

CHAPTER 12.

LAND

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CHAPTER 12

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Part 1. LAND EXCHANGE.Section 1. Authority to exchange Tribal Land.

The Blackfeet Tribe may exchange certain land belonging to the Blackfeet Tribe for other land belonging to members of the Blackfeet Tribe, upon the approval of the Secretary of the Interior of the United States in conformance with 25 USC 464 and other applicable provisions of Title 25 of the United States Code and the regulations promulgated thereunder provided:

A. That the land exchanged for Tribal land is of equal value to that of the Tribal land in question; and

B. That the land exchanged for Tribal land is either allotted land held in trust for a member of the Blackfeet Tribe by the United States or land held in fee patent by a member or members of the Blackfeet Tribe.

Section 2. Approval of land exchange.

Any land exchanged under the provisions of this Chapter, Part 1, must be approved by at least two thirds (2/3) of the members of the Blackfeet Tribal Business Council and subsequent approval by the Secretary of the Interior or his authorized representative.

Section 3. Classification of exchanged land.

A. Land acquired by Blackfeet Tribe. Any land acquired under an exchange as provided herein by the Blackfeet Tribe shall be classified as "Tribal Trust Land" and it shall be the duty of any member exchanging such land to see that his or her land is returned or placed in trust

status in favor of the Blackfeet Tribe before such exchange is finally approved as set forth in Section 2 above.

B. Land acquired by member or members. Any Tribal land acquired under an exchange as provided by a member or members of the Blackfeet Tribe shall be classified as "Trust Land" and held in trust for such member or member by the United States and it shall be the duty of the Blackfeet Land Board to see that such Tribal land so exchanged is placed in trust for such member or member before the exchange is finally concluded.

Section 4. Restrictions on alienation, descent or devise of exchange land.

An exchange under Part 1 of the Chapter between the Blackfeet Tribe and a member or member of such Tribe is good only as between the two parties and the Blackfeet heirs of the member—exchange. Land acquired herein by an exchange with the Blackfeet Tribe cannot be sold or otherwise go into the possession of a non-member of the Blackfeet Tribe. In the event that such exchanged land is to be sold by the member acquiring it in the original exchange, the sale must be made back to the Blackfeet Tribe, or, with the approval of the Land Board, to another member of the Blackfeet Tribe, the same restrictions shall apply as applied to the original exchangee and the buyer of such land must complete an exchange agreement with the Blackfeet Tribe, just as if such buyer was the first exchange. In no event shall a non-member inherit any land exchanged under Part 1, of this Chapter, but such non-member who is found to be an heir of the original exchangee or subsequent exchange shall be paid compensation equal to the fair market value of such land, as appraised under the provisions of Section 10 below, by the

Blackfeet Tribe and said land shall thereby revert back to the Blackfeet Tribe and be classified as "Tribal Trust Land".

Section 5. Mineral rights on exchanged land.

The Blackfeet Tribe shall retain all mineral rights to any Tribal Land Exchanged under this Chapter, providing that the Tribe as title to such rights. Any allotted land exchanged with the Tribe that was allotted after the year 1919 carries a reservation of mineral rights in favor of the Blackfeet Tribe under Act of June 30, 1919, and cited as 41 Stat. 17 and being those allotments numbered from #2657 to #3485. On all other land, including land allotted before 1919 wherein the allottee retains the mineral rights and any fee land exchanged hereunder, the mineral rights shall be conveyed to the Tribe are included in the fair market valuation of the land if such mineral rights are still retained by the member-exchanges.

Section 6. How to begin land exchange, protest.

Any member of members of the Blackfeet Tribe desiring to exchange certain of his or her land for Tribal land shall present a written application before the Blackfeet Land Board describing the land desired, the land of the member to be exchanged and the reasons for such exchange. The Land Board shall approve or disapprove such application. In the event such application is approved by the Land Board, it shall then cause such approval to advertised in a newspaper of general circulation within the Blackfeet Reservation for a period of two (2) weeks in order to allow any legitimate protest to be made and heard against such proposed exchange by any member of the Blackfeet Tribe. Any such protest must be in writing and submitted to the next meeting of the Land Board after such notice in the newspaper. The protest shall

set forth all the reasons for such protest and at the meeting of the Land Board wherein the protest is heard, both the applicant and the protester shall be present and shall each present individual arguments to the Land Board. In the event of any such protest, the Chairman of the Land Board shall notify the applicant of the protest and of the hearing date. After such hearing, the Land Board shall make a final decision and forward such decision to the Blackfeet Tribal Business Council.

Section 7. Appeal from decision of the Land Board.

Any applicant whose application for land exchange has been denied by the Land Board may appeal such decision to the Blackfeet Tribal Business Council. Such appeal shall be presented to a member of the executive board of such Council in writing and the Council shall hold a hearing on the matter at the next regularly scheduled meeting. Such appeal must be made within five (5) days after the denial of the application by the Land Board. Any person whose protest on such land exchange has been denied by the Land Board may also appeal to the Blackfeet Tribal Business Council, in the same manner as set out for the applicant above. The Blackfeet Tribal Business Council shall conduct a hearing on any appeal from a decision of the Land Board on a land exchange and its decision, arrived at by a two-thirds (2/3) vote of the members thereof, shall be final upon the ratification of the approval of any land exchange under this Chapter, the Blackfeet Tribal Business Council shall then cause such approval to be forwarded to the Secretary of the Interior or his authorized representative for final approval.

Section 8. Procedure after final approval of land exchange.

After a land exchange has been finally approved under this Chapter as set out in Section 2, above, the Blackfeet Tribe and the member-exchange shall execute a mutual agreement setting forth the terms of the exchange, together with any and all applicable legal instruments which will bring such exchanged land under the proper classification as set forth in Section 3 A and B above. Such instruments shall be attached to the exchange agreement. The exchange agreement shall incorporate any and all of the express restrictions found in this Chapter, Part 1. In the event a member-exchange sells such exchanged land to another member of the Blackfeet Tribe, the Land Board and the Blackfeet Tribal Business Council must approve such sale and the buyer of such exchange land must execute an exchange agreement with the Tribe as set out above.

Section 9. Governing principles of Land Exchange.

The Blackfeet Land Board, in acting upon any application for an exchange of land under this Chapter shall apply the principle of maintaining and conserving Tribal Land to the best principle of maintaining and conserving Tribal Land to the best advantage of the Blackfeet Tribe and its members. The Land Board shall have the power to make certain guidelines, including, but not limited to:

A. No exchange shall cut off water or a right of way to either Tribal Land or a member's land, but in the event that a right of way is needed in such an exchange, such right of way shall be negotiated and contained in the exchange agreement;

B. First priority shall be given to exchanges which will benefit a member's livelihood and/or which shall consolidate certain tracts of Tribal Land.

Section 10. Appraisal of land to be exchanged.

The Blackfeet Tribe and the member-exchange shall accept the appraisal of the fair market value of the land as made by the United States Government, unless either party takes exception to such appraisal, in which event either party may cause additional appraisals to be made upon the land in question. In the event the second or subsequent appraisal differs greatly from that of the United States Government, the two (2) parties may then negotiate the appraisal price of the fair market value of the land in question and arrive at a satisfactory figure for both parties. If an appraisal price cannot be agreed upon within sixty (60) days after the first government appraisal, the Blackfeet Tribe and/or the member-exchange have the right to refuse the land exchange.

Section 11. Regulations made pursuant to this chapter.

The Blackfeet Land Board shall have the right to promulgate regulations which will facilitate the purposes of Part 1, of this Chapter as set forth above. Such regulations must be approved by the Blackfeet Tribal Business Council and shall be kept in the Blackfeet Land office for public inspection.

(ADOPTED BY ORDINANCE NO. 49 PASSED THE 13TH DAY OF DECEMBER, 1974
BY THE BLACKFEET TRIBAL BUSINESS COUNCIL)

APPROVED BY SUPERINTENDENT SHELHAMER, JANUARY 24, 1975.

Part II. INTERIM ZONING ORDINANCE.

Section 1.01. Title.

This Ordinance, adopted by the Tribal Business Council of the Blackfeet Indian Reservation, provides for interim regulation of all use of land and water areas, based on the Blackfeet Comprehensive Plan, and provides for the administration and enforcement thereof. The Ordinance shall be known as the "Interim Zoning Ordinance" of the Blackfeet Indian Reservation.

Section 1.02. Authority.

This Ordinance is adopted and enforced through the powers of the Blackfeet Tribe of Indians.

Section 1.03. Purpose.

This Ordinance is adopted to allow reasonable use of the land consistent with the Comprehensive Plan, to protect the environment, the land and water resources, and to protect the Blackfeet people against loss caused by improper use of land and water areas, to prevent overcrowding, to promote the health, safety, morals, convenience, comfort, prosperity and general welfare of the population.

Section 1.04. Method.

This interim Ordinance establishes basic permitted uses and provide for review of all other proposed uses by the Land Board and their approval, denial or conditional approval based on standards adopted by the Land Board.

Section 1.05. Scope.

This Ordinance applies to all buildings, and to uses of all trust and non-trust land and all water areas within the exterior boundaries of the Blackfeet Indian Reservation. No land or water or building shall be

hereafter used or changed in use except in compliance with these regulations.

Section 2.01. Zones.

The Blackfeet Indian Reservation is hereby divided into zones as follows:

"C" Conservation Zone

"U" Urban Zone

Section 2.02. Extent of Zones.

The "U" Urban Zone shall include the area within the towns of Browning, Babb, Blackfoot, East Glacier, Heart Butte, St. Mary and Starr School, as indicated in the Blackfeet Comprehensive Plan. All other land and water areas shall be in the "C" Conservation Zone.

SECTION 3.00. "C" CONSERVATION ZONE.

Section 3.01. Purpose.

The purpose of the "C" Conservation Zone is to reserve the ecological quality of the Reservation while allowing reasonable use of the land and water areas in a low density of development consistent with the rural character of the Reservation.

Section 3.02. Permitted Uses.

Natural areas not modified by man and the following:

1. Agriculture,
2. Rural single-family recreation areas,
3. Public park and recreation areas,
4. Public and semi-public buildings,
5. Uses accessory to the above uses.

Section 3.03. Conditional Uses.

All conditional uses are subject to review by the Land Board, and are subject to such conditions as are required by this Ordinance and such other conditions, as the Land Board may determine. All other uses not listed shall be subject to review by the Land Board, which shall determine whether they are prohibited or permitted conditionally.

1. Business,
2. Industry,
3. Residential subdivision,
4. Commercial recreation,
5. Extraction, sand and gravel pits, oil wells,
6. Two-family residence, multi-family residence,
7. Mobile Home park, mobile home,
8. Airport.

Section 3.04. Water, waterfront.

The use of all lakes, rivers and streams, and the use of all adjoining land areas 1/2 mile or less from the shore line at the main water level shall be subject to review by the Land Board. The Land Board may allow as conditional uses a residence, residential subdivision, resort, commercial recreation, public building subject to the regulations of the Ordinance and standards adopted by the Land Board provided such uses are in compliance with health standards, including sewage disposal. This watering of livestock directly from lakes, rivers and streams shall be prohibited.

Section 3.05. Standards.

The Land Board shall adopt standards including those for setbacks, density of development, environmental quality, off-street parking, signs

and fences, which shall apply to all uses. The Land Board may impose more strict requirements for any conditional use.

SECTION 4.00. "U" URBAN ZONE.

Section 4.01. Purpose.

The purpose of the "U" Urban Zone is to provide for the development of towns in accordance with the Comprehensive Plan at greater densities than the general low density rural character of the Reservation, and to protect the environment through reasonable regulations.

Section 4.02. Permitted Uses.

1. Residential subdivision,
2. Single-family residence,
3. Two-family residence,
4. Public park and recreation area,
5. Public and semi-public buildings,
6. Uses accessory to the above uses.

Section 4.03. Prohibited Uses.

1. Extraction, sand and gravel pits, oil wells.

Section 4.04. Conditional Uses.

All conditional uses are subject to review by the Land Board and are subject to such conditions as are required by this Ordinance and such other conditions as the Land Board may determine. All other uses not listed shall be subject to review by the Land Board which shall determine whether they are prohibited or permitted conditionally.

1. Commercial recreation,
2. Business located in accordance with the Comprehensive Plan,

3. Industry located in accordance with the Comprehensive Plan,
4. Mobile home, mobile home park,
5. Multi-family residence,
6. Agriculture.

Section 4.05. Standards.

The Land Board shall adopt standards including those for setbacks, density of development, environmental quality, off-street parking, signs and fences, which shall apply to all uses. The Land Board may impose more strict requirement for any conditional use.

SECTION 5.00. GENERAL REQUIREMENTS.

Section 5.01. Minimum Requirements.

The regulations of this Ordinance are minimum requirements and may not be reduced except by the Tribal Business Council through appeal or amendment. The Land Board is delegated to administer and interpret this Ordinance, to adopt standards, to approve or deny conditional uses. The Land Board may impose more strict requirements for conditional uses than the minimum established by this Ordinance.

Section 5.02. Public Hearing Public Notice.

Any request for conditional use shall be considered by the Land Board at a public hearing. Public notice shall appear in a newspaper of general circulation on the Reservation prior to such public hearing. The Land Board shall meet not less than monthly to consider zoning matters.

Section 5.03. Use Permit Required.

Any person desiring to alter the existing use of any land, water or building and any person desiring to use land, water areas or erect a building shall first obtain a use permit from the Land Board.

Section 5.04. Non-Conforming Uses.

Use of land, water of buildings which lawfully existed at the effective date of this Ordinance but which does not comply with the regulations of this Ordinance may be continued. Such use shall not be changed except to a permitted use or to a conditional use if approved by the Land Board subject to the regulations of the zone in which it is located.

Section 5.05. Appeals.

Any person may appeal in writing to the Tribal Business Council a decision of the Land Board. The decision of the Tribal Business Council on any appeal shall be final.

Section 5.06. Amendment.

The Tribal Business Council shall, prior to any action amending this Ordinance, request a review and recommendation from the Land Board.

Section 5.07. Administration and Enforcement.

The Land Board is hereby designated to administer and enforce this Ordinance, issue permits, inspect properties and enforce violations. The Land Board may employ building inspectors to assist in carrying out its responsibilities.

Any person who violates, disobeys, refuses to comply with or resists the enforcement of any of the provisions of this Ordinance shall be deemed guilty of a misdemeanor and upon conviction thereof shall for each offense be punished by a fine in any sum not exceeding Three Hundred Dollars (\$300.00) or imprisoned for a term not exceeding Thirty

(30) days, or both such fined and imprisonment. Each day that a violation is continued shall constitute a separate offense.

Section 5.08. Validity, Effective Date.

Should any portion of this Ordinance be declared invalid, this shall not affect the validity of the Ordinance as a whole or other part thereof except the portion declared invalid.

Whenever there is a difference between this Ordinance and any other Ordinance in effect, the more strict Regulation shall apply.

This Ordinance shall take effect and be in force thirty (30) days after its passage.

Passed by the Blackfeet Tribal Business Council: July 10, 1973

EFFECTIVE: August 10, 1973

(THIS ORDINANCE #21-A WAS PASSED BY THE BLACKFEET TRIBAL BUSINESS COUNCIL ON JULY 10, 1973) FOR THE ACCOMPANYING SPECIFIED REGULATIONS PROMULGATED PURSUANT TO THIS ORDINANCE, SEE: ZONING STANDARDS CONTAINED AT THE BACK OF THE CODE UNDER UNCODIFIED ORDINANCES.