council that any deficiency of the soil or in the system can and will be overcome by a suitable engineering solution.

15. Timber Harvesting

The following requirements apply to timber harvesting within all zones except the TMZ Zone:

- A. Except when surface waters are frozen, skid trails and skid roads shall not utilize stream channels bordered by FMP Zones except to cross such channels with a culvert or bridge according to the water crossing requirements of Section 5.10.
- B. Timber harvesting operations shall be conducted in the various zones in the following manner:

FMP-I Zones: Alternative 3: there shall be no timber harvesting within the first 150 feet adjacent to the normal high water mark. Between 150 feet and 250 feet, harvesting may include patch clear cuts on a 50-year rotation such that the 10-year cut would be 20%.

Alternative 4: there shall be no timber harvesting within the first 250 feet adjacent to the normal high water mark. Between 250 feet and 500 feet, harvesting may include patch clear cuts on a 50-year rotation such that the 10-year cut would be 20%.

FMP-2 Zones: Alternative 3: there shall be no timber harvesting within the first 75 feet adjacent to the normal high water mark. Between 75 feet and 150 feet, harvesting may include patch clear cuts on a 50-year rotation such that the 10-year cut would be 20%.

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Alternative 4: there shall be no timber harvesting within the first 150 feet adjacent to the normal high water mark. Between 150 feet and 250 feet, harvesting may include patch clear cuts on a 50-year rotation such that the 10-year cut would be 20%.

FMP-3 Zones: Alternative 3: there shall be no timber harvesting within 75 feet of the normal high water mark.

GWM-2 Zones: Timber harvesting shall be conducted so as to maintain adequate browse and cover by performing patch clear cuts on a 50-year rotation. These patch cuts shall be dispersed and shall be no greater than 2 acres in size. The 10-year cut shall be limited to 20% of the forest acres in these zones.

GWM-3 Zones: Timber harvesting shall be conducted so as to maintain and improve the aesthetics along roads and increase diversity. The maximum timber removal rate shall be 30% of the volume over a 20-year cycle. Harvesting shall be conducted under the supervision of the Department of Natural Resources on a case-by-case basis in conjunction with adjacent timber harvesting activities and in accordance with Newbys Report.

GWM-4 Zones: Timber harvesting shall be conducted on a case-by-case basis under the supervision of the Department of Natural Resources Wildlife Manager to provide for diversity of cover when TMZ areas are harvested. In Alternative 3 areas, GWM-4 zones shall comprise 10% of the TMZ; in Alternative 4 areas, they shall comprise 25%.

WL Zones: When wetlands are not included in FMP-3 Zones, timber harvesting shall be conducted during frozen ground conditions and shall be limited to no more than a 40% removal on a volume basis.

SA Zones: There shall be no timber harvesting within SA Zones.

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- C. Skid trails and other sites, where the operation of machinery used in timber harvesting results in the exposure of mineral soil, shall be located such that an unscarified filter strip of at least the width indicated below is retained between the exposed mineral soil and the normal high water mark of surface water areas:

Average Slope of Land Between Exposed Mineral Soil and Normal High Water Mark (Percent)	Width of Strip Between Exposed Mineral Soil and Normal High Water Mark (Feet Along Surface of the Ground)
--	---

0	25
10	45
20	65
30	85
40	105
50	125
60	145
70	165

The provisions of this subsection C apply only on a face sloping toward the water, provided, however, no portion of such exposed mineral soil on a back face shall be closer than 25 feet; the provisions of this subsection C do not apply where skid roads cross such waters;

- D. Timber harvesting operations shall be conducted in such a manner that slash is not left below the normal high water mark of standing water, or below the normal high water mark of stream channels downstream from the point where such channels drain 300 acres or more;
- E. Except when surface waters are frozen, skid trails and skid roads shall not utilize stream channels bordered by FMP Zones except to cross the same by the shortest possible route: unless culverts or bridges are installed in accordance with Section 5.10, such crossing shall only use channel beds which are composed of gravel, rock or similar hard surface which would not be eroded or otherwise damaged.
- F. Skid trails and skid road approaches to stream channels shall be located and designed so as to divert water runoff from the trail or road in order to prevent such runoff from directly entering the stream.
- G. In addition to the foregoing minimum requirements, provision shall otherwise be made in conducting timber harvesting operations in order to reasonably avoid sedimentation of surface waters.

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- H. Prior to any timber harvesting operations, the Department of Natural Resources may designate special trees which are not to be included in the timber sale, where such trees are brought to the Department's attention. Such specially marked trees may include brown ash, which may be suitable for baskets, and canoe birch, which may be suitable for use by Tribal members in constructing canoes.

- I. In designating areas for future timber sales, and in conducting timber harvesting operations, the Department of Natural Resources shall avoid mountain tops which are defined as set-asides by the Land Committee/ or Prohibited by this ordinance.

SECTION 6. ADMINISTRATION AND ENFORCEMENT

I. ADMINISTERING BODIES AND AGENTS

A. Tribal Land Use Compliance Officer

1. Appointment. A Tribal Land Use Compliance Officer shall be appointed by the Tribal Council.
2. Powers and Duties. The Tribal Land Use Compliance Officer shall have the following powers and duties.
 - a) Enforce the provisions of this Ordinance.
 - b. Refer permit applications to the Land Committee/Council and refer requests for variances and administrative appeals to the Tribal Court.
 - c. Enter any property at reasonable hours to inspect the property or building for compliance with this ordinance.
- II. Investigate complaints and reported violations.
- III. Keep written inspection reports and thorough records.
- IV. Issue violation notices.
- V. Appear in Tribal Court when necessary.
- VI. Confer with Tribal members in the administration and enforcement of this Ordinance.
- VII. Regularly attend meetings of the Land Committee and Council regarding issues pertaining to this ordinance.
- VIII. Have coordinating authority with other Departments.

A. Land Committee

The Land Committee, as set forth in the Land and Residency Laws of Penobscot Nation, shall be responsible for reviewing and acting upon applications for assignments and all permits as set forth in Section 4 exclusive of permits for brush burning, camping, campfires, and harvesting of resources (e.g. fiddleheads, firewood), in which case the Office of Land Use Compliance shall oversee such permits, in cooperation with the Department of Natural Resources.

C. Department of Natural Resources

The Department of Natural Resources shall be responsible for

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reviewing and acting upon applications for permits for harvesting of resources as well as all applications for hunting and fishing licenses.

D. Penobscot Nation Fire Department

The Penobscot Nation Fire Department shall be responsible for reviewing and acting upon applications for permits for brush burning.

E. Department of Trust Responsibility

The Department of Trust Responsibility/Office of Land Use Compliance shall be responsible for reviewing and acting upon all applications for permits for camping and campfires.

F. Tribal Court

The Tribal Court shall be responsible for deciding administrative and variance appeals in accordance with the requirements of Section 7.

2. **PERMITS REQUIRED**

After the effective date of this Ordinance no person shall, without first obtaining a permit, engage in any activity or use of land or structure requiring a permit in the zone in which such activity or use would occur as set forth in Section 4; or expand, change or replace a use or structure.

3. **PERMIT APPLICATIONS AND ASSIGNMENT REQUESTS**

A. Permits Applications to Department of Natural Resources.

Applications for harvesting of resources, as well as applications for hunting licenses, where applicable, shall be submitted to the Department of Natural Resources on forms provided for that purpose, where appropriate. (See Chapter 7, Inland Fish and Game Tribal Ordinance, for hunting and fishing regulations).

B. Permit Applications to Penobscot Nation Fire Department.

Applications for brush burning shall be submitted to the Penobscot Nation Fire Department on forms provided for that purpose.

C. Permit Applications to Department of Trust Responsibility/Office of Land Use Compliance.

Permit applications for camping and campfires shall be submitted to the Department of Trust Responsibility/Office of Land Use Compliance on forms provided for that purpose.

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D. Permit Application and Assignment Requests to Land Committee.

All permit applications exclusive of those falling under the jurisdiction of the Department of Natural Resources, the Penobscot Fire Department or the Department of Trust Responsibility, as specified in paragraph A, above, and all requests for assignments, shall be submitted to the Land Committee on an application form. The application form shall be signed by the applicant and shall include the following additional information:

- 1) A Letter of Request, describing the location of the land referenced on the application form, and setting forth the purpose of the application.
- 2) A Site Plan, which shall include a description of the property, the location of any existing or proposed building(s), the zone in which the proposed activity would be located, dimensional requirements including the setbacks of existing and/or proposed buildings, the location of flags at the corners of the property, the depth of topsoil, and the access to the property.
- 3) Evidence of Suitable Soils, as determined by a State of Maine Licensed Site Evaluator, for a subsurface sewage disposal system, regardless of the type of waste system planned.
- 4) A Waste Disposal Plan, based on the results of the site evaluation, showing the location and type of subsurface sewage disposal system.

Permit Applications submitted to the Land Committee shall be accompanied by a fee of _____. This application fee shall be paid by check, payable to the Penobscot Nation. No permit shall be issued until the fee is paid. This fee shall not be refundable.

4. PROCEDURE FOR ADMINISTERING PERMITS AND ASSIGNMENTS

All applications for permits and assignments shall first be submitted to the appropriate department or agency for review and a recommendation to the Tribal Council, provided that where the Tribal Council has specifically designated a department or agency to issue a permit or approval, the department or agency may issue the permit or approval directly. Copies of all permits issued by Department must be forwarded to the Office of Land Use Compliance.

- A. Department of Natural Resources. Upon receiving a complete application, the Department of Natural Resources shall issue a permit or license, as appropriate, provided that the proposed activity would comply with the laws of the Penobscot Nation and the provisions of this Ordinance, and would not harm or threaten the health, safety or general welfare of any Tribal members or non-members, and would not harm or degrade the land or resources of the Penobscot Nation.

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- B. Penobscot Nation Fire Department. Upon receiving a complete application, the Penobscot Nation Fire Department shall issue a permit provided that the proposed activity would comply with the laws of the Penobscot Nation and the provisions of this Ordinance, and would not harm or threaten the health, safety or general welfare of and Tribal members or non-members, and would not harm or degrade the land or resources of the Penobscot Nation.
- C. Department of Trust Responsibility. Upon receiving a complete application, the Department of Trust Responsibility shall issue a permit provided that the proposed activity would comply with the laws of the Penobscot Nation and the provisions of this Ordinance, and would not harm or threaten the health, safety or general welfare of any Tribal member or non-members, and would not harm or degrade the land or resources of the Penobscot Nation.
- D. Land Committee. The following procedures shall govern the administration of permit applications and assignment requests submitted to the Land Committee:
- 1) Copy to DNR. Within 15 days of receiving a complete application, the Land Committee shall forward a copy of the application, without the applicant's name and address, to the Department of Natural Resources for review and comment.
 - 2) Review of DNR. The Department of Natural Resources shall, within 14 days of receiving a permit or assignment application from the Land Committee, review the application and provide written or oral comments to the Land Committee on the potential impact of the application on the resources of the Penobscot Nation.
 - 3) On-Site Inspection. For applications involving assignments and/or the construction or change of use of primitive camps, family compounds, seasonal camps, or year-round dwellings, the Department of Trust Responsibility/Office of Land Use Compliance shall conduct an on-site inspection. The site inspection shall include a determination of assignment boundaries and permanent markers and the placement of any proposed buildings, an examination of the overall suitability of the site, a determination that the proposed use would not conflict with any existing use of the site and that the proposed use would comply with the provisions of this Ordinance, and a finding that the site has suitable access.
 - 4) Land Committee. Upon receipt of any reports from the Office of Land Use Compliance, and based upon a review of the results of the on-site inspection and a review of Ordinance requirements, the Land Committee shall vote to recommend to the Tribal Council either to approve, approve with conditions, or deny the application. The Land Committee shall recommend approval if the proposed assignment or use:

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- a. Complies with all Ordinance requirements;
- b. Is not in a designated Set-Aside or other area identified for future use by the Penobscot Nation;
- c. Receives a positive review from the Office of Land Use Compliance;
- d. Satisfies all requirements for subsurface sewage disposal, where applicable.

In the event that the Land Committee recommends that an application be denied or conditionally approved, the Land Committee shall set forth in writing the reasons for the recommended denial or conditional approval, and shall furnish the applicant with a written copy of the same. The application materials and the written decision shall become part of the record and shall be made to the Tribal Court in the event of an appeal.

No assignment or permit for a structure shall be valid unless it is first approved by the Land Committee and subsequently approved by the Tribal Council.

- 5) Tribal Council. The Tribal Council is authorized to approve, approve with conditions, or deny any application which is submitted to it by the Land Committee or any other Penobscot Nation agency. The Council may overturn the recommendation of the Land Committee or The Office of Land Use Compliance only upon a finding that the action was in violation of the requirements of this Ordinance.
- 6) Burden of Proof. The applicant shall have the burden of proving that the proposed land use activity is in conformity with the purposes and provisions of this Ordinance.
- 7) Reconsideration. The Land Committee/Council may reconsider any decision reached within thirty (30) days of its prior decision. The Land Committee/Council may conduct additional hearings and receive additional evidence testimony.

5. EXPIRATION OF ASSIGNMENT

Following the approval of an assignment, if no substantial start is made to build a structure within two years of the date of the assignment, the assignment shall revert to the Penobscot Nation.

6. ENFORCEMENT

A. Enforcement Procedure

- 1) It shall be the duty of the Tribal Land Use Compliance Officer to enforce the provisions of this ordinance. If the Tribal Land Use Compliance Office shall find that any provision is being violated, or is notified by Department of Trust Responsibility staff, a game

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warden, or Department of Natural Resources staff, that this ordinance is being violated, he or she shall notify in writing the person responsible for such violation, indicating the nature of the violation and ordering the action necessary to correct it, including discontinuance of illegal use of land, buildings or structures, or work being done, removal of illegal buildings or structures, and abatement of nuisance conditions. A copy of such notices shall be submitted to the Land Committee and be maintained as a permanent record.

- 2) The Tribal Land Use Compliance Office shall conduct on-site inspections to insure compliance with all applicable laws and conditions attached to permit approvals. The Tribal Land Use Compliance Office shall also investigate all complaints of alleged violations of this Ordinance.
- 3) The Tribal Land Use Compliance Office shall keep a complete record of all essential transactions, including applications submitted, permits granted or denied, variances granted or denied, revocation actions, revocation of permits, appeals, court actions, violations investigated, violations found, and fees collected.
- 4) Game wardens, and the staff members of the Department of Trust Responsibility and the Department of Natural Resources, are empowered to report violations of this Ordinance to the Tribal Land Use Compliance Office.

B. Legal Action

With respect to a Tribal member, when the action set forth in paragraph A, (subparagraph 1) does not result in the correction or abatement of the violation or nuisance condition, the Tribal Land Use Compliance Office is hereby directed to institute any and all actions and proceedings in Tribal Court that may be appropriate or necessary to enforce the provisions of this Ordinance in the name of the Penobscot Nation. In the absence of Tribal Court procedures, all such actions shall be taken in accordance with the provisions of Rule 80-K of the Maine Rules of Civil Procedure. The Land Committee/Council is hereby authorized to enter into administrative consent agreements for the purpose of eliminating violations of this Ordinance and recording fines without court action. Such agreement shall not allow an illegal structure or use to continue unless there is clear and convincing evidence that the removal of the structure or use will result in substantial environmental damage. With respect to a non-member, the Tribal Land Use Compliance Office is hereby directed to take similar actions in the State courts.

SECTION 7. APPEALS

1. TYPES OF APPEALS

All appeals arising from the administration of this Ordinance shall be taken to the Tribal Court. The Tribal Court shall have the authority to hear two types of appeals:

A. Administrative Appeals. To hear and decide appeals where it is alleged that there is an error in any order, requirement, decision, or determination made by, or failure to act by, the Tribal Land Use Enforcement Officer or Land Committee/Council in the enforcement or administration of this Ordinance.

B. Variance Appeals. To authorize variances upon appeal, within the limitations set forth in this Ordinance.

- 1) Variances may be granted only from dimensional requirements including frontage, lot area, lot width, structure height, and setback requirements.
- 2) Variances shall not be granted for establishment of any uses otherwise prohibited by this Ordinance.
- 3) The Tribal Court shall not grant a variance unless it finds that:
 - a. The proposed structure or use would meet the performance standards of this Ordinance except for the specific provision which has created the non-conformity and from which relief is sought; and
 - b. The strict application of the terms of this Ordinance would result in undue hardship.

The term "undue hardship" shall mean all of the following:

- i. That the need for a variance is due to the unique circumstances of the property and not to the general conditions in the immediate areas;
 - ii. That the granting of a variance will not alter the essential character of the immediate area; and
 - iii. That the hardship is not the result of action taken by the applicant or a prior party.
- 4) The Tribal Court shall limit any variances granted as strictly as possible in order to insure conformance with the purposes and provisions of this Ordinance to the greatest extent possible, and in doing so may impose such conditions to a variance as it

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deems necessary. The party receiving the variance shall comply with any conditions imposed.

2. APPEAL PROCEDURE

- A. Time Limit. An administrative or variance appeal may be taken to the Tribal Court by an aggrieved party from any decision of the Tribal Land Use Compliance Office or the Land Committee/Council. Such appeal must be taken within thirty (30) days of the date of the decision appealed from. Failure to appeal within the specified time period shall be deemed a waiver of such right of appeal.
- B. Written Notice. Such appeal shall be made by filing with the Tribal Court a written notice of appeal which includes:
- 1) A concise written statement indicating what relief is requested and why it should be granted.
 - 2) A sketch drawing to scale showing lot lines, location of existing buildings and structures and other physical features of the lot pertinent to the relief requested, as well as a copy of all of the papers constituting the record of the decision appealed from.
- C. Decision by Tribal Court.
- 1) Burden of Proof. The person filing the appeal shall have the burden of proof.
 - 2) Review of Decision. The Tribal Court may require the Tribal Land Use Compliance Office and/or the Land Committee/Council to appear in court to defend, or elaborate on the decision or action which is the subject of the appeal.
 - 3) Action of Appeal. Following a hearing on an appeal the Tribal Court may affirm, affirm with conditions, or reverse the decision of the Land Committee/Council. The Tribal Court may reverse the decision, or failure to act, of the Land Committee/Council only upon a finding that the decision, or failure to act, was clearly contrary to specific provisions of this Ordinance. When errors of administrative procedures or interpretations are found, the case shall be remanded back to the Land Committee/Council for correction.
 - 4) Time Frame. The Tribal Court shall decide all appeals within thirty (30) days after the close of the hearing, and shall issue a written decision on all appeals.
- D. Appeal. Any aggrieved party who participated as a party during the proceedings before the Tribal Court may appeal to the Appellate Panel within ten (10) days from the date of any decision order, relief or denial thereof.

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- E. Reconsideration. The Tribal Court may reconsider any decision reached within thirty (30) days of its prior decision. The Tribal Court may conduct additional hearings and receive additional evidence and testimony.

SECTION 8. DEFINITIONS

1. CONSTRUCTION OF LANGUAGE

In the interpretation and enforcement of this Ordinance, all words other than those specifically defined in the Ordinance shall have the meaning implied by their context in the Ordinance or their ordinarily accepted meaning. In the case of any difference of meaning or implication between the text of this Ordinance and any map, illustration, or table, the text shall control.

The word "person" includes a firm, association, organization, partnership, trust, company, or corporation, as well as an individual or any other legal entity.

The present tense includes the future tense, the singular number includes the plural, and the plural number includes the singular.

The words "shall" and "will" are mandatory, the word "may" is permissive.

The word "building" includes the word "structure".

The words "used" or "occupied", as applied to any land or building, shall be construed to include the words, "intended, arranged, or designed to be used or occupied".

2. DEFINITIONS

In this Ordinance the following terms shall have the following meanings:

Accessory Structure: A structure that is customarily incidental and subordinate to the principal structure. By way of illustration, a garage or tool shed would be an accessory structure to a seasonal camp or year-round dwelling.

Agriculture: Land clearing, tilling, fertilizing, including spreading and disposal of manure, liming, planting, pesticide application, harvesting or cultivated crops, pasturing of livestock and other similar or related activities.

Alteration: Any change or modification in construction, or change in the structural members of a building or structure such as bearing walls, columns, beams or girders, or in the use of a building. The term shall also include change, modification, or addition of a deck, dormer, staircase, or roof of the building.

Applicant: A person who applies for a residency permit, land lease, or assignment.

Artifact: An object produced or shaped by human workmanship such as a tool, weapon or ornament of archeological or historic interest.

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Assignment: A grant of Penobscot Nation land to an individual tribal member subject to the restrictive covenants outlined in the Land and Residency Laws of the Penobscot Nation, and including all previous grants under former Tribal law or custom.

Assignment deed: The instrument used to convey lands of the Penobscot Nation to individual members of the Tribe. These deeds are kept internally in the jurisdiction of the Department of Trust Responsibility.

Assigned lands: Lands within the Penobscot Nation held by a tribal member under an assignment deed.

Building height: The vertical distance between the highest point of the roof and the average grade of the existing or original ground adjoining the building, whichever distance is greater.

Camp site: Any area designated for transient occupancy by camping primarily in tents or lean-tos, provided that any permanent structures are limited to privies, fireplaces, picnic tables (with or without roofs), lean-tos and water pumps.

Cluster Development: A compact form of development that results in buildings being located in a group such that a significant amount of open space is preserved.

Compatible Use: A land use which is capable of existing in harmony with other uses or resources situated in its immediate vicinity because that use does not adversely affect such other uses or resources.

Constructed: Built, erected, 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 construction.

Deer Winter Areas (deer yards): Areas used by deer during winter for protection from deep snows, cold winds, and low temperatures.

Development: Any man-made changes to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation.

Family Compound: A group of 3 to 6 primitive camps with a central dining/kitchen facility, and surrounding sleeping areas.

Filling: Depositing or dumping any matter on or into the ground or water. Generally this refers to topsoil, sand and gravel.

Flowing Water: A surface water within a stream channel that has a perceptible flow and is substantially permanent in nature. Such waters are commonly referred to as rivers, streams, and brooks.

Frontage, Road: The horizontal, straight-line distance between the intersections of the assigned side lot lines with the road right-of-way.

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Frontage, Shore: The horizontal distance, measured in a straight line, between the intersections of the assigned lot lines with the shoreline at normal high water elevation.

Hazardous Material: Any gaseous, liquid or solid materials, either in pure form or incorporated into other materials, designated as hazardous by the Maine Department of Environmental Protection.

Land Management Road: A route or track consisting of a bed of exposed mineral soil, gravel, or other surfacing material constructed for, or created by, the repeated passage of motorized vehicles and used primarily for agricultural or forest management activities, including associated log yards but not including skid trails, skid roads, and winter haul roads.

Lot: An area of land contained in an assignment from the Penobscot Nation to an individual member or members of the Penobscot Nation.

Medium Intensity Soil Survey: A detailed soil survey resulting in a soils map which is at a scale of 3 or 4 inches to the mile, in which the mapping units are a single phase of a soil series or soil survey of equivalent specificity. At this intensity of mapping, contrasting soils of 3 to 5 acres are delineated on the soils map.

Metallic Mineral Mining Activity: Any activity or process for the extraction or removal of metallic minerals, including processes used in the separation or extraction of metallic minerals from other material including, but not limited to: crushing, grinding, beneficiation by concentration (gravity, flotation, amalgamation, electrostatic, or magnetic); cyanidation, leaching, crystallization; or precipitation; mine waste handling and disposal, and processes substantially equivalent, necessary, or incidental to any of the foregoing. Metallic mineral mining or metallic mineral mining activity does not include Level A, B, or C exploration activities, or thermal or electric smelting.

Mineral Deposit: Any deposit of peat, sand, gravel, rock, topsoil, limestone, slate, granite, coal, gems, metallic or non-metallic ores or other minerals.

Mineral Extraction: Any extraction, other than metallic mineral mining activities or for Level A, B, or C, exploration activities, of a mineral deposit.

Mining Extraction for Road Purposes: Mineral extraction where at least 75% by volume of the minerals extracted over any three year period are used for the purposes of construction or maintenance of land management or other roads.

Non-Conforming: A building, structure, use of land, or portion thereof, legally existing at the effective date of adoption of amendment of this Ordinance which thereafter fails to conform to all applicable provisions of this Ordinance.

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Normal High Water Mark: That line on the shores and banks of waters which is discernible because of the different character of the soil or the vegetation due to the influence of surface water. Relative to vegetation, it is that line where the vegetation changes from predominantly terrestrial (aquatic vegetation includes but is not limited to the following plants and plant groups-water lily, pond lily, pickerel-weed, cat tail, wild rice, sedges, rushes, marsh grasses; and terrestrial vegetation includes but is not limited to the following plants and plant groups-upland grasses, aster, lady slipper, wintergreen, partridge berry, sarsaparilla, pines, cedars, oaks, ashes, alders, elms, spruces, birches, beeches, larches, and maples). In places where the shore or bank is of such character that the normal high water mark cannot be easily determined (as in the case of rockslides, ledges, rapidly eroding or slumping banks) the normal high water mark shall be estimated from places where it can be determined by the above method.

Normal Maintenance and Repair: Unless otherwise provided, any work necessary to maintain an improvement or structure in its original or previously improved state or condition. Normal maintenance and repair shall not include reconstruction, change in design, change in structure, change in use, change in location, change in size or capacity.

Permit: A grant of permission to an individual person or entity by the Penobscot Nation to use the Nation's land under such terms and conditions as the Nation may allow. The term of all land use permits shall be for one year. Such permits are renewable.

Permitted Use: Uses which are listed as permitted uses in the various zones set forth in this Ordinance. The term shall not include prohibited uses.

Primitive Camp: A remote, primitive dwelling unit that is not served by any utilities except for radio communication. A primitive camp may have a pit or privy (outhouse), a wash basin, and wood stove. It is used primarily by those who hunt, fish, camp, hike, cross-country ski, and/or pursue other outdoor activities, but it is not suitable and is not used for year-round occupancy. Generally, an assigned lot for a primitive camp is one acre.

Primitive Recreation: Those types of recreational activities associated with non-motorized travel, including fishing, hiking, hunting, wildlife study and photography, wild crop harvesting, trapping, horseback riding, tent and shelter camping, canoe portaging, cross-country skiing, and snowshoeing.

Property Line: Any boundary between assignments, or between an assignment and unassigned lands.

Public Road or Roadway: Any roadway which is owned, leased, or otherwise operated by a governmental body or public entity.

Recreational Vehicle: A self-propelled or drawn vehicle or vehicular attachment designed for temporary sleeping or living quarters for one or more persons, which is not a dwelling and which may include a pick-up camper, travel trailer, or motor home.

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Roadway: A public or private road including any land management road.

Seasonal Camp: A dwelling unit that is served by running water and a septic system or its equivalent. A seasonal camp may contain a living room, a family room, a kitchen, a bathroom and bedrooms, and it may also contain modern appliances such as a refrigerator and a washing machine. It is not suitable and is not used for year-round occupancy. Generally, an assigned lot for a seasonal camp is one acre, but this may be increased at the discretion of the Penobscot Nation to provide for adequate subsurface sewage disposal.

Setback: The minimum horizontal distance from a property line or the normal high water mark to the nearest part of a building, including porches, steps, and railings.

Spiritual Area: An area held to be sacred by the Penobscot Nation and used by individual members for spiritual, religious, or cultural purposes.

Stream Channel: A channel between defined banks created by the action of surface water and characterized by the lack of terrestrial vegetation or by the presence of a bed, devoid of topsoil, containing waterborne deposits or exposed soil, parent material or bedrock.

Structure: Anything constructed or erected, the use of which requires a fixed location on or in the ground or in the water, or an attachment to something having a fixed location on the ground, including buildings, billboards, signs, commercial park rides and games, carports, porches, and other building features, including stacks and antennas, but not including sidewalks, fences, driveways, parking lots, and field or garden walls or embankment retaining walls.

Unassigned Lands: All land owned by the Penobscot Nation or held in trust on behalf of the Penobscot Nation by the United States that has not been transferred by assignment deed, lease, or permit.

Use: The manner in which land or a structure is arranged, designed or intended, or is occupied.

Year-Round Dwelling Unit: A room or group of rooms arranged as a living unit for 1 or more individuals or a single family and used as a living unit for at least 7 months during any calendar year. A year-round dwelling unit may contain running water. If it contains running water, it also contains a septic system or its equivalent. Generally, an assigned lot for a year-round dwelling unit is one acre, although this may be increased to allow for uses such as tree farms and agriculture, and to provide for adequate subsurface sewage disposal.

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