

NOTICE

TO ALL INTERESTED PERSONS:

YOU ARE HEREBY NOTIFIED THAT THE FOLLOWING ADDITION TO THE RED CLIFF CODE OF LAWS HAS BEEN PROPOSED TO THE TRIBAL COUNCIL:

ADD SECTION 16.10 TO CHAPTER 16 -- BUSINESS LICENSE AND TAX LAWS WHICH SHALL READ AS FOLLOWS:

CHAPTER 16 - BUSINESS LICENSE AND TAX LAW

16.1 SECTION 1- LICENSING

16.2 SECTION 2- BUSINESS PERMIT FEES

16.3 SECTION 3- TAXATION

16.4 SECTION 4- APPLICATION AND DEPOSIT

16.5 SECTION 5- RED CLIFF TRIBAL MEMBERS EXEMPT FROM
ALL STATE SALES TAXES

16.6 SECTION 6- PENALTIES

16.7 SECTION 7- DUTIES OF THE TREASURER

16.8 SECTION 8- RIGHT OF AUDIT

16.9 SECTION 9- RETAIL SALES TAX

**16.10 SECTION 10 - PROPERTY TAX: POWER LINES AND
UTILITY LINES**

16.10 SECTION 10: PROPERTY TAX: POWER LINES AND
UTILITY LINES

16.10.1 Findings. The Tribal Council finds that the power to tax the significant power lines and utility lines that are present on its reservation is:

- (1) An essential attribute of tribal sovereignty;
- (2) A necessary instrument of self-government and territorial management; and
- (3) A means for the Tribe to raise revenue to fund essential governmental services.

16.10.2 Purpose. The purpose of this section is to strengthen tribal sovereignty, strengthen tribal to fund essential governmental services.

16.10.3 Authority. The Tribal Council enacts this Ordinance pursuant to its inherent sovereign authority and its authority under Art. VI, Sections 1(g) and (p) of the Tribe's Constitution.

16.10.4 Scope. This section applies to all power lines and utility lines located on the reservation except those on land owned in fee simple title by non-members of the Tribe.

16.10.5 Definitions.

- (1) "Person" includes a natural individual, partnership, corporation, association, other legal or fiduciary entity, and a public entity.
- (2) "Personal property" means all goods, wares, merchandise, chattels, and effects, of any nature or description, having any real or marketable value, and not included in the term "real property."
- (3) "Reservation" means all land within the exterior boundaries of the Red Cliff Band of Lake

Superior Chippewa reservation established under the authority of the 1854 Treaty of La Pointe.

- (4) *"Real property" means land as well as all structures and other improvements thereon, and all fixtures and rights and privileges appertaining thereto.*
- (5) *"Service Line" means a utility line running from a main line, transmission line, or distribution line that is used only for supplying telephone, water, electricity, gas, internet service, or other utility service to a house, business, or other structure. In the case of a power line, a service line is limited to a voltage of 14.5 kv or less, or a voltage of 34.5 kv or less if serving irrigation pumps and commercial and industrial uses.*
- (6) *"Tribal Court" means the Red Cliff Band Tribal Court, including the Tribe's court of appeals.*
- (7) *"Tribal instrumentality" means any housing authority, utility, corporation, partnership or other entity that is owned whether in whole or in part by the Tribe and whose board of directors or other managers includes at least one director or manager that is appointed, directly or indirectly, by the Tribal Council. An entity's directors or managers are indirectly appointed by the Tribal Council if the entity is within a hierarchy of affiliated or subsidiary entities whose management is ultimately subject to the Tribal Council's appointment and removal authority.*
- (8) *"Tribe" means the Red Cliff Band of Lake Superior Chippewa Indians.*
- (9) *"Utility line" means all personal property and real property used or capable of being used to transmit or distribute electricity, oil, gas,*

internet, telephone or telecommunication service but does not include service lines.

16.10.6 Property Taxes. Taxes shall be levied, under this section, upon all power lines and utility lines except those that are exempt from taxation. Real property interest taxes and personal property taxes are deemed to be levied when the tax roll in which they are included has been delivered to the Tribal treasurer. When so levied such taxes are a lien upon the property against which they are charged. That lien is superior to all other liens, except a purchase money real estate mortgage that is recorded before the lien is filed under this section, including any extension or refinancing of that purchase money mortgage, or an equivalent security interest, or a 2nd or subsequent mortgage that is recorded before the lien is filed under this section, including any extension or refinancing of that 2nd or subsequent mortgage.

16.10.7 Exemptions. The following shall be exempt from the property tax under this section:

- (1) A personal or real property interest of the Tribe, a Tribal instrumentality or member of the Tribe;
- (2) A personal or real property interest of the United States;
- (3) A personal or real property interest of the State of Wisconsin;
- (4) A real property or personal property interest that has been granted an express property tax exemption in a lease, right-of-way agreement, or other agreement with the Tribe; and
- (5) Real property or personal property to the extent it is located on land owned in fee by non-members of the Tribe.

16.10.8 Assessment. On January 1 of each year, the Tribe shall levy a tax on the owner of any power line

or utility line equal to \$.50 multiplied by the length (in feet) of the portion(s) of the line that are subject to taxation under this section, provided that such fees may be expressly waived by the Tribe in a Right-of-Way Agreement or other agreement.

- 16.10.9 Due Date and Late Payment Fee. All taxes assessed under this section shall be due within 30 days of assessment. Late payments shall accrue an interest charge of one (1%) percent per month.
- 16.10.10 Assessor. The Tribe shall appoint a qualified person to make assessments under this section.
- 16.10.11 Judicial Review. The Tribal Court shall be the exclusive forum to obtain judicial review of any dispute arising under this section, including, but not limited to, challenges relating to the Tribe's jurisdiction and the assessments made by the Tribe's assessor. The taxpayer shall have the right to contest any assessment with competent evidence.
- 16.10.12 Time of Taking Effect. This section shall take effect upon enactment by the Tribal Council, subject to any implementation delays explicitly stated in the resolution of approval.
- 16.10.13 Severability. If any provision of this ordinance or application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the ordinance that can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are severable.
- 16.10.14 Repealer. Any other acts and parts of acts inconsistent with this Ordinance are hereby repealed.

PUBLIC COMMENT ON THIS PROPOSAL IS ENCOURAGED. PLEASE DROP YOUR COMMENTS AT THE TRIBAL ADMINISTRATION BUILDING, OR FORWARD THEM DIRECTLY TO THE TRIBAL COUNCIL. THIS PROPOSAL WILL BE VOTED UPON ON **December 19th, 2017** AT THE REGULAR MEETING OF THE RED CLIFF TRIBAL COUNCIL. IF THE COUNCIL ENACTS THIS CODE CHANGE, THE CODE CHANGE SHALL BECOME EFFECTIVE ON **upon enactment**.

DATED: November 14, 2017