

NOTICE

TO RED CLIFF COMMUNITY MEMBERS:

YOU ARE HEREBY NOTIFIED THAT THE FOLLOWING CHANGES TO THE RED CLIFF CODE OF LAWS HAS BEEN PROPOSED TO THE TRIBAL COUNCIL BY THE RED CLIFF WATER AND SEWER DEPARTMENT:

IF YOU DESIRE A COPY OF THE PROPOSED CHANGES, PLEASE CONTACT THE RED CLIFF WATER AND SEWER DEPARTMENT OR THE RED CLIFF LEGAL DEPARTMENT.

PERTAINING TO CHAPTER 34 – WATER & SEWER UTILITIES

CHANGES AND ADDITIONS ARE INDICATED IN **RED**
DELETIONS ARE INDICATED WITH ~~STRIKETHROUGHS~~.

CHAPTER 34 – WATER & SEWER UTILITIES

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34.1 **SECTION 1: Introduction - Purpose and Jurisdiction**

34.1.1 Purpose. This ordinance is designed: to promote public health, safety, and convenience of the people of the Red Cliff Band of Lake Superior Chippewa Indians by providing safe drinking water and sanitary services; to encourage planned and orderly development; to protect the environment; to permit the careful planning and efficient operation and maintenance of services; to recognize the needs of the Band, its people, and future economic development; to protect the beauty and amenities of the environment and man-made developments; to provide healthy surroundings for family life; to prevent the spread of disease and pestilence; and to promote the general welfare of the Red Cliff community within the Red Cliff Indian Reservation.

34.1.2 Regulation. This ordinance is designed to regulate the location, construction, design and use of all water and sewer systems referenced within this ordinance to protect the health of the residents of the Red Cliff Indian Reservation, and to further the purposes specified in sec. 34.1.1. This ordinance also: establishes the public water and sewer utility of the Red Cliff Band of Lake Superior Chippewa Indians, and further establishes the Red Cliff

Utilities Commission, vesting them with the authority further detailed in this Chapter; establishes **water and** sewer rates, fees, rules and regulations; governs **water and** sewer users and licensed plumbers; and provides penalties for violations.

34.1.3 Jurisdiction. This ordinance shall apply to all land located within the boundaries of the Red Cliff Indian Reservation.

34.2 **SECTION 2: Definitions**

For purposes of this Chapter, the following definitions shall apply:

34.2.1 "Biochemical Oxygen Demand" (BOD) means the quantity of oxygen utilized in the biochemical oxidation of organic matter in the five (5) days at 20 degrees Centigrade, expressed as milligrams per liter. Quantitative determination of BOD shall be made in accordance with procedures set forth in "Standard Methods".

34.2.2 "Building Drain" means that part of the lowest horizontal piping of a drainage system, which receives the discharge from soil; waste, and other drainage pipes inside the walls of the building and conveys it to the building sewer.

34.2.3 "Building Sewer" means the extension from the building drain to the public sewer or other place of disposal beginning outside the inner face of the building wall.

34.2.4 "Complaint" means an individual's grievance regarding a decision made by the Utilities Department.

34.2.5 "Conventional System" means a system that employs either gravity flow or pumping from the septic or other treatment tank and applies effluent to the soil through the use of a seepage trench, bed or pit.

34.2.6 "Effluent" means liquid discharge from a septic or other treatment tank.

34.2.7 "Garbage" means the residue from the preparation, cooking, and dispensing of food, and from the handling, storage, and sale of food products and produce.

34.2.8 "Hazardous Waste" means waste as defined in sec. NR 181 of the Wisconsin Administrative Code.

34.2.9 "Holding Tank" means a self-contained, watertight tank(s) which receives and stores sewage for pumping and transfer for proper disposal, and which has no outlet.

34.2.10 "Industrial Waste" means the wastewater from industrial process, trade, or business, as a distinct from sanitary sewage, including cooling water and the discharge of sewage pretreatment facilities.

34.2.11 "In-ground Individual Waste Disposal System" includes conventional and mound systems as defined herein. See definition of "Private Sewage System."

34.2.12 ~~"Landfill User" means persons or entities who directly or attempt to dispose of solid wastes at the Tribal sanitary Landfill.~~

- 34.2.13~~12~~ “Mound System” means an alternative sewage disposal system used on sites not meeting the criteria established by this ordinance for mound systems.
- 34.2.14~~13~~ “Percolation Rate” is synonymous with permeability and means the ease with which liquids move through the soil.
- 34.2.15~~14~~ “Percolation Test” means the method specified in Wis. Admin. Code sec. ILHR 83.09(5) of testing absorption qualities of the soil.
- 34.2.16~~15~~ "Person" means any and all persons, including any individual, firm, company, municipal or Private Corporation, association, society, institution, enterprise, governmental agency, or other entity.
- 34.2.17~~16~~ "PH" means the logarithm of the reciprocal of the oxygen-ion concentration. Concentration is the weight of the hydrogen ions, in grams per liter of solution. Neutral water, for example, has a pH value of 7 and hydrogen-ion concentration of 10^{-7} .
- 34.2.19~~17~~ "Pollutant Discharge Elimination System" (PDES) Permit is a document, which establishes effluent limitations and monitoring requirements for the municipal wastewater treatment facility.
- 34.2.20~~18~~ “Private Sewage System” means a sewage treatment and disposal system serving a single structure with a septic tank and soil absorption field located on the same parcel as the structure, or an alternative sewage system approved by the Red Cliff Utilities Department including a substitute for a septic tank or soil absorption field, a holding tank, a system serving more than one structure or a system located on a different parcel than the structure; and may be owned by the property owner or by a special purpose district.
- 34.2.21~~19~~ “Privy” means a structure that is not connected to a plumbing system and which is used for the deposition of human body wastes.
- 34.2.22~~20~~ “Public Sewage System” means the system set forth at sec. 34.9 of this Chapter.
- 34.2.23~~21~~ “Recharge Area” means any area designated as a recharge area by the Red Cliff Tribal Council resolution.”
- 34.2.24~~22~~ “Request” means an individual requesting service such as repairs or connections.
- 34.2.25 ~~“Sanitary Landfill” means the landfill designated by the Tribal Council in which solid waste may be disposed of without creating a nuisance or hazard to public.~~
- 34.2.26~~23~~ "Sanitary Sewer" means a sewer that carries liquid and water-carried wastes from residences, commercial buildings, industrial plants, and institutions, together with minor quantities of ground, storm and surface waters that are not admitted intentionally.
- 34.2.27~~24~~ “Seepage bed” means an excavated area larger than 5 feet in width, which contains a bedding of aggregate and has more than one distribution line.
- 34.2.28~~25~~ “Seepage pit” means an underground receptacle so constructed as to permit disposal of effluent or clear wastes by soil absorption through its floor and walls.

- 34.2.~~29~~²⁶ “Seepage trench” means an area excavated one to 5 feet in width, which contains a bedding of aggregate and a signal distribution line.
- 34.2.~~30~~²⁷ “Septic Tank” means a watertight tank, which receives sewage and by bacterial action and sedimentation, affects a process of clarification and decomposition of solids.
- 34.2.~~31~~²⁸ “Sewage” means the liquid and water carried wastes created in and to be conducted away from residences, industrial establishments and public buildings.
- 34.2.~~32~~²⁹ "Shock" means any discharge of water or wastewater which in concentration of any given constituent or in quantity of flow exceeds for any period of duration longer than fifteen (15) minutes more than five (5) times the average twenty-four (24) hour concentration of flows during normal operation and shall adversely affect the system and/or performance of the wastewater treatment works.
- 34.2.~~33~~³⁰ “Solid Waste” means garbage, refuse, and all other discarded or salvageable solid materials, but not solids or dissolved materials in waste water effluents or other common water pollutants.
- 34.2.~~34~~³¹ "Standard Methods" means the examination and analytical procedures set forth in the most recent edition of "Standard Methods for the Examination of Water, Sewage, and Industrial Wastes" published jointly by the American Public Health Association, the American Water Works Association, and the Federation of Sewage and Industrial Wastes Associations.
- 34.2.~~35~~³² "Storm Drain" (sometimes termed "storm sewer") means a drain or sewer for conveying water, ground water, subsurface water or unpolluted water from any source.
- 34.2.~~36~~³³ "Suspended Solids" means solids that either float on the surface of, or are in suspension in, water, wastewater, or other liquids, and that is removable by laboratory filtering as prescribed in "Standard Methods for Examination of Water and Wastewater" and is referred to as non-filterable residue.
- 34.2.~~37~~³⁴ “TOT WHPA” (time of travel wellhead protection area) means the area designated by the “Red Cliff Wellhead Protection Plan”, adopted by the Red Cliff Tribal Council resolution 11/6/95 A, as the one (1) year wellhead protection areas. (9-24-97 B)
- 34.2.~~38~~³⁵ “Tribal Governing Board” means the Red Cliff Band of Lake Superior Chippewa Tribal Council.
- 34.2.~~39~~³⁶ A “Unit of Service” shall consist of any residential, commercial, industrial, or charitable aggregation of space or area occupied for a distinct purpose such as a residence, apartment, flat, store, office, industrial plant, church, or school. Each unit of service shall be regarded as one customer. Suites in houses, or apartments with complete housekeeping functions (such as cooking), shall be classed as apartment houses; thus houses and apartments having suites of one, two, or more rooms with toilet facilities, but without kitchen for cooking, are classed as rooming houses. When a consumer's premises has several buildings, for which services are eligible and such buildings are used in the same conditions impairing the proper operation of the sewer system and the repair or replacement of any sewer pipe or other property of the sewer system damaged in

any manner by any negligent or intended act or omission by such person or by others under their control.

- ~~34.2.40~~³⁷ “User” means the owner or occupant of the premises utilizing the services.
- ~~34.2.41~~³⁸ “Utilities” means (1) water systems, including wells, reservoirs, pumping equipment, water treatment systems, distribution mains, buildings and appurtenances, (2) sewer systems, including treatment plants, lift stations, collection mains, structures and appurtenances; (3) refuse collection and disposal systems, including machinery, vehicles, equipment, disposal sites and appurtenances; (4) not otherwise covered, all vehicles, equipment, tools, structures, buildings, sites, easements, rights-of-way and all things necessary for the operation and maintenance of services provided.
- ~~34.2.42~~³⁹ “Utilities Commission” means the Board of Directors of the Red Cliff Tribal Utilities Commission.
- ~~34.2.43~~⁴⁰ “Utilities Department” means the entity in direct responsibility of the entity in direct responsibility of the operation and maintenance of those utility services provided by the Utilities Commission.
- ~~34.2.44~~⁴¹ "Wastewater" means the spent water of a community. From the standpoint of source, it may be a combination of the liquid and water-carried wastes from residences, commercial buildings, industrial plants, and institutions; together with any ground water, surface water, and storm water that may be present, but not intentionally admitted.
- ~~34.2.45~~⁴² "Wastewater Treatment Works" means an arrangement of devices and structures for treating wastewater, industrial wastes, and sludge. Sometimes used as synonymous with waste treatment.
- ~~34.2.46~~⁴³ "Watercourse" shall mean a natural or artificial channel for the passage of water, either continuously or intermittently.

34.3 **SECTION 3: General Provisions**

- 34.3.1 Adoption of Other Rules. The Tribe hereby adopts all the rules and regulations of the State Plumbing and State Building Codes and the building rules of the Department of Industry, Labor, and Human Relations; and the Department of Natural Resources of the State of Wisconsin insofar as the same are applicable to the public **water and** sewer system of the Red Cliff Indian Reservation. All extensions of the system will comply with administrative rules NR 108 and NR 110 of the Department of Natural Resources.
- 34.3.2 Application. Every person requesting the utility service shall file an application in writing to this Utilities Department, in such form as is prescribed for that purpose. Such applications shall be available from the Department. The application must specify the service requested to provide adequate service. If the applicant is not the owner of the premises, the written consent of the owner must accompany the application. In addition, all requests for repairs or connections shall be made directly to the Utilities Department.

- 34.3.3 Plumbers. No plumber, pipe fitter, or other person will be permitted to do any plumbing or pipe fitting work in the connection with the sewer system without first receiving a license from either the State of Wisconsin or the Red Cliff Tribe.
- 34.3.4 PAC Approval Required for All Dwellings. No building intended for human use or occupancy shall be erected, structurally altered, or relocated, unless necessary permits are obtained in advance of construction for safe and adequate sanitary facilities, including Tribal PAC review approval under Red Cliff Code of Laws, Chapter 37 and in accordance with this Chapter and other applicable law.
- 34.3.5 Deposit. The Utilities Department may require each consumer to pay cash deposit prior to service beginning to guarantee payment of all charges herein. Such deposits will be refunded after one year of timely payment, or when the user moves for the premises, whichever is first.
- 34.3.6 The rules, regulations, and **water and** sewer rates of the Red Cliff Utilities Commission of the Red Cliff Tribe hereinafter set forth shall be considered part of the contract (agreement) with every person, company or corporation who is connected with the public **water and** sewer system of the Red Cliff Indian Reservation and every such person company, or corporation by connecting with the **water and** sewer system shall be considered as expressing his or their assent to be bound thereby.
- 34.3.7 Whenever any the regulations set forth in this Chapter (or such others as the Red Cliff Utilities Commission may hereafter adopt under the authority of this Chapter) are violated, the service shall be shut off from the building or place of such violation (even though two or more parties are receiving service through the same connection), and shall not be re- established except by order of the Red Cliff Utilities Commission, and upon payment of all arrears, or upon satisfactory payment arrangements that have been agreed upon by both the user(s) and the Utilities Department. The expenses and established charges of disconnecting and re-establishing utility service(s), including other terms as the Red Cliff Utilities Commission may determine, shall be added to the amount owed.
Refer to Appendix B
- 34.3.8 In the event that the user has service re-established pursuant to sec. 34.3.7 above and subsequently defaults on a payment arrangement, the Red Cliff Utilities Commission furthermore, may declare any payment made for the service by the party or parties committing such violation to be forfeited, and the same shall thereupon be forfeited.
- 34.3.9 The Utilities Department is hereby authorized and reserves the right to cut off any service at any time for the purpose of repairs or any other necessary purpose, any permit granted or regulation to the contrary notwithstanding. Whenever it shall become necessary to shut off the water, the Utilities Department shall, if practicable, give notice to each and every consumer within the jurisdiction of the time when such service will be shut off.
- 34.4 **SECTION 4: User Rules and Regulations**
- 34.4.1 Persons connected to the public water or sewer systems are referred to herein as "Users". An application for service may include more than one building or more than one unit of service through one service connection; and in such case, charges shall be made accordingly. If it appears that the service applied for will not provide adequate service for the contemplated use, the Red Cliff Utilities Commission may reject the application.

If the Red Cliff Utilities Commission shall approve the application; it shall issue a permit for services as shown on the application.

- 34.4.1 All users shall keep their own service pipes in good repair and protected from frost, at their own risk and expense, and shall prevent any unnecessary waste of water. Failure to do so may result in disconnection of services until properly repaired and inspected by the Red Cliff Utilities Department.
- 34.4.2 No user shall allow others to connect to the water system through his lateral or allow others to utilize his refuse collection utility.
- 34.4.3 Every user shall permit the Red Cliff Utilities Commission, or their duly authorized agent, at all reasonable hours of the day, to enter their premises or building to examine the pipes and fixtures, and the manner in which the water is used and the drains and sewer connections operate; and they must at all times, frankly and without concealment, answer all questions put to them relative to its use.
- 34.4.4 Sludge, scum, effluent and all other products of human wastes shall be disposed of in a manner not to create a nuisance or a menace to public health. Such disposal shall comply with Red Cliff Code of Laws, Chapter 12, with this Chapter and with other applicable law.
- 34.4.5 There shall be no sewage disposal whatsoever within one hundred (100) feet of any marsh or swamp area or within one hundred fifty (150) feet of any stream or navigable waterway or within the one (1) year TOT WHPA or within the designated recharge area of the Red Cliff Wellhead Protection Plan, any other provision of this ordinance notwithstanding.
- 34.4.6 All plumbing fixtures shall be connected to a public sanitary water and sewer system where available within one year after the public water and sewer becomes available. Where such public water and sewer system is not available, private sewage systems may be used, provided that they meet the requirements of this Chapter.
- 34.4.7 All users shall keep their own service pipes in good repair and protected from frost, at their own risk and expense, and shall prevent any unnecessary overburdening of the sewer system.
- 34.4.8 Excavations. In making excavations in streets or highways for laying service pipe or making repairs, the paving and earth removed must be deposited in a manner that will occasion the least inconvenience to the public. No person shall leave any such excavation made in any street or highway open at any time without barricades; and during the night warning lights must be maintained at such excavations. In refilling the opening after the service pipes are laid, the earth must be laid in layers of not more than nine inches in depth, and each layer thoroughly compacted to prevent settling. This work together with the replacing of sidewalks, ballast and paving, must be done so as to make the street at least as good as before it was disturbed, and satisfactory to the Red Cliff Utilities Department. No opening of the streets for tapping the pipes will be permitted when the ground is frozen.
- 34.4.9 Tapping the Mains. No person, except those having special permission from the Red Cliff Utilities Department, or persons in their service and approved by them, will be

permitted, under any circumstances to tap the mains or collection pipes. The kind and size of the connection with the pipe shall be that specified in the permit or order from the Red Cliff Utilities Commission. Pipes should always be tapped on the top-half, and not within six (6) inches (15 cm) of the joint, or within twenty four (24) inches (60 cm) of another lateral connection. **Users shall maintain ten (10) feet of separation between water and sewer pipes.**

34.4.10 Installation of House Laterals Sewers. All Service Pipes (laterals) on private property shall be installed in accordance with State of Wisconsin Administrative Code Chapter H-62 "Design, Construction, Installation, Supervision and Inspection of Plumbing"; specifically, Section H-62.04 (4) "Building Sewers".

Installation of House Laterals Water. The water service pipe to any building shall be of sufficient size to permit a continuous ample flow of water under maximum simultaneous use to all fixtures and points.

All building **utilities** under construction must be inspected by a designated representative of the Red Cliff Utilities Commission. ~~The building sewers and or private interceptor main sewers~~ **All building utilities, including but not limited to water and sewer mains,** shall be inspected upon completion of placement of the pipe and before backfilling, and tested before or after backfilling. Any **water or sewer line** that is backfilled prior to inspection shall be re-excavated to allow said inspection.

34.4.11 No person in the business of gathering and disposing of septic tank sludge or holding tank sewage shall transfer such material into any disposal area or sewer manhole located within the reservation boundaries.

34.4.12 No user shall discharge or cause to be discharged any of the following described liquids or solid wastes to any sanitary sewer:

- (a) Any storm water, surface water, ground water, roof run-off or surface drainage, **sump pump or other footing or foundation discharge;**
- (b) Any gasoline, benzene, Naphtha, fuel oil, or other flammable or explosive liquid, solid or gas;
- (c) Any ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feather, tar plastics, wood, paunch manure, **wet wipes of any brand** or any other solid or sticky substance capable of causing obstruction of the flow in sewers or other interference with the proper operation of the sewage works;
- (d) Any water or wastes containing a toxic or poisonous substance in sufficient quantity or injure or interfere with any sewage treatment process, constituting a hazard to humans and animals or create any hazard in the receiving treatment facility;
- (e) Any water or wastes containing suspended solids of such character and quantity that unusual attention or expense is required to handle such material at the sewage treatment plant;

- (f) Any noxious or malodorous gas or substance capable of creating a public nuisance;
- (g) Any garbage, ~~that has not been properly shredded~~ as defined in section 34.2.7;
- (h) Any liquid or vapor having a temperature higher than 150 degrees Fahrenheit;
- (i) Any water or wastes which may contain more than 100 parts per million by weight of fat, oil, or grease;
- (j) Any water or wastes having pH lower than 5.5 or higher than 9.0 having any corrosive property capable of causing damage or hazard to structures, equipment, and personnel of the sewage works.

34.4.13 It shall be unlawful for any person to willfully injure the **water distribution or sewer collections** system, or any building, machinery, or fixture pertaining thereto, or to willfully and without authority of the Red Cliff Utilities Department, bore or otherwise cause to leak, any tunnel, aqueduct, reservoir, pipe or other thing used in the system for holding, conveying, or collecting sewage **or the distribution of water**.

34.4.14 It shall be unlawful for any person to introduce sewage into the system which shows an excess of a BOD or suspend solids concentration of over 350 mg/l (normal domestic sewage); a surcharge shall be based on the excess of BOD or suspended solids at a rate of \$.50/pound. The Red Cliff Utilities Department reserves the right to test the sewage at any point within the connection system of the user or consumer. A user may not use dilution as a means to achieve a lower concentration of BOD or suspended solids. Users discharging toxic pollutants shall pay for any increased operation and maintenance or replacement costs caused by the toxic pollutants.

34.5 **SECTION 5: Permits**

34.5.1 ~~Applicants shall submit a completed approved public water and or sanitary sewage disposal application to the Red Cliff Utilities Department on forms approved by the Utilities Commission and provided by the Utilities Department.~~ **Applicants shall submit a completed application for installation or modification of any utility system (including, but not limited to water and/or sewer systems) to the Red Cliff Water and Sewer Department.** All applications must be complete and signed by the ~~applicant~~ **owner** in order to be considered. Upon receipt of an application, the Utilities Department shall review the certified Soil Tester's reports (percolation tests) and the Tribal PAC review under RCCL, Chapter 37 for the proposed site, and verify said report(s), if deemed necessary. ~~If the applicant is not the owner, the written consent of the owner must accompany the application.~~

34.5.2 The Red Cliff Utilities Department shall review all ~~sanitary sewage disposal~~ **water and sewer** applications submitted for permit ~~on all proposed private sewage systems~~ and inform the applicant of the decision made on their application within a reasonable time.

34.5.3 The Red Cliff Utilities Department shall issue written notice to each applicant whose ~~sanitary~~ **utility** permit application is disapproved stating that specific reasons for disapproval and amendments which could be made to render the application approvable (if applicable).

34.5.4 Work on a structure or use requiring a **public water hookup or** private sewage system shall not begin until a sanitary permit has been issued. No person(s) may install a **water line, water well or** private sewage system unless the owner of the property on which the private system is to be installed holds a valid ~~sanitary~~ **utility** permit.

34.5.6 A ~~sanitary~~ **utility** permit is valid for two years from the date of issuance and renewable for similar periods thereafter.

34.5.7 A ~~sanitary~~ **utility** permit may be transferred from the holder to a subsequent owner of the land, except that subsequent owner must obtain a new copy of the ~~sanitary~~ **utility** permit from the Red Cliff Utilities Department.

34.5.8 Tap Permits. After **water and** sewer connections have been introduced into any building or upon any premises, no Plumber shall make any alterations, extensions, or attachments, unless the party ordering such tapping or other work shall exhibit the proper permit for the same from the Red Cliff Utilities Commission.

34.6 **SECTION 6: Mandatory Hook Up**

34.6.1 Mandatory Hookup. The owner of each parcel of land adjacent to a **water main** or sewer main, on which there exists a building useable for human habitation or in a block through which such system is extended **no more than three hundred (300) feet**, shall connect to such system within 180 days of notice in writing from the Red Cliff Utilities Department. Upon failure to do so the Red Cliff Utilities Department, may cause such connection to be made and bill the property owner for such cost. If such costs are not paid within thirty (30) days, such notice shall be assessed as a special tax lien against the property, provided, however, that the owner may within thirty (30) days after the completion of the work file a written request with the Red Cliff Utilities Commission stating that s/he cannot pay such amount in one sum and ask that payments be levied in not to exceed five (5) equal installments and that the amount shall be so collected with interest at the rate of twelve percent (12%) per annum from the completion of the work, the unpaid balance being a special tax lien, all pursuant to Section 144.06 Wisconsin Statutes.

34.6.2 In lieu of section 34.6.1 above, the Red Cliff Utilities Commission at its option may impose a penalty for the period that the violation continues, after ten (10) days written notice to any owner failing to make a connection to the **water or** sewer, in an amount of 1.5 times the current residential rate per month for each residential unit equivalent payable monthly, for the period in which the failure to connect continues, and upon failure to make such payment, said charge shall be assessed as a special tax lien against the property, all pursuant to Section 144.06 Wisconsin Statutes.

34.6.3 This Chapter mandates that the failure to connect to the **Water System or** Sewer System is contrary to the minimum health standards of the Red Cliff Tribe and fails to assure preservation of public health, comfort, and safety of the Tribe.

34.7 **SECTION 7: Private Water and Private Sewage Systems**

34.7.1 For purposes of determining which private ~~sewage~~ **utility** system best meets the purposes of this Ordinance, and, therefore, will be required until the public **water and/or** sewage system is available, the standards set forth in Wis. Admin. Code sec. ILHR 83 shall

apply, except that references to State and County monitoring, review, enforcement and the like shall be inapplicable, and the Red Cliff Utilities Department shall be responsible for all such functions.

- 34.7.2 Consistent with Wis. Admin. Code sec. ILHR 83, a variance may be granted upon petition to the Red Cliff Utilities Department where soils do not meet the criteria specified by sec. 34.7.1 for the particular system in question. The decision made by the Red Cliff Utilities Department on whether to grant a variance shall be final.
- 34.7.3 Nothing in this section shall prohibit the Red Cliff Utilities Department from proceeding consistent with Indian Health Service requirements where they are less restrictive than provisions of ILHR 83.
- 34.7.4 The Red Cliff Utilities Department shall inspect all private **water and** sewage systems after construction, but before backfilling.
- 34.7.5 The Red Cliff Utilities Department shall investigate all violations or suspected violations of this ordinance, and shall issue citations where appropriate.
- 34.7.6 The Red Cliff Utilities Department shall have all the powers necessary to enforce the provisions of this Ordinance including the following:
- (a) Access, with the consent of the property owner or his agent, to any structure or premise during regular business hours for the purpose of performing assigned duties;
 - (b) Prohibit the use of any new sanitary facility until that facility has been inspected and approved;
 - (c) Order any person, firm or corporation owning, using, operating or installing any sanitary facility to modify, repair, or place in safe and sanitary condition such system found to be contrary to the terms of this Ordinance;
 - (d) Recommend to the Tribal Council any additional sanitary measures deemed necessary;
 - (e) Cause abatement of any sanitary facility found to be constructed, operated, or maintained as to be a menace to the health of the community; and
 - (f) Enforce all rules required and perform all duties directed by Utilities Commission or the Tribal Council.

34.8 **SECTION 8: Privies and Holding Tanks**

- 34.8.1 The maintenance and use of septic tanks and other private sewage disposal systems within the Red Cliff Indian Reservation serviced by its sewer system are hereby declared to be a public nuisance and a health hazard. From and after July 1, 2001 the use of septic tanks or any private sewage disposal system within the area of the Red Cliff Reservation serviced by the sewerage system shall be prohibited.

34.8.2 With respect to areas of the Reservation not serviced by the sewer system, the installation and use of privies and holding tanks within the boundaries of the Red Cliff Indian Reservation is prohibited unless all other private and public sewage disposal systems are inappropriate or unavailable.

34.8.3 An application to erect, alter or relocate a privy or holding tank shall be filed with the Red Cliff Utilities Department prior to commencing construction activity.

34.8.4 No person may install a privy or holding tank unless the owner of the property on which the structure is to be installed holds a valid ~~sanitary~~-utility permit.

34.8.5 A permit for a privy or holding tank shall be valid for one (1) year from the date of Issuance. Thereafter, the user must make another application and the Utilities Department given an opportunity to assess the status of the holding tank.

34.8.6 Privies are prohibited for structures which are provided with indoor plumbing as defined in Wis. Admin. Code sec. H.62. In structures served by a privy, indoor plumbing (including, but not limited to water closets, sinks, bathtubs or showers, laundry facilities and any fixture or receptacle receiving domestic waste) shall not be installed until a ~~sanitary~~ utility permit for a private well and sewage system is issued.

34.8.7 All privies and holding tanks shall be maintained in a clean and sanitary condition.

34.8.8 Prior to the installation of a holding tank, the following requirements must be met in addition to any other restrictions imposed by this Ordinance and any other applicable law:

- (a) All plans, including detailed technical data, must be submitted to the Red Cliff Utilities Department for their approval prior to any construction or site preparation;
- (b) The applicant must obtain an approved servicing contract with a state-licensed pumper and file the same with the Red Cliff Utilities Department;
- (c) The applicant must enter into a holding tank agreement with the Red Cliff Utilities Department; and
- (d) The applicant must include in its plans an on- site alarm and monitoring system and effectively install and activate the same before utilizing his/her holding tank. Said monitoring system must be active and effective at all times.

34.9 **SECTION 9: Public Water & Sewer System Maintenance**

34.9.1 Except as otherwise provided, the Red Cliff Utilities Department shall be responsible for the maintenance of the public water and sewage system on the Red Cliff Indian Reservation. Individuals and others who wish to have the public water and sewage

system extended to their site shall comply with the provisions of this section and with the requirements of the Red Cliff Utilities Department.

- 34.9.2 The Red Cliff Utilities Department shall maintain **water and** sewer service within the limits of the Red Cliff Indian Reservation from the street main to the property line curb shut off valve and including all control between the same, without expense to the property owner, except when any portion of the system is damaged as a result of negligence or carelessness on the part of the property owner, a tenant, or an agent of the owner, in which case they will be repaired at the expense of the property owner. All water and sewer services from the point of maintenance of the system to and throughout the premises must be maintained free of defective conditions, by and at the expense of the owner or occupant of the property.
- 34.9.3 Individuals and others who have the public **water and** sewage system extended to their site shall maintain a minimum distance of ten (10) feet between the water and sewer lines. **Unless approved by the Red Cliff Utilities Department and is within code pursuant to section 34.4.9 of this Ordinance.**
- 34.9.4 Nothing in this section shall operate as a restriction or otherwise limit the authority of the Red Cliff Utilities Department to (a) prescribe the manner or method of installation of sewage and water services, or (b) place conditions upon landowner/lessees which must be met prior to the extension of such services.
- 34.9.5 When any **water or** sewer service is to be re-laid and there are two or more buildings on such service, each building shall be disconnected from such service and a new ~~sewer~~ service shall be installed for each building.

34.10 **SECTION 10: Red Cliff Utilities Commission**

- 34.10.1 Organization. The management, operation and control of the public **water and** sewer system is vested in the Red Cliff Utilities Commission; all records, minutes and all written proceedings of the Commission shall be kept by the Commission acting through an assigned staff member within the Utilities Department.
- 34.10.2 Authority. The Red Cliff Utilities Commission ~~is vested with the~~ **has** authority to establish, impose and adjust rates for the provision of water and sewer services to those connected to the public water and/or sewer utility, including the authority to set fees for connection and re-establishment of services and such other fees and penalties it may deem appropriate to effectively manage the public water and sewer system; **subject to final review and approval by the Tribal Council.** The Utilities Commission shall also have the authority to adopt regulations governing the provision of service and operation of the Utilities Department, said regulations subject to final review and approval by the Tribal Council. The right is reserved to the Red Cliff Utilities Commission to change said rules, regulations, and **water and** sewer rates and fees from time to time, as they may deem advisable and to make special rates and agreements in all proper cases.
- 34.10.3 Membership. The Red Cliff Utilities Commission shall be composed of a five (5) person Board of Directors who shall be appointed or reappointed by a majority of the Tribal Governing Board. All appointees shall be members of the Red Cliff Band and shall meet the qualifications for Membership set forth in the Constitution and By-Laws, Article 11,

Section 1, or Section 2. The Tribal Governing Board shall designate one (1) of the Directors as Chairman of the Board.

34.10.4 Term of Office. Members of the Board of Directors shall serve for terms of three (3) years and staggered. The Tribal Governing Board shall determine any compensation, as they may be entitled to receive.

34.10.5 Removal. Member(s) of the Board of Directors may be removed from office for cause.

34.10.6 Annual report. The Utilities Commission shall submit a detailed annual report, signed and presented by the Chairman of the Commission to the Tribal Council detailing:

- (a) Number of services provided, for both residential and commercial customers;
- (b) Number of new services;
- (c) Number of terminated services and reason(s) for termination;
- (d) Status of construction, repairs, operation and maintenance of all systems and services;
- (e) Financial status of the Commission including the number and title of the employees;
- (f) Status of any contracts and agreements; and
- (g) Any such other information as the Utilities Commission or Tribal Council shall deem pertinent.

34.10.7 Complaints. All complaints regarding decisions made by the Utilities Department or Commission shall be filed in writing with the Utilities Department requesting a full review by the Utilities Commission.

34.11 **SECTION 11: Fees**

Fees shall be established by the Utilities Commission from time to time and are set forth in Appendix B.

34.12 **SECTION 12: Water & Sewer Use Charge System and Water & Sewer Rates**

34.12.1 It shall be the policy of the Red Cliff Utilities Commission to obtain sufficient revenues to pay the cost of (1) the annual debt retirement payment on any bonded indebtedness, (2) any required cash reserve account payment, and (3) operation and maintenance of the sewage works, including a replacement fund (i.e., a cash account to be used for future expenditures for obtaining or installing equipment, accessories or appurtenances which are necessary to maintain the capacity and performance of the sewage works during the service life for which such works were designed and constructed), through a system of user charges as defined in this section. The system shall assure that each user of the sewage works pays a proportionate share of the cost of such works.

- 34.12.2 All **water and** sewer users shall be classified by the utility as (1) residential/commercial (domestic strength); or (2) industrial customers.
- 34.12.3 User charges shall consist of (1) a minimum monthly billing, on the basis of user charge factors; and (2) a unit price per volume of water utilized.
- 34.12.4 The minimum quarterly billing shall be sufficient to pay the annual debt retirement and loan reserve account costs. The unit price per volume shall be sufficient to pay the annual cost of operation and maintenance, including any replacement fund, of the sewage works. Users will be notified annually of the portion of user charges or ad valorem taxes attributable to waste water treatment services. Water meter readings shall be used to determine the actual water volume used. All monthly ~~sewer~~ bills will be based on actual water used. If a portion of the water furnished to any customer is not discharged into the sewer system, the quantity of such water will be deducted in computing the charge for sewer service, provided a meter has been installed to measure such water. The customer must at his/her own expense make necessary changes in the water piping and install couplings so that a meter can be set. A charge for the actual cost of providing a meter shall be paid by the customer. Where it is not possible to obtain a water meter reading, or in cases where no water meter exists, the customer shall be assigned an average water volume by the Tribe, based on previous meter readings and this shall be so stated on the bill. The difference shall be adjusted when the meter is again read.
- 34.12.5 The Utilities Commission shall adopt standard rates for utility service charges and revise said rates when they deem necessary. The methodology of determining the user charges is given in Appendix A. The Utility shall provide the initial estimates of water volumes, number of meters, costs, etc., to calculate the first year's user charges. The user charges and this ordinance shall be reviewed not less than bi- annually. Such review shall be performed by the Red Cliff Utilities Commission. User charges shall be adjusted, as required, to reflect actual volumes of water used and actual costs.
- 34.12.6 There shall be charged to each user of the **water and** sewer system a **sewer utility** charge as follows:
- A minimum charge based on the size of water meter in service as per the following schedule: (App. A)
- 34.12.7 All charges for **water usage and** sewerage service shall be made monthly and shall be payable on the **first tenth** day of every month. ~~A three percent (3%) penalty will be added to those bills not paid on or before the 20th day after the due date of the bill with a ten dollar (\$10) minimum penalty charge.~~ **25th of the month will be subject to a ten dollar (\$10) penalty charge.** A failure to receive a bill shall not excuse non-payment. Sewerage service charges shall be a lien on the property served in accordance with Section 66.076(7) of the Wisconsin Statutes.
- 34.12.8 Excess revenues collected from a user class will be applied to operation, maintenance, and replacement costs attributable to that class for the next year.
- 34.12.9 The User Charge System takes precedence over pre- existing agreements inconsistent with the governing regulations of the Wisconsin Fund Grant Program.
- 34.13 **SECTION 13: Payment of Bills, Fees & Penalties**

34.13.1 Reasonable care will be exercised in the proper delivery of utility bills. Failure to receive a utility bill, however, shall not relieve any person of the responsibility for payment of rates within the prescribed period, nor exempt any person from any penalty imposed for delinquency in the payment thereof.

34.13.2 Billing. The property owner ~~or occupant~~ shall be held responsible for all utility bills on premises that s/he owns ~~or occupies~~. All utility bills and notices of any nature relative to the utility services will be delivered to the premises referred to on such bill or notice between the first and fifteenth of each month. Such bill shall be due and payable to the Utilities Department before the end of the month in which the bill is rendered.

34.13.3 Default on Utility Bill. If a customer defaults on payment for utility services or fails to make payment of an assessed fee, the Utilities Department may:

- (a) Impose a delinquency charge;
- (b) Terminate utility service, provided proper notice is given to the customer; and
- (c) Take any other action deemed necessary to collect such payments.

34.14 **SECTION 14: Discontinuance of Services**

34.14.1 When utility services have been discontinued due to default, the Utilities Department may restore said utility services at their discretion. Fees for any such reconnections shall be established by the Utilities Commission.

34.14.2 Whenever premises served by the Utilities Department are to be vacated, or whenever any person desires to discontinue utility services, the Utilities Department must be notified in writing. The owner of the premises shall be liable for any damages to the property or such damage occurring to the property of the system other than through the fault of the system or its employees, representatives, or agents, specifically including but not limited to any damages caused by reason of failure to notify the Utilities Department of the discontinuation of utility service(s).

34.15 **SECTION 15: Miscellaneous Provisions**

34.15.1 Liability for Minors. Parents are as responsible for the acts of their minor children as if the parents committed the acts themselves.

34.15.2 Charges are a Lien on Property. All **water and** sewer services, charges, and special assessments shall be a lien on a lot, a part of a lot, or land on which **water and** sewer services were supplied. All sums which have accrued during the preceding year and which are unpaid by the first day of October and any year, may be certified to the Clerk to be placed on the tax roll for collection as provided by Wisconsin Statutes.

34.15.3 Severability. If any section, subsection, sentence, clause or phrase of this Ordinance is, for any reason, held to be invalid such decision shall not affect the validity of the remaining portions of the Ordinance. The Red Cliff Utilities Commission hereby declares that it would have passed this Ordinance and section, subsection, clause, and phrase

thereof, irrespective of the fact that any one or more sections, subsections, clauses, and phrases is declared unconstitutional.

- 34.15.4 Savings Provision. If any section, provision, or portion of this Ordinance is adjusted unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Ordinance shall not be affected thereby.
- 34.15.5 This Ordinance shall not be construed as assuming any liability on the part of the tribe, or any officer or employee thereof, for any problems or damages, which may occur as a result of reliance upon and conformance with this Ordinance.
- 34.15.6 In their interpretation and application, the provisions of this Ordinance shall be held to be minimum requirements and shall be liberally construed in favor of the tribe and shall not be deemed a limitation or repeal of any power granted by the Tribal Council.
- 34.15.7 No Waiver of Sovereign Immunity. The Tribe, by adoption of this Ordinance, does not waive its sovereign immunity in any respect.
- 34.15.8 No Liability for Utilities Department or Commission. It is expressly stipulated that no claim shall be made against the Tribal Council, Utilities Commission or Utilities Department by reason of breaking, clogging, stoppage or freezing of any service pipe, nor from any damage arising from repairing mains, making connection or extensions or any other work that may be deemed necessary to maintain the public water and sewer systems.
- 34.15.9 Damage To Utilities Department Equipment. Tampering with or damaging Utilities Department equipment, including but not limited to installed meters, is unlawful and shall be punished by a minimum fine of **two hundred fifty (\$250)** per incidence or occurrence, in addition to any restitution required to remedy any damage.

34.16 **SECTION 16: Penalties**

Any person, firm, corporation, or other association of individuals who violates any of the provisions of this Chapter or the rules or regulations of the Red Cliff Utilities Commission of the Red Cliff Tribe; or who shall connect a service pipe without first having obtained a permit; or who shall violate any provisions of the Wisconsin Statutes, Wisconsin Administrative Code, or any other materials relative to the public **water and** sewer system and which are incorporated by reference herein shall be subject to the following penalties, which may be assessed singly or in combination:

- 34.16.1 (a) A person who violates any provisions of this Chapter shall forfeit not less than **fifty dollars (\$50.00)** and not more than **five thousand dollars (\$5,000)** plus the costs of any compliance required to rectify the violation. Each day of violation shall constitute a separate offense;
- 34.16.2 (b) A person who repeatedly violates **any provision** of this Chapter may be requested to post a bond of at least **one hundred dollars (\$100.00)** against future violations;
- 34.16.3 (c) Any or all reservation utility services provided by the Tribe, including water, sewer or sanitary landfill, may be terminated. In addition, reservation utility

services may be terminated for failure to pay any fine, forfeiture or restitution assessed for any violation;

- 34.16.4 (d) A person who violates any provision of this Chapter may be required to do community service work; and
- 34.16.5 (e) Restrictive conditions may be placed on future utility service.
- 34.16.61 Users shall also be liable for the costs of prosecution in addition to any restitution. This, however, shall not bar the Red Cliff Utilities Department from enforcing the connection duties set out in Section 34.6 for mandatory hook-up.
- 34.16.82 In addition to any other penalty provided by this Chapter or other law, the Red Cliff Utilities Commission shall have the right of recovery from any responsible persons of any expense incurred by the Tribe for penalties imposed on the Tribe due to a violation of this Ordinance or other law, correction of conditions impairing the proper operation of the **water and** sewer system and the repair or replacement of any **water or** sewer pipe or other property of the ~~sewer-utility~~ system damaged in any manner by any negligent or intended act or omission by such person or by others under their control.

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 **Monday January 8th, 2018** AT THE REGULAR MEETING OF THE RED CLIFF TRIBAL COUNCIL. IF THE COUNCIL ENACTS THIS CODE CHANGE, THE CODE CHANGE SHALL BECOME EFFECTIVE **upon enactment**.

DATED: **November 30, 2017**