

## **CHAPTER 25 – UTILITIES**

### **25.1            SECTION 1:            PURPOSE**

25.1.1            This ordinance is designed to promote the public health, safety, convenience and general welfare of the people of the Red Cliff Band of Lake Superior Chippewa Indians; 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 industry in future growth; to protect the beauty and amenities of the environment and man-made developments; to provide health surroundings for family life.

### **25.2            SECTION 2:            DEFINITIONS**

25.2.1            “Tribal Governing Board” means the Red Cliff Band of Lake Superior Chippewa Tribal Council.

25.2.2            “Utilities Commission” means the Board of Directors of the Red Cliff Tribal Utilities Commission.

25.2.3            “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.

25.2.4            “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.

25.2.5            “Complaint” means an individual’s grievance regarding a decision made by the Utilities Commission/Utilities Department.

25.2.6            “Request” means an individual requesting service such as repairs or connections.

25.2.7            “User” means the owner or occupant of the premises utilizing the services.

25.2.8            “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.

- 25.2.9 “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.
- 25.2.10 “Landfill User” means persons or entities who directly or attempt to dispose of solid wastes at the Tribal sanitary Landfill.
- 25.2.11 “Hazardous Waste” means waste as defined in sec. Nr 181 of the Wisconsin Administrative Code.

**25.3 SECTION 3: GENERAL**

- 25.3.1 Jurisdiction. The jurisdiction of this ordinance shall include:
- (a) The rural areas of the Red Cliff Reservation,
  - (b) The territories included within the boundaries of the Red Cliff Reservation, and
  - (c) Those areas adjacent to and contiguous with the Reservation.
- 25.3.2 Organization. The management, operation, and control of the utility services for the Red Cliff Reservation are vested in the Red Cliff Utilities Department, under the direction of the Red Cliff Utilities Commission of the Red Cliff Reservation.
- 25.3.3 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.
- 25.3.4 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.
- 25.3.5 Removal. Member(s) of the Board of Directors may be removed from office for cause.

**25.4 SECTION 4: USER RULES AND REGULATIONS**

- 25.4.1 The rules and regulations of the Utilities Commission or the Red Cliff Reservation hereinafter set forth shall apply to every person, company or corporation who is utilizing the Red Cliff utility services.

- 25.4.2 Application for Services. 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.
- 25.4.3 If the applicant is not the owner of the premises, the written consent of the owner must accompany the application.
- 25.4.4 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 user of timely payment, or when the user moves for the premises, whichever is first.
- 25.4.5 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.
- 25.4.6 No user shall allow others to connect to the water system through his lateral or allow others to utilize his refuse collection utility.
- 25.4.7 Every user shall allow permit the Utilities Department, 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.

**25.5 SECTION 5: UTILITY RESPONSIBILITY**

It is expressly stipulated that no claim shall be made against the Tribal Governing Board, 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. The Tribal Council/Utilities Department reserves the right to cut off any service at any time for the purpose of repairs or any other necessary purpose, any 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.

**25.6 SECTION 6: UTILITY SERVICE RATES**

- 25.6.1 The Utilities Commission shall adopt standard rates for utility service charges and revise said rates when they deem necessary.

**25.7**                    **SECTION 7:                    MAINTENANCE OF SERVICE**

All water and sewer services within the jurisdiction of this Ordinance up to the users premises will be maintained by the Utilities Department without expenses to the property owner, except when they are 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 services from and throughout the users premises must be maintained free of defective conditions, by and at the expense of the owner or occupant of the property.

**25.8**                    **SECTION 8:                    PAYMENT OF BILLS**

25.8.1                  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.

25.8.2                  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.

25.8.3                  Default on Utility Bill. If a customer defaults on payment for utility services, 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.

25.8.4                  Discontinuation of Services. When utility services have been discontinued due to default, the Utilities Department may restore said utility services at their discretion. Rates for any such reconnections shall be established by the Utilities Department.

**25.9**                    **SECTION 9:                    CUSTOMER COMPLAINTS OR REQUESTS**

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

25.9.2 All requests for repairs or connections shall be made directly to the Utilities Department.

**25.10 SECTION 10: MISCELLANEOUS RULES AND REGULATIONS**

25.10.1 Vacating of Premises and Discontinuance of Services. 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 or occupant of the premises shall be liable for any damages to the utility(ies) by reason of failure to notify the Utilities Department of the discontinuation of utility service(s).

25.10.2 Property Rights. The private property of each user shall not be subject to utility debts in any amount or to any extent whatever.

25.10.3 Annual report. The Utilities Commission shall submit a detailed annual report, signed and presented by the Chairman of the Commission to the Tribal Governing Board disclosing:

- (a) Number of services provided, by name and class of service,
- (b) Number of new services, by name and class of service,
- (c) Number of terminated services by class of service and reason 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,
- (g) Any such other information as the Utilities Commission or Tribal Governing Board shall deem pertinent.

**25.11 SECTION 11: USER FEES**

25.11.1 The Utilities Commission may establish a schedule of user fees, which shall not become effective without the approval of the Tribal Council.

**25.12**            **SECTION 12:            PROHIBITED ACTIVITIES**

It shall be unlawful and a violation of this ordinance to do any of the following, unless prior written permission is obtained from the Tribal Chairman and/or Red Cliff Conservation Department.

- 25.12.1            Dump, or cause to be dumped, or attempt to dump solid waste material on any road, highway, public grounds, watercourse, or private property, or in any place except the designated Tribal Landfill.
- 25.12.2            Deposit solid waste at the tribal landfill other than during those hours of operation when the landfill is open to the public.
- 25.12.3            Deposit solid waste on any portion of the tribal landfill other than at locations within fenced or designated boundaries of the landfill, or
- 25.12.4            Place any hazardous wastes at the tribal landfill.

**25.13**            **SECTION 13:            BURDEN OF PROOF**

- 25.13.1            If the Utilities Commission or Conservation Department presents evidence that solid waste deposited in violation of Chapter 25 contains material identifying the defendants as the owner, the burden of proof shall shift to the defendants to prove that they did not deposit the waste or cause it to be deposited in violation of law.

**25.14**            **SECTION 14:            LIABILITY FOR MINORS**

- 25.14.1            Parents are as responsible for the acts of their minor children as if the parents committed the acts themselves.

**25.15**            **SECTION 15:            PENALTIES**

The following penalties may be assessed singly or in combination:

- 25.15.1            A person who violates any provisions of this Chapter 25 shall forfeit not less than \$25.00.
- 25.15.2            A person who repeatedly violates of this Chapter may be requested to post a bond of at least \$50.00 against future violations.
- 25.15.3            Any or all reservation utility services provided by the Tribe, including water, sewer or sanitary landfill, may be terminated for a violation of any provision of Chapter 25, or for failure to pay any forfeiture assessed for any violation.

- 25.15.4 A person who violates any provision of this Chapter may be required to do community service work, and
- 25.15.5 Restrictive conditions may be placed on future utility service.