

CHAPTER 12 - POLLUTION AND ENVIRONMENTAL PROTECTION

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CHAPTER 12 -- POLLUTION AND ENVIRONMENTAL PROTECTION

12.1 SECTION 1: DEFINITIONS

For purposes of this chapter, the following terms shall have the following definitions.

12.1.1 "POLLUTION" shall refer to the point or non-point source discharge of any solid waste, incinerator residue, chemical waste, biological nutrient, biological material, wrecked or discarded equipment, rubbish, sewage, garbage, trash or other harmful or unsightly substance into any waters, any lands or emitted into the air.

(08-22-06)

12.1.2 "DANGEROUS ENVIRONMENTAL ACTIVITY" shall refer to the outdoor discharge or spraying of any poison, pesticide, or herbicide, to the commercial use of any such poison, pesticide or herbicide, and to the demolition of any explosive substance such as gun powder or dynamite, otherwise than through the legitimate use of firearms. Metallic or non-metallic mining activities are likewise defined here as a Dangerous Environmental Activity.

12.1.3 "ENVIRONMENTAL CHANGE" shall refer to any dock building, dredging, stream diversion, marsh draining, or similar activity that can potentially alter the environment. Environmental change shall also refer to the removal and disposal of dredged spoil, dirt, slurry, rock, sand or any municipal, industrial or agricultural waste.

12.1.4 "RADIOACTIVE MATERIALS" are any radioactive waste products or materials generated, refined or made radioactive by any government agency or pursuant to federal or state government contract or license, and including that which the United States Nuclear Regulatory Commission classified as

low-level radioactive waste as of January 1, 1989, but which may be classified as below regulatory waste after that date.

12.1.5 "NUCLEAR WEAPON" is any device, the purpose of which is to use as a weapon, a weapon prototype or a weapon test device, the intended detonation of which results from the energy released by fission and/or fusion reactions involving atomic nuclei. "Nuclear Weapon" includes the weapon's guidance and Propulsion system and triggering mechanism, i.e., the means of transporting, guiding, propelling, triggering, or detonating the weapon, provided that such means is destroyed or rendered useless in the normal transporting, guiding, propelling, triggering, or detonation of the weapon.

12.1.6 "PERSON" means a natural person, as well as a corporation, institution, or other entity.

12.1.7 "BURN BARREL" Means a container or structure for which the primary purpose is for burning waste.

(08-22-06)

12.2 **SECTION 2: POLLUTION**

12.2.1 Except as otherwise provided in this section,
 no person shall cause any pollution:

- a) Within the exterior boundaries of the Reservation;
- b) Adjacent to the reservation;
- c) In Lake Superior within 300 horizontal feet of the Lake Superior High Water Elevation (1/17/2012); or
- d) Through the random disposal of solid

waste in lieu of paying tipping at the transfer station is prohibited.

- e) Through the burning of any materials wherein air contaminants resulting from combustion are emitted directly into the air, without passing through a stack or chimney. **(08-22-06)**
- f) Without first receiving a permit from the Environmental Office upon payment of a \$250.00 application fee and Tribal Council approval using the PAC approval process set forth in RCCL Chapter 37.

12.2.2 Any person violating sec. 12.2 shall forfeit not more than \$5000.00 (\$50.00 deposit permitted). In addition to a civil forfeiture, the court may assess other penalties it deems just and proper including but not limited to restitution for any and all damages to the environment, community service, and/or remediation of reclamation costs and expenses incurred by any person or agency involved in the clean up.

12.3 **SECTION 3: DANGEROUS ENVIRONMENTAL ACTIVITY**

12.3.1 Except as otherwise provided, no person shall perform or cause or permit to be performed any dangerous environmental activity within the exterior boundaries of the reservation.

12.3.2 A party must receive a permit to perform or cause or permit to be performed a "dangerous environmental activity" in a designated place. Permits shall be issued by the Environmental Office upon payment of a \$250.00 application fee and Tribal Council approval using the PAC approval process set forth in RCCL Chapter 37.

12.3.3 Commercial applicers of poisons or pesticides must receive a permit from the Environmental Office upon Tribal Council approval using the PAC approval process set

forth in RCCL Chapter 37.

12.3.4 This section shall not apply to the use of pesticides or herbicides incidental to normal residential use, such as in a garden or residential pest control services, except that such use shall be limited to substances and methods prescribed by regulations of this Code.

12.3.5 Anyone who violates this section 12.3 shall forfeit not more than \$5000.00 (\$50.00 deposit permitted). In addition to a civil forfeiture, the court may assess other penalties it deems just and proper including but not limited to restitution for any and all damages to the environment, community service, and/or remediation of reclamation costs and expenses incurred by any person or agency involved in the clean up.

12.4 **SECTION 4: ENVIRONMENTAL CHANGE**

12.4.1 Except as otherwise provided, no person shall cause, or permit to be caused, any environmental change.

12.4.2 Environmental Change permits shall be issued by the Environmental Office upon payment of a \$250.00 application fee and Tribal Council approval using the PAC approval process set forth in RCCL Chapter 37.

12.4.3 This section 12.4 shall not apply to excavation or grading incidental to an already established residential use. Anyone who violates this section shall forfeit not more than \$5000.00 (\$50.00 deposit permitted.) In addition to a civil forfeiture, the court may assess other penalties it deems just and proper including but not limited to restitution for any and all damages to the environment, community

service, and/or remediation of reclamation costs and expenses incurred by any person or agency involved in the clean up.

12.5 SECTION: 5 PERMIT CRITERIA

12.5.1 The PAC Team shall recommend no permit to Tribal Council for approval under this Section unless it shall find that the activity in question will not result in injury to the physical and social environment. In no case shall the PAC Team grant permission for the dumping of pollutant substances or the outdoor use of poisons, or pesticides within 300 horizontal feet of the bankfull mark or within the 100 year floodplain. (1/17/2012)

12.5.2 Upon any violation of the foregoing provisions of section 5, the violator shall be barred from receiving any permits authorized under Chapter 12, for a period of 2 years from the date of the forfeiture.

12.6 SECTION 6: MALICIOUS WASTE

12.6.1 No person shall maliciously waste, injure, destroy, or impair any natural resource within the external boundaries of the Reservation.

12.6.2 Anyone who violates sec. 12.7 shall forfeit no more than \$5000.00 (\$50.00 deposit permitted). In addition to a civil forfeiture, the court may assess other penalties it deems just and proper including but not limited to restitution for any and all damages to the environment, community service, and/or remediation of reclamation costs and expenses incurred by any person or agency involved in the clean up.

12.7 SECTION 7: NUCLEAR FREE ZONE

12.7.1 Except as specifically exempted in this section, no person shall import, store, incinerate, treat, process, or dispose of radioactive materials, for any purpose, within the Red Cliff Reservation, or within landfills or incinerators owned or licensed by the Red Cliff Band of Lake Superior Chippewa Indians.

12.7.2 Except as specifically exempted in this section, no person shall knowingly, within the Red Cliff Reservation, design, test, produce, deploy, launch, maintain, or store nuclear weapons or components of nuclear weapons.

12.7.3 Except as specifically exempted in this section, no person shall construct, or operate, a nuclear reactor within the Red Cliff Reservation, until the United States government has established a permanent high-level radioactive waste disposal site that is contracted to accept the high-level radioactive waste generated by the aforementioned nuclear reactor.

12.7.4 Except as specifically exempted in this Section, no person shall construct or operate a uranium mine or milling operation within the Red Cliff Reservation.

12.7.5 Each violation of this section shall be punishable by a \$1000 fine. Each day of violation shall be deemed a separate violation.

12.7.6 Exclusions. Nothing in this ordinance shall be construed to prohibit:

- (a) Any activity not specifically described in this ordinance;
- (b) Basic research and/or any writing or speech devoted to public commentary or debate;

- (c) The research, application, or temporary storage or radioactive materials used in medicine;
- (d) Consumer uses of radioactive materials for smoke detectors, light emitting watches or clocks, and other similar incidental applications; and
- (e) Industrial radiography and tracer processes.

12.8 SECTION 8: ILLEGAL BURNING

- 12.8.1** It shall be unlawful for any person, industry, or business to burn garbage, recyclables, or any other form of waste except yard waste. **(08-22-06)**
- 12.8.2** Anyone who violates section 12.9.1 shall be subject to forfeiture not to exceed \$5,000.00. **(08-22-06)**