

**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 discharge of any waste, 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.
- 12.1.3 "ENVIRONMENTAL CHANGE" shall refer to any excavating, grading, dock building, dredging, stream diversion, marsh draining, or similar activity, that can potentially alter the environment.
- 12.1.4 "LAND USE CHANGE" shall mean any construction or other change in the use of land, which may potentially affect traffic patterns, population density, or otherwise impact on the adjoining physical or social environment. This shall include, but is not limited to, the operation of a business, operation of a trailer park, subdivision of land, and construction of apartments or condominiums.
- 12.1.5 "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.

**12.1.6** "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.

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

**12.1.8** "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 feet of the Reservation shoreline; or
- d) 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)

**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 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**      Upon application to the Law Enforcement Office, a party must receive a permit to perform or cause or permit to be performed, a "dangerous environmental activity" in a designated place. The fee for such a permit shall be \$25.00.

**12.3.3**      Commercial applicers of poisons or pesticides to be used indoors must apply to the Law Enforcement Office for a commercial permit. The fee for such a permit shall be \$15.00.

**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, 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).

**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**      Upon application to the Law Enforcement Office a party may receive a permit to cause a designated environmental change. The fee for such a permit shall be \$25.00.

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.)

12.5 **SECTION 5: LAND USE CHANGE**

12.5.1 Except as otherwise provided in this section, no person shall cause a land use change within the exterior boundaries of the Reservation.

12.5.2 Upon application to the Law Enforcement Office, a party may receive a permit to cause a designated land use change.

12.5.3 The fee for a permit for a Land Use Change shall be \$10.00.

12.5.4 Anyone who violates 12.5 shall forfeit not more than \$5000.00 (\$50.00 deposit permitted).

12.6 **SECTION: 6 PERMIT CRITERIA**

12.6.1 The Conservation Commission shall grant no permit 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 Conservation Commission grant permission for the dumping of pollutant substances or the outdoor use of poisons, or pesticides within 300 feet of a shoreline or bank of a stream.

12.6.2 Upon any violation of the foregoing provisions of section 6, 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.

12.7 **SECTION 7: MALICIOUS WASTE**

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

12.7.2 Anyone who violates sec. 12.7 shall forfeit no

more than \$5000.00 (\$50.00 deposit permitted).

**12.8      SECTION 8:    NUCLEAR FREE ZONE**

**12.8.1**      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.

**12.8.2**      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.

**12.8.3**      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.

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

**12.8.5**      The Red Cliff Tribe shall post and maintain appropriate signs at recognized entrances to the Red Cliff Reservation and at the tribal administration building proclaiming Red Cliff's status as a nuclear free zone.

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

**12.8.7**      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.

**12.9            SECTION 9: ILLEGAL BURNING**

**12.9.1**        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)**

**12.9.2**        Anyone who violates section 12.9.1 shall be subject to forfeiture not to exceed \$5,000.00. **(08-22-06)**