

CHAPTER 4 – ENVIRONMENT AND RESOURCE MANAGEMENT

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CHAPTER 4
ENVIRONMENT AND RESOURCE MANAGEMENT

4.1 NATURAL RESOURCE ADMINISTRATIVE PROCEDURE ORDINANCE

4.1.1 General Provisions.

- A. Title. This Ordinance shall be known as the Sokaogon Chippewa Natural Resource Administrative Procedure Ordinance.
- B. Purpose. This Ordinance outlines the procedure for granting or denying permits affecting Tribal natural and cultural resources for on-Reservation activity and for granting or denying Section 401 Certification or objectives pursuant to 33 U.S.C. § 1341. It is enacted for the purpose of protecting the health, safety and welfare of Sokaogon Chippewa Tribal members and preserving the economic security, as well as the spiritual and political integrity of the Sokaogon Chippewa Community.
- C. Authority. This Ordinance is passed under the authority vested in the Tribal Council by Article V11, Section (g) of the Sokaogon Chippewa Constitution; relevant sections of the Clean Water Act (33 U.S.C. § 1251, et. seq.), pertinent federal regulations, and under the Tribe's inherent authority to protect its natural and cultural resources for the benefit of its people.

4.1.2 Definitions.

- A. "Board" means the Sokaogon Chippewa Natural Resources Board.
- B. "Board Chairperson" means the Chairperson of the Sokaogon Chippewa Natural Resources Board.
- C. "Cultural Resources" means any object, place, ecosystem, gravesite or dwelling, which has spiritual, religious, historic or cultural value to the Sokaogon Chippewa Community.
- D. "Natural Resources" means any soil, mineral, plant animal, fish, organism or ecosystem that lies within or upon "Tribal Waters" or "Tribal Lands."
- F. "Sokaogon Water Quality Standards" means the Water Quality Standards adopted by the Tribal Council and approved by the United States Environmental Protection Agency pursuant to the Clean Water Act.
- F. "Tribal Chairperson" means the Chairperson of the Tribal Council.
- G. "Tribal Council" means the governing body of the Sokaogon Band of Lake Superior Chippewa Tribe.
- H. "Tribal Lands" consist of all lands within the limits of the Sokaogon Chippewa Community Reservation, all lands owned by the Tribe and all lands held in trust by the

United States for the benefit of the Tribe over which the Tribe exercises or has authority to exercise governmental power.

- I. "Tribal Waters" include all lakes, bays, rivers, streams, springs, ponds, wells, reservoirs, wetlands, watercourses, drainage systems, aquifers and other surface or ground water resources located in whole or in part or bordering the Reservation and trust lands of the Tribe or located in the ceded territory that will flow into or otherwise impact Reservation waters.
- J. "Reservation Waters" mean all surface water, ground water or wetlands located within the exterior boundaries of the Reservation including trust lands.

4.1.3 Scope, Objectives, and Policy. This Ordinance shall authorize the Board to take the following actions for the purpose of preserving and enhancing Sokaogon Chippewa cultural and natural resources:

- A. To issue and modify Tribal permits pertaining to Sokaogon natural and cultural resources under Tribal law.
- B. To coordinate and participate with the United States Environmental Protection Agency and the United States Army Corps of Engineers and all other federal agencies as required by federal law concerning the issuance of Section 402 (NPDES) permits, Section 404 (Dredge and Fill) and other permits on the Reservation issued under the authority of the Clean Water Act.
- C. To make factual findings and provide notice under Section 401(a)(1) of the Clean Water Act concerning whether a discharge to waters of the Reservation will comply with the Sokaogon Water Quality Standards.
- D. To make factual findings, provide notice, and where appropriate, objections under Section 401 (a)(2) of the Clean Water Act concerning whether an upstream discharge from another state or tribe will comply with the Sokaogon Water Quality Standards.
- E. To issue appropriate rules and regulations pertaining to cultural and natural resources consistent with the Sokaogon Chippewa Constitution and ordinances.
- F. To develop public informational materials such as citizen guides or handbooks.
- G. To develop strategies, policies, plans and standards for the protection and enhancement of Sokaogon cultural and natural resources.

4.1.4 Policy and Objectives. The Board shall maximize public participation in the course of its permit, certification, policy or rule making decisions by taking the following actions:

- A. To assure that decisions or recommendations made pertaining to authority exercised under the Clean Water Act is consistent with federal law and recognizes the respective authority and roles of pertinent state and federal agencies, private interests and the public.

- B. To provide all interested parties or applicants for a Tribal permit, federal permit or 401 certification adequate notice and a fair opportunity to be heard by the Board before a permit or certification decision or recommendation is made.
- C. To send reasonable notice of all hearings and meetings on permits, certifications, rule making or policy decisions to interested parties by first class mail and publication in the Forest County newspaper, posting or other means adequate to provide notice.
- D. To provide to the public at nominal cost or no charge copies of information sheets, memoranda, draft rules or other documents relevant to a particular decision unless confidentiality is required to protect proprietary or sensitive cultural information.
- E. To foster a spirit of openness and mutual trust between the Tribal government, federal, state and local governments, and the public.

4.1.5 Procedure.

- A. Appointment and Removal of Board Members. Board members shall be appointed by the Tribal Council from qualified Sokaogon Tribal members for the following terms:
 - (1) Board Chairperson: Three (3) years.
 - (2) Board members: Two (2) years.
- B. The Chairperson or Board members may be removed by the Tribal Council after reasonable notice and hearing for failure to carry out their duties of office or disqualification.

4.1.6 Application Fees. There shall be no charge for applications for 401 certification or permits for on-reservation activities unless the Environmental Department is required to hire outside experts to assess the potential impacts of the proposed activities on Tribal natural or cultural resources. In such cases, the applicant shall be required to pay the actual cost of the environmental review process.

4.1.7 Water Quality Certifications or Objections. This Ordinance shall authorize the Board to certify compliance with, or make other determinations or notifications respecting violation of Sokaogon Water Quality Standards when required by tribal, state or federal law.

4.1.8 Procedure: Section 401(a)(1).

- A. After issuing notice and holding a public hearing as described in S.C.C.C. § 8.3.6, the Board is authorized to make factual findings and to issue Water Quality Certification reviews, pursuant to Section 401 (a)(1) of the Clean Water Act to assess potential impacts of federally regulated permits or licenses resulting in discharges within the Reservation on Sokaogon Water Quality Standards. Board review is triggered by the following permits or activities:

- (1) Dredge & Fill Permits: Section 404 of the CWA, including Nationwide Permits, General Permits, Letters of Permission, and Individual Permits; and
- (2) Discharge Permits: Section 402 of the CWA, including permits for discharges from point sources (NPDFS) and permits for industrial activity and construction activities disturbing greater than one (1) acre.

B. The Board shall evaluate requests for water quality certification according to the following procedure:

- (1) Federal Permits: Applicants for federal licenses or permits for on Reservation activities shall obtain water quality certification from the Board. The U. S. Army Corps of Engineers, the U. S. Environmental Protection Agency, and other federal or state agencies with jurisdiction in the matter shall direct said applicants to submit application materials to the Board and to otherwise comply with the applicable terms of this ordinance.
- (2) Certification Request: Applicants shall request water quality certification from the Tribe by sending a written application to the Sokaogon Chippewa Natural Resources Board, to the Tribal Chairperson, and the Sokaogon Environmental Director at the following address: 3051 Sand Lake Road, Crandon, WI 54520.

C. Application Contents: The application shall include the following:

- (1) The name and address of the applicant;
- (2) A description of the activity, and the potential discharge into or draw down of ground or surface waters including, but not limited to, the construction or operation of a facility, dredge and fill activities, pumping of ground or surface waters, the biological, chemical, thermal, quantity and concentration of the discharge, the locations at which such discharge may enter surface or ground waters and all other potential impacts from the project;
- (3) A description of the function and operation of equipment or facilities to treat wastes or other effluents that may be discharged, including specification of the degree of treatment expected to be attained;
- (4) The dates when the activity will begin and end and when the discharge or draw down will take place;
- (5) A description of the methods and means being used or proposed to monitor the quality and quantity of the discharges or draw-downs and the operation of equipment or facilities employed in the treatment or control of wastes or other effluents; and
- (6) A proposed mitigation plan for potential impacts.

- D. Technical Review: Upon receipt of the application, the Environmental Director shall conduct a technical review of the request for water quality certification, which shall include the following steps:
- (1) Completeness determination. The Environmental Department staff shall evaluate the completeness of all applications for water quality certification. If the application is not complete, a request for additional information will be sent to the applicant within thirty (30) days of receipt of the application.
 - (2) Water quality impacts determination. After a completeness determination has been made, Department staff shall conduct a water quality impact review to analyze whether the proposed facility or activity will violate Sokaogon Water Quality Standards or any applicable federal standards.
 - (3) Director's recommendation. After considering the application and supporting materials and such other information and data as the Environmental Department staff deems relevant, the Department Director will evaluate whether there is a reasonable probability that the proposed activity will violate Sokaogon Water Quality Standards or any applicable federal standards and recommend that the Board adopt one of the following preliminary determinations:
 - (a) Grant certification unconditionally;
 - (b) Issue certification with conditions;
 - (c) Deny certification; or
 - (d) Waive certification.
- E. Notice and Hearing: Within thirty (30) days of the Director's recommendation, the Board will provide public notice of the application for certification and the Environmental Director's recommendations and schedule a hearing as provided for in S.C.C.C. § 8.3.6.
- F. Certification. If, after considering the evidence provided at the hearing and the entire record, the Board determines by a preponderance of the evidence that the proposed activity will violate Sokaogon Water Quality Standards or any applicable federal standards, the Board shall not grant certification unless there is a reasonable certainty that compliance can be achieved by the applicant's adherence to reasonable conditions - If the Board finds insufficient evidence to show that the proposed activity will violate Sokaogon Water Quality Standards or any applicable federal standards, it shall grant the certification.
- G. Time For Decision: Board decisions on certification shall be made within one-hundred and eighty (180) days of receipt of the application.
- H. Appeals: Appeals related to water quality certification decisions shall be heard by the Sokaogon Chippewa Tribal Court if filed within thirty (30) days of a written decision.

Appellate procedure shall follow S.C.C.C. § 1.2.3 to the extent it is not inconsistent with the terms of this ordinance. Appeal shall be on the record and the Board's decision will not be overturned unless it is arbitrary, capricious, or contrary to law.

4.1.9 Procedure For Notifications and Objections Regarding Off-Reservation Discharges: Section 401(a)(2).

- A. After issuing notice and holding a public hearing as described in S.C.C.C. § 8.3.6, the Board is authorized to make factual findings and provide notifications or objections regarding federally regulated permits or licenses resulting in off-Reservation discharges or activities which may affect the waters of the Reservation in a manner that will violate Sokaogon Water Quality Standards, as provided for under Section 401(a)(2) of the Clean Water Act. The following permits or activities trigger board review whether regulated by federal or state agencies:
 - (1) Dredge & Fill Permits: Section 404 of the CWA including Nationwide Permits, General Permits, Letters of Permission, and Individual Permits;
 - (2) Discharge Permits: Section 402 of the CWA, including permits for discharges from point sources (NPDES) and permits for industrial activity and construction activities disturbing greater than one (1) acre; and
 - (3) Any other upstream activities that result in a discharge that could violate Sokaogon Water Quality Standards.
- B. The U.S. Environmental Protection Agency is responsible for notifying the Tribe if a permit is requested or required for an upstream activity or discharge, which may affect the quality of the waters of the Reservation.
- C. Upon receipt of notification that such a permit is requested or that an upstream activity is imminent, the Board shall review the permit request or activity in order to determine whether the proposed activity or potential discharge would adversely affect the quality of the waters of the Reservation or violate Sokaogon Water Quality Standards. The Board shall conduct its review according to the following procedure:
 - (1) Completeness determination. The Environmental Department staff shall evaluate the completeness of information available regarding the off-Reservation discharge. At a minimum the following information will be needed to evaluate the proposed off -Reservation discharge:
 - (a) The name and address of the applicant for the permit;
 - (b) A description of the activity, and the potential discharge into or draw-down of ground or surface waters that may result from upstream activity including, but not limited to, the construction or operation of a facility, dredge and fill activities, pumping of ground or surface waters, the biological, chemical, thermal, quantity and concentration of the discharge,

the locations at which such discharge may enter surface or ground waters, and all other potential impacts from the project;

- (c) A description of the function and operation of equipment or facilities to treat wastes or other effluents that may be discharged, including specification of the degree of treatment expected to be attained;
- (d) The dates when the activity will begin and end and when the discharge or draw-down will take place;
- (e) A description of the methods and means being used or proposed to monitor the quality and quantity of the discharges or draw-downs and the operation of equipment or facilities employed in the treatment or control of wastes or other effluents; and
- (f) A proposed mitigation plan for potential impacts.

- (2) If any of the above noted information has not been provided, the Tribe shall request the needed information from the EPA, the federal agency regulating the activity or the State. The completeness review shall be completed within fifteen (15) calendar days of receipt of notification of proposed off-Reservation discharge.

D. Water quality impacts review. Within fifteen (15) calendar days after a completeness determination has been made, the Department staff shall conduct a water quality impacts review to analyze whether the proposed off-Reservation discharge will result in a violation of Sokaogon Water Quality Standards.

E. Director's recommendation. After considering the application and supporting materials and such other information and data as the Environmental Department staff deems relevant, the Department Director will evaluate whether there is a reasonable probability that the proposed off-Reservation activity or discharge will violate Sokaogon Water Quality Standards and recommend that the Board take one of the following actions within thirty (30) days of the receipt of notification;

- (1) Take no action signifying no objection to the upstream permit or activity; or
- (2) Send a written objection to the EPA, all other involved federal agencies, and the State, regarding the activity or the issuance of the permit for the proposed off-Reservation discharge.

F. Notice and Hearing: Within fifteen (15) calendar days of the Director's recommendation, the Board will provide public notice of the proposed off-Reservation discharge or activity and the Environmental Director's recommendations and schedule a hearing as provided for in S.C.C.C. § 8.3.8.

G. Decision on the Merits. If after considering the evidence produced at the hearing and the entire record, the Board determines by a preponderance of evidence that the proposed off-

Reservation discharge would result in violations of Sokaogon Water Quality Standards for Reservation waters, the Board shall object to the issuance of the permit and request the lead federal agency and the EPA to schedule a public hearing. Objections shall be in writing and shall be sent to the EPA, the State and all other involved federal agencies.

- H. Time for Decision: Board determinations regarding whether a proposed off-Reservation discharge will affect waters within the Reservation in a manner that will violate Sokaogon Water Quality Standards shall be made within sixty (60) days of receipt of notification of the proposed off-Reservation discharge.
- I. Appeals: Appeals related to water quality certification decisions for off-Reservation activities shall be heard by the Sokaogon Chippewa Tribal Court if filed within three-hundred and thirty (330) days of a written decision. Appellate procedure shall follow S.C.C.C. § 1.2.3 to the extent it is not inconsistent with the terms of this ordinance. Appeal shall be on the record and the Board's decision will not be overturned unless it is arbitrary, capricious, or contrary to law.

4.1.10 Tribal, Cultural, and Natural Resource Permit Application Procedure.

- A. All persons, businesses, governments or entities, whether Tribal or non-Tribal, which intend to conduct any on-Reservation ground altering activity, including timber harvesting, or construction of buildings, wells, culverts, irrigation systems, landfills, driveways and septic systems, shall be required to apply for a Tribal permit as required under S.C.C.C. § 8.3.3(A)(3)(iii). Applications for all permits shall follow the procedures outlined in S.C.C.C. §§ 8.3.3(A) (3) and (4).
- B. After reviewing the permit application, the Environmental Director shall recommend granting the permit if satisfied that the activity would not adversely impact Sokaogon natural or cultural resources. The Environmental Director shall also recommend granting the permit if satisfied that compliance with reasonable conditions will avoid any potential impacts to these resources. If satisfied that granting the permit will adversely impact these resources the Environmental Director shall recommend denial of the permit.
- C. If dissatisfied with the recommendation of the Environmental Director, the applicant or any Tribal member may request the Natural Resources Board to schedule a public hearing as outlined in S.C.C.C. § 8.3.3(A)(6) within ten (10) days of receipt of the Director's recommendation. If no such request is made, the Director's recommendation shall become final.
- D. The Board shall hold a public hearing within thirty (30) days of the request. After giving all interested parties an opportunity to be heard on the application, the Board shall grant the permit if satisfied by a preponderance of the evidence offered at the hearing that the permitted activity will not adversely impact Sokaogon natural or cultural resources. If not so satisfied, the Board shall deny the permit unless it finds that adherence to reasonable conditions can avoid potential impacts to these resources.
- E. Appeals. Appeals related to Tribal cultural or natural resource decisions shall be heard by the Sokaogon Chippewa Tribal Court if filed within thirty (30) days of a written

decision. Appellate procedure shall be in accordance with the Sokaogon Chippewa Tribal Court Code. Appeal shall be on the record and the Board's decision will not be overturned on appeal unless it is arbitrary, capricious, or contrary to law.

4.1.11 Public Meetings. Public meetings provide an opportunity for the Board to meet informally with the public. The requirements of S.C.C. 8.3.6 § (B) and (C) are applicable to public meetings, except that the Board holding the meeting may reduce the notice to not less than three (3) days if there is good reason that longer notice cannot be provided.

4.1.12 Public Hearings.

- A. Applicability: Any public hearing shall meet the following minimum requirements to the extent practicable.
- B. Notice: A notice of a hearing shall be published in the local paper, and shall be mailed to interested and affected parties at least fifteen (15) days prior to the date of the hearing. The Board may reduce the hearing notice requirement when the Board determines that there is an imminent danger to public health. Available reports, documents and data relevant to a decision to be made at the public hearing shall be available to the public at least fifteen (15) days before the hearing.
- C. Locations and time: Hearings shall be held at times and places which maximize public participation and shall allow sufficient time for all interested parties to speak or present evidence.
- D. Conduct of hearing: The Board shall begin the hearing by informing the public of the issues to be decided and the criteria for a decision. The procedure for the hearing shall be as follows:
 - (1) Permit or certification hearings: In permit or certification hearings, the applicant for a permit or certification shall have the burden of proof by a preponderance of evidence. All parties to the proceeding shall be entitled to make an opening statement, to present witnesses under oath, to cross examine adverse witnesses, to submit evidence in the form of authenticated data and reports and to make a closing argument.
 - (2) Rule making hearings: At rule making hearings, the Board will solicit public comment and testimony without placing witnesses under oath or providing for cross-examination.
- E. Record: The Board shall prepare a transcript or recording of the public hearing and make it available at cost to interested parties. A copy of the record of the hearing including the application, exhibits and other submissions shall be available for public review.

4.1.13 Rule Making: The Board shall invite and consider written comments on proposed and interim regulations from any interested or affected persons and organizations. All such comments shall be part of the public record, and a copy of each comment shall be available for public inspection. Notices of proposed and interim rule making as well as

final rules and regulations, shall be distributed to interested or affected persons promptly after publication. In addition to providing opportunity for written comments on proposed and interim regulations, the Board may choose to hold a public hearing.

4.1.14 Enforcement.

- A. Enforcement of the terms of this Ordinance shall be the responsibility of the Director of the Sokaogon Chippewa Environmental Department, unless the Tribal Council designates any other person or entity.
- B. If, upon investigation, the Environmental Department Director determines that a violation of this Ordinance has occurred, or is likely to occur, the Director shall provide written Notice of the violation to the alleged violator. The Notice shall contain a description of the alleged violation as well as any corrective action that may be required.
- C. After issuing such a Notice and attempting to resolve the violation informally, the Tribal Environmental Department Director shall determine whether judicial action is needed to correct the violation. If the Director determines that judicial action is necessary, the Director, in cooperation with the Tribal Attorney, shall file a complaint seeking a remedy under this Ordinance in Tribal Court and serve a copy of the complaint on the alleged violator.
- D. Hearings on alleged violations shall be conducted in the Sokaogon Tribal Court in accordance with the Sokaogon Chippewa Community Tribal Court Code. Upon filing the complaint, the Tribal Court shall order written answer to the complaint within twenty (20) days of service and hold a hearing expeditiously unless an emergency requires the Court to act immediately.

4.1.15 Remedies. If, after a hearing on the complaint or the emergency petition, the Tribal Court finds that there has been a violation of this Ordinance, the Court may order the following remedies:

- A. Cease and Desist Order. A Cease and Desist Order shall describe the acts or practices that violate the Ordinance and the time by which the violations must be terminated.
- B. Clean-up Order. A Clean-up Order shall require the violator to clean up any material that could contaminate Tribal or Reservation waters or harm Cultural Resources and to take appropriate remedial actions.
- C. Restraining Order or Injunction. A Temporary Restraining Order, Preliminary Injunction or Permanent Injunction may be issued to prevent any further or continued violations at any time or in the event the violator fails to comply with a Cease and Desist Order.
- D. Civil Penalties. Any person or entity which violates the terms of this Ordinance shall be subject to a forfeiture, for each day the violation occurs, as follows:
 - (1) If the violation is committed with negligence or recklessly, the maximum forfeiture shall be \$250.00 per day.

(2) If the violation is committed knowingly or intentionally, the maximum forfeiture shall be \$500.00 per day.

- E. If two separate offenses under this Ordinance occur in two (2) separate episodes during a period of two (2) years, the maximum forfeiture for the second offense shall be double the amounts specified above.

4.2 SOKAOGON WATER QUALITY STANDARDS

4.2.1 Introduction, Purpose, Authority, Scope, Applicability, and Definitions.

- A. Title. This ordinance may be cited as the “Sokaogon Chippewa Community Water Quality Standards” (SCC WQS).
- B. Purpose. Water has always been an integral and sacred part of the Sokaogon people’s survival, identity and culture. Water is the life-supporting blood of Mother Earth that human beings share in common with all living things. The purpose of this ordinance is to protect the health and welfare of the Sokaogon people and the integrity of tribal aquatic natural and cultural resources by enacting policy, procedures, criteria and standards for Tribal Waters to maintain ambient water quality by prohibiting any permanent, detectable alteration or degradation of Tribal Waters.

4.2.2 To Accomplish its Ends, the SCC WQS:

- A. Identify Tribal Designated Uses and Existing Uses as well as narrative and numeric criteria to protect all Uses;
- B. Identify an anti-degradation policy and which classifies all Tribal Waters as Outstanding National Resource Water (ONRW);
- C. Prescribe methods and implementation procedures to maintain and protect the Tribal Designated and Existing Uses and ONRW classification;
- D. Preserve and protect all things within the aquatic ecosystem that support the cultural integrity, health, welfare, economic security, environmental quality, safety, treaty rights and inherent sovereignty of the SCC; and
- E. Ensure adequate water quality to support all elements of the aquatic community which includes plants, invertebrates, fish and wildlife, as well as water quality sufficient to support unrestricted recreation in and on the water, traditional tribal uses, unrestricted public consumption of surface and ground water and the organisms contained therein, and all other uses of the surface waters consistent with the physical, social and economic well-being of the Tribe and its members.

4.2.3 Enactment Authority.

- A. The SCC is a Federally recognized Tribe of Native Americans designated and organized as such pursuant to the Indian Reorganization Act (25 USC 476 et.seq.). The SCC enacts

this ordinance pursuant to its inherent authority along with the federal regulatory power under sections 303 and 518 of the Clean Water Act (33 USC 1251 et.seq. hereinafter the “Act”).

- B. Although the tribe has developed WQS more stringent than required by the Act, consistent with sections 101(g) and 518(a) of the Act, the SCC WQS shall not be construed to supersede or abrogate independent tribal rights to sufficient quantities and quality of water to support the flora, fauna and cultural traditions of the SCC.

4.2.4 Contents. The following elements are included in the Tribe’s Water Quality Standards:

- A. Designated Uses consistent with the Clean Water Act Amendments of 1987, and Existing Uses as defined in Section V.
- B. Narrative Water Quality Criteria, and procedures for choosing the most protective criterion between EPA’s recommendations or the Tribe’s ambient water quality value.
- C. Methodologies, policies and procedures consistent with the requirements at 40 CFR 132.4 to develop, if necessary, aquatic life, wildlife, and human health criteria, as well as bioaccumulation factors; and to ensure definitions are consistent with 40 CFR 132.2.
- D. Methods used to support the WQS revisions, including public participation requirements at 40 CFR 25.
- E. An Anti-degradation Policy and implementation procedures consistent with 40 CFR Parts 131 and 132.
- F. Certification by the Chief Justice of the Sokaogon Chippewa Tribal Court that the WQS were duly adopted pursuant to Tribal law.

4.2.5 Incorporation By Reference. The following authorities are here incorporated by reference.

- A. SCC Tribal Constitution and act of the Tribal Governing Body (Resolution 05-30A-94); SCC Natural Resource Administrative Procedure Ordinance (Ordinance 08-21A-02).
- B. Water Quality Standards Regulation at 40 CFR 131. Water Quality Guidance for the Great Lakes System 40 CFR 132.5 33 USC 1251 (et. seq.), with the specific exceptions noted at section 151.21 (b)(i) and (ii).

4.2.6 Scope. The SCCWQS shall apply to all waters upon, under, flowing through or bordering the Sokaogon Chippewa Community Indian Reservation and Trust Lands (Tribal Lands) at any and all points in the hydrologic cycle. The SCCWQS shall govern all human activities affecting Tribal Waters including, but not limited to: agriculture, aquaculture of fish, cranberries, shellfish and other organisms, construction, energy generation and distribution, industry, manufacturing, mining, navigation, silviculture, storm water management, transportation, wastewater treatment and disposal, plus domestic and commercial uses and discharges.

4.2.7 Review and Revision. Tribal review and revision of the WQS shall be conducted in accordance with 40 CFR Part 131.20, as follows:

- A. Tribal Review: The Tribe shall from time to time, but at least once every three (3) years, hold a public hearing for the purpose of reviewing applicable water quality standards policy, and for modifying and adopting standards as necessary.
- B. Public Participation: The Tribe shall hold a public hearing for the purpose of reviewing the WQS in accordance with the provisions of Tribal law, US Environmental Protection Agency's (EPA) water quality management regulation (40 CFR 130.6), and public participation regulation (40 CFR 25). The proposed water quality standards revision and supporting analyses shall be made available to the public prior to the hearing.
- C. Submittal to EPA: The Tribe shall submit the results of the review, any supporting analyses, the methodologies used for site-specific criteria development, any general policies applicable to the WQS, and any revisions of the standard (if revisions are made) to EPA within thirty (30) days of the completion of the review.

4.2.8 Definitions. As used in this ordinance, these words have the following meanings:

- A. "Alterations" - Any change in physical characteristics of Tribal Waters (ie. flow, water level, or temperature).
- B. "Ambient Conditions" - The measurable biological, chemical, and physical characteristics of Tribal Waters and their associated dependent animal communities.
- C. "Ambient Water Quality Values" - Statistically and scientifically defensible, quantifiable biological, chemical and physical properties gathered by the Sokaogon Chippewa Community and their consultants.
- D. "Anti-degradation Implementation" - Procedures allowing the Tribe to determine on a case-by-case basis whether water quality may temporarily be changed in order to benefit or improve conditions of Tribal Members (consistent with 40 CFR 132 Appendix E).
- E. "Anti-degradation Policy" - Policy designed to protect water quality and provide a method of assessing activities that may impact the integrity of Tribal Waters.
- F. "Aquatic Community" - A biological association consisting of all interacting populations of aquatic species, habitat and chemical conditions inhabiting a given area.
- G. "Aquatic Organisms" - Aquatic species.
- H. "Bacteria" - Escherichia coli (E. coli) and/ or its indicator Fecal Coliform.
- I. "Bioaccumulative" Contaminants of Concern (BCC's) - Any chemical that has the potential to cause adverse effects which, upon entering the surface waters, by itself or as its toxic transformation product, accumulates in aquatic organisms by a human health bioaccumulation factor of greater than 1000.

- J. “Clean Water Act” - The Federal Water Pollution Control Act (Public Law 92-500), as amended (33 U.S.C. § 1251 et. seq.).
- K. “Cultural Resources” - Any object, place, ecosystem, gravesite or dwelling, which has a spiritual, religious, historic or cultural value to the Sokaogon people.
- L. “Designated Uses” - Those uses specified in water quality standards for each water body or segment whether they are being attained or not.
- M. “Dissolved Solids” - Generally associated with freshwater systems, consisting of inorganic salts, small amounts of organic matter, and dissolved material.
- N. “Existing Uses” - Those uses actually attained in the water body on or after November 28, 1975, wither or not they are included in the water quality standards.
- O. “EPA” - United States Environmental Protection Agency.
- P. “Federal Register” - The official daily publication for Rules, Proposed Rules, and Notices of the US Federal agencies and organizations, as well as Executive Orders and other Presidential documents.
- Q. “Fish Consumption Rates” - Consumption rates (grams/day) used to determine the potential exposure of humans to toxic chemicals.
- R. “Indian Reorganization Act (1934)” - An act to conserve and develop Indian lands and resources, to extend to Indians the right to form business and other organizations, to establish a credit system for Indians, to grant certain rights of home rule to Indians, to provide for vocational education for Indians and for other purposes.
- S. “Microorganisms” - Any bacteria, virus, mold, protozoa or other biological pathogen of concern, which may be a threat to human health if ingested.
- T. “Natural Resources” - Any soil, mineral, plant, animal, fish, organism, ecosystem or element that lies within, under or upon Tribal Waters and Tribal Lands.
- U. “Narrative Water Quality Criteria” - Narrative elements of a tribe’s water quality standard describing conditions of Tribal Waters necessary to attain a particular use often referred to as “free froms”
- V. “Numeric Water Quality Criteria” - Numeric elements of a tribes water quality standards, expressed as constituent concentrations or levels representing a quality of water that supports a particular use.
- W. “Nutrients” - Phosphorous and Nitrogen: known to promote excessive or nuisance plant growth.
- X. “Outstanding National Resource Water (ONRW)” - Waters designated as such by the Tribe. Water bodies recognized as: important because of protection through an official

action; having exceptional ecological significance; having other special cultural, environmental or recreational attributes. SCC ONRW's are equal to 40 CFR 131 and 40 CFR 132 ONRW's.

- Y. "pH" - The negative logarithm of the effective hydrogen-ion concentration. Used to express acidity (values less than 7) and alkalinity (values greater than 7).
- Z. "Pollutant" - Any substance, chemical, chemical breakdown product, plus heat, the presence of which in the environment is the direct or indirect result of a human activity.
- AA. "Pollution" - The intentional, reckless, negligent or accidental release into the environment of a pollutant.
- BB. "Risk Level" - An estimated probability or frequency expected to occur for a specific health risk (i.e. cancer) due to the exposure to known concentrations of a material.
- CC. "Suspended Solids" - A descriptive of the organic and inorganic particulate matter in water.
- DD. "SCC Tribal Authorities" – The Sokaogon Chippewa Community Environmental Director and the Sokaogon Chippewa Community Natural Resources Board.
- EE. "SCC Tribal Chairperson" - The elected Chairperson of the Sokaogon Tribal Council.
- FF. "SCC Tribal Council" - The elected governing body of the Sokaogon Band of the Lake Superior Chippewa.
- GG. "Short-term, Temporary Change in Water Quality" - A change in water quality not to exceed several weeks or months and causing no long-term or permanent effects.
- HH. "Sokaogon Chippewa Community Water Quality Standards (SCC WQS)" – The Water Quality Standards adopted by the Tribal Council and approved by the United States Environmental Protection Agency pursuant to the Clean Water Act.
- II. "Tribal Waters" - All waters upon and under the Sokaogon Chippewa Community Tribal Lands at any and all points in the hydrologic cycle as provided by the Clean Water Act.
- JJ. "Tribal Lands" - All lands within the limits of the Sokaogon Chippewa Community Reservation, all lands owned by the SCC Tribe and all lands held in trust by the United States for the benefit of the Tribe over which the Tribe exercises or has authority to exercise governmental power as specified within the Clean Water Act and/or any other pertinent federal regulation.
- KK. "Toxic Pollutant" - Any pollutant that when present in sufficient quantities, either by itself or through interactions with other pollutants and/or naturally-occurring substances present in the environment, is or may become harmful to plant life, animal life, or any Tribal Designated Use.

- LL. “Toxicity” - The inherent potential or capacity of a material to cause adverse effects in a living organism.
- MM. “US EPA” - United States Environmental Protection Agency.
- NN. “Water Quality” - The chemical, biological, and physical integrity of a body of water.
- OO. “Water Quality Assessment” - An evaluation of the condition of a water body using biological surveys, chemical specific analyses of pollutants in water bodies, and toxicity tests.
- PP. “Water Quality Guidance for the Great Lakes System (GLI) 40 CFR 131” - Federal Policy governing the Water Quality Standards requirements for all States and Tribes within the Great Lakes Basin.
- QQ. “Water Quality Standards Criteria” - Definitions of the ecological condition necessary to fully support Tribal Designated Uses. Tribal Water Quality Standards Criteria establish a positive statement about the condition and health of the ecological conditions that occur within Tribal Waters.
- RR. “Wetlands” - Areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, hydrophytic vegetation typically adapted for life in saturated soil conditions, such as algae and cattails.
- SS. “Wild Rice (*Zizania palustris*)” - Cultural and natural resource of the Sokaogon people that has sustained their subsistence for over three-hundred (300) years. The Sokaogon Chippewa Community reservation was designated with a six-hundred (600) acre wild rice lake as its centerpiece.
- TT. “WQS Triennial Review” - Every three (3) years the SCC is required by the CWA and the SCC WQS to revise and update their water quality standards, including public participation and meeting all USEPA requirements.

4.2.9 Tribal Designated and Existing Uses.

- A. Purpose of Enumerating Tribal Designated Uses. Each of the Designated Uses listed below are applied to all Tribal Waters. Tribal Designated Uses consist of the uses of these waters by tribal members, and the native plant and animal communities that depend upon the purity of those waters to maintain current ecological functions. Tribal Designated Uses are intended to protect and sustain religious significance to members of the SCC so that they may continue to maintain the spiritual integrity of current and future generations and be free from any effects of human made pollution or alterations. The Tribal Designated Uses are also intended to assure that Tribal Waters that flow beyond Tribal Lands can physically, biologically and chemically support all lawful activities of humans, including but not limited to: recreation, fishing, navigation, industry, irrigation of crops, grasses and other cultivated plants and animals, cooling and heat storage as well as the downstream classification of the Wolf River as an ONRW.

B. Designated Uses. Tribal Designated Uses include:

- (1) Cultural: Use of All Tribal Waters for cultural, subsistence, spiritual, medicinal, ceremonial, and aesthetic purposes that include any element of the environment that is ecologically associated with Tribal Waters.
- (2) Recreation:
 - (a) Primary Contact Recreational: Use of All Tribal Waters for prolonged contact by humans, allowing the possibility of ingestion of water in quantities sufficient to pose a health hazard.
 - (b) Secondary Contact Recreational: Use of All Tribal Waters for activities which may, but need not involve minimal ingestion of water.
- (3) Public Water Supply: Use of All Tribal Waters, prior to treatment, as a public drinking water source or for food processing.
- (4) Commercial: Use of All Tribal Waters for commercial purposes.
- (5) Agricultural/Forestry: Use of All Tribal Waters in forestry and/or agricultural practices.
- (6) Navigation: All Tribal Waters shall be of sufficient quality for navigation to occur.
- (7) Aquatic life: Use of All Tribal Waters for any organism indigenous to the environment that is ecologically associated with Tribal Waters for the purpose of healthy existence, continued survival, ecological support and furthermore use of all Tribal Waters for physical, chemical and biological support they provide as habitat and life support to aquatic organisms including but not limited to fish and shellfish.
- (8) Wildlife: Use of all Tribal Waters for physical, chemical and biological support they provide as habitat and life support to wildlife organisms.
- (9) Existing Uses. Tribal Existing Uses contain all uses defined in S.C.C.C. 12.2.2.

4.3 WATER QUALITY STANDARDS CRITERIA.

4.3.1 Purposes and Applicability.

- A. Narrative and Numeric Water Quality Criteria are established herein to assure that all Designated and Existing Uses as well as the Outstanding National Resource Water classification of all SCC Tribal Waters are maintained and protected.

- B. Narrative Water Quality Criteria qualitatively detail prohibited conditions of surface waters and ground waters within the SCC reservation and trust lands, that when un-met constitute an enforceable Water Quality Standards violation.
- C. Numeric Water Quality Criteria may be applied to any parameter, pollutant, and Licenses, and any other toxicant or condition as necessary to protect the SCC Designated and Existing uses and the ONRW classification of all Tribal Waters. Numeric Water Quality Criteria will be used to implement the SCCWQS Anti-degradation Review process (S.C.C.C § 12-4), the Clean Water Act Section 401 Water Quality Certification Requirements for Federal Permits and Licenses, and any other environmental regulatory programs for which SCC retains authority.

4.3.2 Narrative Water Quality Criteria.

- A. All Tribal Waters shall be free from pollutants or alterations in quantities that, either alone or as a result of interaction with other pollutants, cause an S C C Designated Use or the ONRW classification to become more difficult to attain.
- B. The following conditions in Tribal Waters are prohibited:
 - (1) The presence of pollutants in quantities that result in unnatural color, oil films or slicks, boating solids, scum, foams, settled solids, suspended solids or deposits in Tribal Waters or on or within the beds of Tribal Waters;
 - (2) The presence of pollutants in quantities that result in objectionable taste or odor being imparted to either Tribal Waters or organisms living in it or drinking from it;
 - (3) The presence of pollutants in quantities that result in toxicity to aquatic organisms, wildlife, domestic animals or humans;
 - (4) The presence of pollutants in quantities that result in bioaccumulation in aquatic organisms leading to toxicity to consumers of the aquatic organisms;
 - (5) The presence of pollutants that act as nutrients to plants in quantities that result in the growth of nuisance algae and plants;
 - (6) The presence of bacteria and/or microorganisms at levels that may impair Tribal Water's Designated and Existing Uses, including but not limited to: potential drinking water, recreational, subsistence fishing and wild rice gathering, and cultural or ceremonial uses;
 - (7) Releases of pollutants or human-induced changes to Tribal Waters, the sediments of Tribal Waters or area hydrology that alter natural ambient conditions in Tribal Waters such as, without limitation, flow, stage, dissolved oxygen, pH and temperature. Natural daily fluctuations of flow, stage, dissolved oxygen, pH and temperature shall be maintained; and

- (8) Releases of pollutants or human-induced changes to Tribal Waters, the sediments of Tribal Waters or area hydrology that result in changes to species composition in Tribal Waters, on the Reservation or in the Ceded Territory. Naturally occurring assemblages of organisms in Tribal Waters shall be maintained.

4.3.3 Numeric Water Quality Criteria. When needed, on a case-by-case basis, Numeric Criteria may be required to implement the SCC Water Quality Standards. Tribal Authorities will choose the applicable value as indicated below.

A. For all pollutants in the Great Lakes Guidance (40 CFR 132) the applicable criterion will be the more protective value of either:

- (1) SCC Ambient Water Quality Values, as defined in Section V of this document and reported in “The SCC Clean Water Act 106 Grants Final Report” using statistically sound and scientifically defensible methods that are being developed by the SCC Environmental Department; or

- (2) US EPA Great Lakes Guidance Numeric Criteria (40 CFR 132.6, Tables 1-4).

B. For all pollutants listed in Table 5 of the US EPA Great Lakes Guidance (40 CFR 132) the applicable criterion will be the more protective value of either:

- (1) SCC Ambient Water Quality Values; or

- (2) Most recent US EPA published criteria recommendations as required by Clean Water Act 304(a), with the exceptions noted in Section C. [151.22] Site-Specific Numeric Criteria and Numeric Criteria Methods below.

C. With exceptions noted in Section C, [151,22], for all other pollutants where the Great Lakes Guidance methodology is not applicable, or where the Tribe demonstrates that the Great Lakes Guidance methodology is not scientifically defensible, the applicable criterion will be the more protective value of either:

- (1) SCC Ambient Water Quality Values;

- (2) Most recent US EPA published criteria recommendations as required by Clean Water Act 304(a); or

- (3) Criteria developed applying methodologies and procedures acceptable under 40 CFR 131.

4.3.4 Site-Specific Numeric Criteria and Numeric Criteria Methods.

A. In specific situations (e.g. Rice Lake which is the cultural centerpiece of SCC) where SCC may need to modify EPA’s criteria recommendations to reflect site-specific conditions, the modifications shall be consistent with the requirements at 40 CFR 132 Appendix F, Procedure 1: Site-specific Modifications to Criteria and Values. These modifications will be used to compare with SCC's ambient water quality values. If the

modified criterion is more protective than SCC's ambient values, the modified criterion will be submitted to EPA for approval before the criterion becomes applicable.

- B. Where EPA has no published recommendations, or where SCC must develop a value to implement a narrative criterion, SCC will use the methodology required at 40 CFR 132.4 (a)(1) through (5) to derive criteria for comparison to tribal Ambient Water Quality Values. The more protective value will become the applicable criterion.
- C. For the protection of wild rice, *Zizania palustris*, SCC may derive criteria using the aquatic life methodology specified at 40 CFR 132.4 (a)(2) in addition to using other scientifically defensible toxicological methods in order to obtain a range of potential criteria. The most protective values based upon the available methods or Tribal Ambient Water Quality Values will be chosen as the applicable criterion criteria.

4.4 ANTI-DEGREDDATION POLICY. The SCC has depended on the ability of Tribal Lands and Tribal Waters to provide basic cultural preservation, religious practice and abundant natural resources for consumption, subsistence, sustainable economic development, and sociological health. This Anti-degradation Policy provides for the maintenance and protection of water quality to ensure that all designated and existing uses are met and maintained through an Anti-degradation Standard and Anti-degradation Implementation Procedures consistent with 40 CFR 131 and 40 CFR 132.

4.4.1 Anti-degradation Standard.

- A. **Applicability:** The SCC Anti-degradation Standard shall be applicable to any activity performed by any source, point or non-point, of pollutants or alterations that is anticipated to increase loadings of any pollutants or cause physical, chemical or biological alterations to Tribal Waters including, but not limited to the following: new or increased discharges of pollutants, nutrients, bacteria or sediments; anthropogenic changes in flow, temperature or other physical modifications; alteration or removal of indigenous species to or from Tribal Waters; any other changes that may permanently impair any cultural, sociological, biological, physical or chemical attributes of those waters for which tribal regulatory authority exists requiring compliance with the SCC Water Quality Standards.
- B. **ONRW Classification:** All Tribal Waters are classified as Outstanding National Resource Waters (ONRW) equivalent to Federal ONRWs as defined in 40 CFR 132. This classification is supported by proclamation of the Assistant Secretary of the Interior on June 30, 1939 in the 4th Federal Register by the authority of the Indian Reorganization Act, thus giving the waters within reservation boundaries special status. These areas serve as the last refuge for tribal members to continue to practice a life that exemplifies sustainable economic development, and that preserves the resources critical to cultural integrity and survival of the Tribe. Tribal Waters have exceptional cultural, religious, social, ecological and recreational attributes of national significance with respect to rare ecological and recreational attributes of national significance with respect to rare ecological species and the culturally unique Native American community dependent on

them. Tribal Waters are also classified ONRW to further protect the downstream ONRW classification of the Wolf River.

- C. Prohibitions. No human activity may directly or indirectly discharge, release or emit pollutants into Tribal ONRW Waters, except on a short-term, temporary basis as described in Section IV B [151.31] Anti-degradation Implementation. All Non-aberrational, indigenous species, and supporting ecological parameters, shall be protected regardless of prevalence, condition or use. Quality of these waters shall be unadulterated. There shall be no signs of ecological stress or impairment.

4.4.2 Anti-degradation Implementation. For all Tribal Waters classified ONRW:

- A. Authority: The SCC Environmental Director and the SCC Natural Resources Board (Tribal Authorities) shall ensure, through the application of appropriate controls on all pollutant and alteration sources, that wafer quality is maintained and protected in order to attain all designated and existing uses.
- B. Exception: A short-term, temporary (weeks or months) lowering of water quality may be permitted by Tribal Authorities for activities meant to protect public health, increase the social and economic welfare of the tribe, or result in future higher water quality in the ONRW. Such activities must not permanently degrade water quality or result in water quality lower than that necessary to protect Designated and Existing Uses of Tribal Waters. Tribal Authorities, after public participation and upon approval of the SCC Tribal Council, will determine when the tribe will allow short-term, temporary changes in water quality following the completion of an Anti-degradation Demonstration and an Anti-degradation Decision.
- C. The following item include, but are not limited to, activities requiring Anti-degradation Demonstrations and Decisions for short-term temporary changes in water quality (to be performed in conjunction with the SCC Tribal permitting process).
 - (1) Any proposed on reservation ground altering activities such as the following: construction of buildings, wells, culverts, irrigation systems, landfills, roads and driveways; timber harvesting; updating septic systems; maintenance and/or repair of existing boat ramps or docks; restoration of existing storm water systems, replacement or repair of existing bridges.
 - (2) In those cases, where the potential lowering of water quality is associated with a thermal discharge, the decision to allow such degradation shall be consistent with section 316 of the Clean Water Act.
- D. The following activities are prohibited and will warrant a ‘Denial’ Anti-degradation Decision:
 - (1) Any activity which may result in long-term discharges, or a permanent lowering of water quality such as construction of roads, parking lots, driveways and buildings which will contribute storm water runoff on a continual basis to any surface water body, including but not limited to wetlands, streams and lakes.

- (2) Any activity which may result in discharges of bioaccumulative chemicals of concern (BCC's) including, but not limited to those listed in Table 6 of 40 CFR 132 in any amount for any duration to Tribal Waters.
- E. Anti-degradation Demonstration Application: For any short-term, temporary lowering of water quality allowed under the Exception at section 151.31 (2), an Anti-degradation Demonstration is required, and the applicant must provide the following information to the SCC Environmental Department Director, 3051 Sand Lake Road, Crandon, WI 54520 (715) 478-7605:
- (1) The name and address of the applicant;
 - (2) The location and duration of the proposed activity;
 - (a) A description of the activity including the following: quantity of potential discharge into or draw-down of ground or surface waters; chemical, sediment, nutrient and bacteria concentrations of discharge, physical or thermal alterations proposed;
 - (b) A description of the treatment methods of the proposed point source discharge, including details of the equipment and facilities to be used and the degree of treatment expected to be attained. A description of the best management practices to be employed in order to mitigate any effects of a non-point source discharge;
 - (c) Details of the methods of monitoring to be used to determine the quality and quantity of the point/non-point source discharge or surface water/groundwater draw-down proposed.
 - (d) A description of how the proposed short-term activity, will guaranteed that there is no potential for this short-term activity to become regular and periodically repeating, will meet at least one of the following:
 - (1) Protects public health.
 - (2) Increases the social and economic welfare of the tribe,
 - (3) Results in future higher water quality in the ONRW; and
 - (e) Any other potential environmental impacts such as those to federally-listed endangered, threatened and candidate species.
- F. Anti-degradation Demonstration Review:
- (1) Where sufficient data for an Anti-degradation Decision does not exist, each entity proposing an activity which could potentially change water quality in Tribal Waters may be required to gather specified data and present it to the SCC

Environmental Director at the above address. Data requirements will be decided on a case-by-case basis.

- (2) Tribal Authorities will evaluate Anti-degradation Demonstration Applications against the following requirements:
 - (a) Completeness of application, including provision of specified data if necessary to make a scientifically and legally defensible Anti-degradation Decision;
 - (b) Designated and existing uses of Tribal Waters must be maintained and protected during and after the short-term temporary discharge is allowed. No permanent impairment of water quality may result from the short-term temporary change in water quality;
 - (c) The proposed activity must meet at least one of the following requirements in the immediate and distant future: improve and protect the public health of the Tribe; enhance the economic and social well-being of the community, maintain the cultural integrity of the SCC; and
 - (d) All pollution prevention alternatives and enhanced treatment options must be considered for the prevention of permanent lowering of water quality and the mitigation of short-term temporary water quality effects.

G. Anti-degradation Decision:

- (1) Tribal Authorities will issue a preliminary Anti-degradation Decision within ninety (90) days of submittal of the Anti-degradation Demonstration Application to the SCC Environmental Director. A preliminary approval or denial decision will be granted for the proposed short-term, temporary change in water quality based on the Anti-degradation Demonstration Review requirements.
- (2) A public meeting on the preliminary Anti-degradation Decision, allowing community participation will be advertised in a local community newspaper within five (5) workdays of the preliminary decision. The Anti-degradation Decision public comment period will follow the announcement, with a public meeting conducted within thirty (30) days after the announcement.
- (3) Tribal Authorities will issue a Final Anti-degradation Decision within thirty (30) days of the public meeting. Appeals regarding the Anti-degradation Decision shall be heard by the Sokaogon Chippewa Tribal Court if filed within thirty (30) days of approval of the Anti-degradation Decision by the SCC Tribal Council.

4.5 TRIBAL WATER AND WASTEWATER UTILITY ORDINANCE

4.5.1 General Provisions.

- A. Title. This ordinance shall be known as the “Sokaogon Chippewa Ordinance Establishing the Tribal Water and Wastewater Utility.” The ordinance shall become effective immediately upon adoption by the Sokaogon Chippewa Tribal Council.
- B. Purpose. The purpose of this ordinance is to establish the Water and Wastewater Utility Department responsibilities, and define the necessary rules and regulations for the operation, maintenance, repair and replacement of the water and wastewater utilities located on the Sokaogon Chippewa Trust Lands.
- C. Policy. It shall be the policy of the Tribe to operate, maintain, repair and replace the water and wastewater utilities located on Sokaogon Chippewa Trust lands so that the community residents are provided with a high level of services designed to minimize exposure to adverse conditions which could negatively impact the physical and environmental health of any individual or the community.

4.5.2 Definitions.

- A. General. Unless the context specifically indicates otherwise, the meaning of terms used in this Chapter shall be set forth in this section. Terms not defined in this section shall be defined by their commonly understood and accepted meaning.
- B. “Appurtenances” means the real and personal property owned by the Utilities Commission or the tribe located on, near or under the roadways and streets. This term includes piping associated with on-site wastewater systems.
- C. “Customer” means a person, business, agency or other organization that is obligated to pay for the use or receipt of services from the Utility Department.
- D. “Cross Connection” means any physical connection between the Tribal Water System and another piping system, either water or waste.
- E. “Department” means the Utility Department of the Sokaogon Chippewa Tribe.
- F. “Garbage” means all degradable and non-degradable refuse and solid waste without economic value that is generated through the course of normal living by the residents and organizations in the community.
- G. “Holding Tank” means a septic tank or storage tank that serves to contain wastewater or sewage on site until the contents is pumped and hauled to a proper point of disposal.
- H. “Immediate threat to public health or safety” refers to situations that pose an immediate or potential threat to public health or safety. Such situations include, but are not limited to: discharge of sewage to the ground surface, surface water or a ground water source; any system causing sewage backup into a dwelling or other establishment or other situation that prohibits the system from functioning as intended, breakage of water lines, or cross-connection dangers.

- I. “Manager” refers to the individual appointed to oversee and manage the operation of the Utility Department and its employees.
- J. “Meter” is a device, owned by the Utilities Department, for measuring the amount of water services provided to a particular customer.
- K. “On-Site Sewage Treatment and Disposal Systems” are individual or community septic tanks and subsurface drain fields and associated appurtenances that collect, treat and dispose of liquid waste generated by customers.
- L. “Operation and Maintenance. Operating and Maintaining” include operation, maintenance, repair and replacement.
- M. “Regulation” means a law or procedure duly adopted by the Utility Department and ratified by the Tribal Council for purposes of implementing the requirements of this ordinance.
- N. “Trust Lands” as used within this Chapter refers only to the lands held in trust for the Sokaogon Chippewa Tribe.
- O. “Utilities” or “Tribal Utilities” as used within this Chapter are those basic services necessary for supporting residential and commercial development and includes all community wells and water treatment processes, water and sewer distribution lines, wastewater disposal systems, and related appurtenances of the Tribe.
- P. “Utility Department” is the governmental unit of the Sokaogon Chippewa Tribe that is responsible for, and authorized to manage, the water and wastewater utility systems on the Sokaogon Chippewa Trust lands, as established by this Chapter.

4.6 UTILITY DEPARTMENT

4.6.1 Establishment of Utility Department. There is hereby established the Sokaogon Chippewa Tribal Water and Wastewater Utility Department, having the responsibility for operating and maintaining the water and wastewater utilities and providing essential community services directly or by contract.

4.6.2 Utility Department Operating Organization. The Utility Department shall operate as a subordinate unit of tribal government, independent in its daily operation, but responsible to the Tribal Council for its actions.

4.6.3 Powers and Responsibilities. The Utility Department shall manage the water and wastewater utilities on Sokaogon Chippewa Trust Lands. To fulfill these responsibilities, the Utility Department shall have the authority to:

- A. Manage the wells and drinking water system wastewater sewage system, and the on-site wastewater systems located on Sokaogon Chippewa Trust Lands.
- B. Construct sewer and waterlines on Sokaogon Chippewa Trust Lands.

C. Levy and collect reasonable fees for water and wastewater services.

4.6.4 New Customer Services. Any dwelling, or business on Sokaogon Chippewa Trust Lands shall be eligible for services, provided all of the following conditions are met:

A. Utility facilities are adequate to meet the new or existing customer's request.

B. The, new customer agrees to adhere to all applicable ordinances and pay the required fees.

C. Plans for any new construction are submitted to the Tribal Environmental Department for review.

4.7. WATER AND WASTEWATER SERVICES PROVIDED

4.7.1 Water Services. The Utility Department is responsible for providing safe, adequate water for a fee to those houses, businesses and institutions connected to the main lines of the community water system. Responsibility for maintenance will include water sources, storage tanks, controls, mainlines, valves and hydrants, and service lines to the buildings. The customer is responsible for maintenance of water lines, and any components located within the exterior walls of the building.

4.7.2 Wastewater Services. The Utility Department is responsible to provide sanitary disposal of domestic wastewater for a fee to those houses, businesses and institutions connected to the community sewerage system, and on-site wastewater systems. Responsibility for maintenance will include wastewater treatment facilities, pumping stations, sewer mains and manholes, and service lines to the buildings. The customer is responsible for maintenance of wastewater lines and any other components located within the exterior walls of the building. On-site wastewater systems shall be regulated by the S.C.C.C. Chapter 11.

4.7.3 Personnel. To ensure the provision of adequate water and sewerage service to its customers, the Utility Department will retain qualified personnel on duty or on call at all times. The Department will respond quickly to breakdown and other emergencies.

4.7.4 Maintenance Schedule. The Utility Department will develop and follow a regular schedule of maintenance services for the water and wastewater systems. These services will include, but not be limited to, the following:

4.7.5 Water System.

A. Inspect and operate valves and hydrants.

B. Inspect and repair water mains for leaks and damage.

C. Flush water lines.

D. Inspect storage tanks and level indicators.

- E. Adjust and service controls.
- F. Insure proper use and dosage of chemicals in the system.
- G. Proper abandonment of unused wells and individual private wells when the residence is connected to the Tribal water system.

4.7.6 Sewage System.

- A. Flush sewer mains.
- B. Remove debris from manholes.
- C. Properly operate the wastewater treatment system.
- D. Inspect and service lift stations.
- E. Adjust and service controls.
- F. On-Site Wastewater Treatment Systems.
- G. Management shall be in accordance with the S.C.C.C. Chapter 11, On-Site Sewage Treatment Systems Ordinance.

4.7.7 Fee Schedules and Billing.

- A. Fee Schedules. The schedules of fees for water and wastewater services shall be reviewed and set annually by the Tribal Council.
- B. User Fees. The user fee schedules shall be based on the estimated annual costs for operation and maintenance of the water and wastewater utilities and may include charges for metered usage. Tribal contributions may also be considered when setting the user fees.
- C. Other Fees: The Tribal Council may also set fees for the following services:
 - (1) New connections to the Tribal water system;
 - (2) New connections to the Tribal sewer system;
 - (3) Water sampling and testing of individual private wells; and
 - (4) Permits for plan review, and construction of new on-site wastewater treatment systems associated with new construction.
- D. Notice to Customers. A copy of the fee schedules adopted by the Tribal Council under S.C.C.C. §§ 10.5.1 - 10.5.3 shall be sent to each customer prior to the date the established fees take effect.

- E. Monthly Statement. Each month the Utility Department shall mail to all water and wastewater customers a statement detailing the billed cost of the current month's service, plus an accounting of bills or charges past due, if any.
- F. Payment Due Date. The monthly date on which payment is due shall be established by the Tribal Council.
- G. Payments Past Due. Payments not received within thirty (30) days after the established due date are considered past due. The Utility Department shall inform the customer of the past due payment and the consequences for failure to pay.
- H. Delinquent Account. If the payment past due is not paid within sixty (60) days after the next regular monthly due date, the account shall be declared delinquent.
- I. Notice of Delinquency. The Utility Department shall immediately notify the customer when the account has been declared delinquent, and list the sanctions that may be imposed without further notice.

4.7.8 Bookkeeping and Handling of Funds.

- A. Bookkeeping Procedures. The Utility Department will follow normal tribal procedures for bookkeeping and banking, The Department will have a designated banking account to receive water and wastewater payments. Separate Bookkeeping accounts will be set up to record water and wastewater funds. The Utility Department will make available to the Tribal Council an accounting of the Department's funds upon request.
- B. Tribal Treasurer. Actual handling of the Utility Department's funds will be performed by the Tribal Treasurer or his/her designated agent.
- C. Audit. All accounts and ledgers of the Utility Department shall be available for audit at any time by the Tribal Council.
- D. Reserve Accounts. The Utility Department shall cause to be established and maintained the following reserve accounts, funded through collection of Utility rates:
 - (1) Operation and Maintenance Reserve Account: An amount estimated to meet the needs of routine operation and maintenance of the water and wastewater systems and routine replacement of parts.
 - (2) Replacement Reserve Account: An amount estimated to be required for future upgrade of operations.

4.8 MANAGEMENT

- A. Utility Department Manager. The Utility Department will establish a job description for the Utility Department Manager, which will authorize him/her to manage the daily operations of the Utility Department. S/he shall establish an orderly functioning of the office, operation and maintenance of the utility systems.

- B. Other Employees Job descriptions, qualifications, and training for all employees will be developed by the Utility Department and Personnel Department.

4.9 MANDATORY HOOKUPS

4.9.1 Issuance of Notice. The owner of each building useable for human habitation, which is (or will be) located within two-hundred (200) feet of the water or sewer main shall connect the building to the water or sewer main within ninety (90) days of written notice from the Utility Department. Upon failure to do so, the Utility Department may cause such connection to be made and bill the property owner for the costs of hookup.

4.9.2 Payment. Within thirty (30) days of issuance of notice for mandatory hookup, the owner of said building may file a written statement with the Utility Department proposing a payment plan by which the costs of hookup will be paid by the owner. The Utility Department shall accept such payment plan unless it is determined to be unreasonable or does not provide for full recovery of the costs of hookup.

4.10 CUSTOMER OBLIGATIONS

4.10.1 Conditions for Service Payments. As a condition for receiving utility services, the customer agrees to comply with all provisions of this Chapter, and any regulations duly adopted by the Tribal Council, as well as any other applicable codes or regulations, including the payment of all fees, penalties, costs, damages, or other charges assessed by the Utility Department.

4.10.2 Maintenance, Repairs, and Liability. The customer shall be responsible for maintaining and repairing water and sewer lines located within the exterior walls of the customer's building or residence, in compliance with applicable regulations.

4.10.3 Notice of Vacating a Building: A customer or tenant planning to vacate any building or residence for more than twenty-four (24) hours shall notify the Housing Department (if applicable) and the Utility Department prior to the date the building will be vacated.

4.10.4 Right of Entry; Inspections. The customer or tenant shall not unreasonably withhold permission for Utility personnel to enter and inspect the Department's and customer's fixtures, lines, and equipment, when necessary to ensure that they are not operating in a manner that likely disrupt or interfere with utility services. The customer or tenant shall be liable for any costs or related expenses caused by his unreasonable withholding of permission.

4.10.5 Permits. The customer shall obtain written permission from the Utility Department prior to making any connection, reconnection, or disconnection with or from a Utility water or sewer system facility. The customer shall also submit any plans for connection to the Tribal Environmental Department for review.

4.10.6 Cross-Connections. The Customer shall not make a cross-connection with the Tribal Water Supply. Any individual source of water must be totally disconnected from the

household plumbing prior, to connection to the Tribal Water Supply. “Disconnection” done solely by a valve shall not be allowed.

4.10.7 Use of Sewage System. The customer shall use the community sewage system and on-site wastewater treatment systems only for the disposal of normal household liquid waste including waste from toilet, shower, bathing and kitchen facilities.

4.10.8 Unauthorized Disposal. The customer shall not dispose of any material into the sanitary sewer or on-site wastewater treatment system, which may cause the collection lines or subsurface drainfield to become blocked or excessively loaded with solids, including but not limited to garbage, grease or cooking oil, disposable diapers, sanitary napkins, paper material other than toilet paper, cigarette waste, cat litter, etc.

4.10.9 Toxic Waste Disposal. No customer shall dispose of any unused pharmaceuticals, toxic, radioactive or otherwise hazardous waste into the sanitary sewer or on-site wastewater treatment system. Toxic and hazardous waste includes but is not limited to: oil, pesticides, gasoline, organic solvents, paint, poisons and other manufactured chemical compounds.

4.11 ENFORCEMENT, PENALTIES, AND SANCTIONS

4.11.1 Authority and Enforcement. The Utility Department is hereby authorized by the Tribal Council to collect established fees for service and to impose sanctions and penalties for non-payment. The Utility Department shall enforce its regulations, fee collections and provisions of this ordinance.

4.11.2 Attachment of Customers Property. The Utility Department shall not seek to attach customer’s property, nor seek to have fines assessed by Tribal Court, except in limited cases of blatant or continued abuses or destruction of property.

4.11.3 Penalty Schedule. The Tribal Council shall develop and adopt a penalty schedule on an annual basis that outlines specific penalties, fines, and assessments for violation and non-compliance with the provisions of this ordinance.

4.11.4 Sanctions Authorized. The following sanctions may be imposed by the Tribal Council for failure of the customer to comply with any provisions of this ordinance or with any duly adopted regulation of the Utility Department:

- A. Termination of service(s);
- B. Assessment of penalties based on a penalty schedule duly adopted by the Tribal Council;
- C. Assessment of late charges based on a schedule duly adopted by the Tribal Council;
- D. Assessment of damages resulting from the customer’s non-compliance;
- E. Filing suit for damages in a court of competent jurisdiction; and

F. Referring violations that may involve criminal conduct to the police or prosecutor.

4.11.5 Sanctions Guidelines. The Tribal Council shall use the following guidelines when considering the appropriate sanctions to be imposed in any given case:

- A. Whether the sanction is required by this ordinance or other applicable law, or whether imposition is discretionary;
- B. The minimum sanction needed to effect compliance;
- C. The irreparable harm to the customer and/or family if the sanction is imposed;
- D. The irreparable harm to operation of the Utility, and to the Tribe, if the sanction is not imposed;
- E. The customer's past record of compliance or non-compliance, or good faith efforts to achieve compliance;
- F. The customer's statements or behavior indicating the likely success of a given sanction securing compliance; and
- G. The irreparable harm to other persons or property if the sanction is not imposed.

4.12 ON-SITE SEWAGE TREATMENT SYSTEMS ORDINANCE

4.12.1 Scope and Application.

- A. Title. This ordinance shall be known as the Sokaogon Chippewa On-Site Wastewater Treatment Systems Ordinance.
- B. Purpose. The purpose of this Ordinance is to develop minimum standards and criteria for the design, installation, inspection and management of on-site wastewater treatment systems, so that the systems are safe and will protect public health and the natural resources of the Sokaogon Chippewa Community.
- C. Scope. This ordinance applies to all of the following, located on the Sokaogon Chippewa Trust Lands:
 - (1) Domestic wastewater that is collected and conducted by means of a plumbing drain system and is not conveyed to the tribe's wastewater treatment facility;
 - (2) On-site wastewater treatment systems where domestic wastewater is treated and dispersed to the subsurface soils; and
 - (3) Holding tanks that are utilized as temporary on-site systems, to collect and hold domestic wastewater for transport and treatment elsewhere. Permanent holding tanks are prohibited.

4.12.2 Exemptions. This chapter does not apply to on-site wastewater treatment systems located on tribal fee lands or non-tribal lands.

4.12.3 Application.

A. Installations.

(1) **New On-Site Wastewater Treatment Installations.** The design, installation and management of a new on-site system associated with a new structure shall conform to this Chapter.

(2) **Modifications to and Replacements of Existing On-Site Systems.** A replacement of an existing on-site system, or modification to an existing on-site system, alteration or addition of materials, appurtenances or components, shall require that the modification conform to this Chapter.

(3) **Modifications to Existing Structures Served by Existing On-Site Systems.** When an addition or alteration is proposed to an existing building, structure or facility that is served by an existing on-site system, and the proposed addition or alteration will result in a change that affects the wastewater flow or contaminant load beyond the minimum or maximum capabilities of the existing system, the on-site system shall be modified to conform to this Chapter.

B. **Retroactivity.** An existing on-site treatment system installed prior to the effective date of this Ordinance is not subject to the design requirements of this Chapter until a modification or replacement is conducted.

C. **Temporary Holding Tanks.** A holding tank that is used on a temporary basis to store wastewater for transport and treatment elsewhere is subject to the provisions of this Chapter. Holding tanks are allowed on a temporary basis, only with approval of the Utility Department. Permanent holding tanks are prohibited.

4.12.4 Definitions.

A. **General.** Unless the context specifically indicates otherwise, the meaning of in this section shall be defined by their commonly understood and accepted terms used in this Ordinance shall be set forth in this section. Terms not defined in this section shall be defined by their commonly understood and accepted meaning.

B. **“Appurtenances”** is the real and personal property owned by the tribe. The term includes piping associated with on-site wastewater systems.

C. **“Comm 83”** refers to Wisconsin Department of Commerce’s Chapter 83, of the Wisconsin Administrative Code.

D. **“Customer”** is a person, business, agency or other organization that is obligated to pay for the use or receipt of services from the Utility Department.

- E. “Holding Tank” means a septic tank or storage tank that serves to contain wastewater or sewage on site until the contents is pumped and hauled to a proper point of disposal.
- F. “Industrial Waste” is the wastewater from industrial process, trade, or business.
- G. “Installation” means the construction or placement of an on-site wastewater treatment system on real property.
- H. “Maintenance” is the regular inspection and care for the on-site system as may be determined by the Sokaogon Chippewa Utility Department, in order to ensure safe, healthful operation consistent with the intent of this Ordinance.
- I. “Manager” means the Utility Department Manager.
- J. “On-Site System” means a temporary, approved holding tank, or a wastewater treatment and disposal system serving a single structure with a septic tank and soil absorption field located on the same parcel as the structure.
- K. “Operation and Maintenance; Operating and Maintaining” refers to operation, maintenance, repair and replacement.
- L. “Permit” means a permit issued for the construction, of an individual sewer system by the Utility Department.
- M. “Trust Lands” are lands held in trust by the U.S. government for the Sokaogon Chippewa Tribe.
- N. “Utility Department” means the Sokaogon Chippewa Utility Department, regulated by S.C.C.C. Chapter 10.
- O. “Wastewater” means the spent water of a community, which is a combination of the liquid and water-carried wastes from residences, commercial buildings, industrial plants, and institutions.

4.12.5 Administration.

- A. **Manager of On-Site Systems.** On-site wastewater utility functions shall be the responsibility of the Utility Department. The manager of the Sokaogon Chippewa Utility Department shall administer the provisions of the Ordinance.
- B. **Duties.** The Manager shall maintain adequate files and records relating to all on-site system installations, modifications, inspections, work approved and other official actions. The Utility Manager shall also prepare reports and recommendations regarding any additional sanitary measures deemed necessary to affect the purpose of this Ordinance and obtain assistance and cooperation from other Mole Lake departments and committees; and interpret the provisions of this Ordinance.

4.12.6 General Requirements.

- A. Compliance. All structures or premises intended for human habitation or occupancy, and which are not served by the tribal community sewerage system, shall have suitable provision for holding sewage, or treating and recycling the sewage and wastewater by an on-site wastewater treatment and dispersal system. These methods shall comply with the provisions of this Ordinance.
- B. Subsurface Dispersal. An on-site wastewater treatment and dispersal system must disperse the effluent to subsurface soils. Dispersal to the soil surface shall not be allowed.
- C. Capacity. On-site wastewater treatment systems shall be designed to receive all domestic wastewater from the dwelling(s) or other establishment(s) served by the system, including sewage, laundry waste, water softener and backflush water, and basement floor drainage. Surface water, roof drainage, foundation drainage, and other storm water shall not be allowed to enter any part of the system.
- D. Applicability. The requirements of this Ordinance shall apply to all Sokaogon Chippewa Trust Lands.
- E. Limitations.
 - (1) Substances deleterious to an on-site system shall be intercepted, diluted or treated prior to the substance being discharged to the system.
 - (2) Industrial, commercial, or institutional wastewater may not be introduced into an on-site system, except with permission of the Utility Department Manager.
 - (3) The use of a cesspool as an on-site system is prohibited.
 - (4) The use of a holding tank as a permanent on-site system is prohibited.
 - (5) The discharge of domestic wastewater or effluent to surface waters or ground surface is prohibited.
- F. Abandonment. A subsurface tank or pit that is no longer used as an on-site component shall be abandoned by complying with all of the following:
 - (1) Disconnecting all piping to the tanks and pits;
 - (2) Scaling all disconnected piping to the tanks and pits;
 - (3) Pumping and disposing of the contents from all tank and pits; and
 - (4) Removing all tanks or removing the covers of the tanks or pits and filling the tanks and pits with soil, gravel or an inert solid material.

4.12.7 Design and Installation.

- A. Adoption of Comm 83. Subchapter IV of Comm 83, Wisconsin Administrative Code, entitled “Design and Installation” is hereby adopted for design and installation of on-site systems.
- B. Design and Installation. The design and installation of an on-site system shall conform to the requirements of this Ordinance and Subchapter IV of Comm 83, Wisconsin Administrative Code, in effect at the time of permit issuance by the Utility Department.
- C. Permission for New On-Site System. Construction of a new on-site system associated with a new structure may not commence without written permission from the manager of the Utility Department. The Utility Department may charge a fee for this service. No on-site system permit of any type shall be issued except following compliance with the provisions contained herein
- D. Required Submittals for Permit. The following submittals to the Utility Department are required as part of the permit application process:
 - (1) Apply for tribal environmental permit from the Sokaogon Environmental Department;
 - (2) A soil investigation of the proposed site for the on-site system; and
 - (4) Plans and specifications for the proposed on-site system.
- E. Required Licenses. No person, with the exception of those in the employ of the Mole Lake Tribe shall engage or perform any aspects of the business, or perform for others the services of soil investigation, site evaluation, design, installation, pumping, maintenance, replacement or repair of on -site sewage treatment systems without first obtaining a license from the State of Wisconsin, Installer licensees shall be authorized to construct, and install individual sewage treatment systems.
- F. Natural Resources Review. Before ground-disturbing activities are conducted for a new on-site system or building, the Environmental Department shall be contacted by the applicant for a determination regarding compliance with the Natural Resources Code.
- G. Holding Tanks. Holding tanks may only be used on a temporary basis, and only with written permission from the manager of the Utility Department.

4.12.8 Management.

- A. Responsible Management Entity. As of the effective date of this Ordinance, the Utility Department shall be responsible for providing operation and maintenance services for all on-site wastewater treatment systems located on the Sokaogon Chippewa Trust lands.
- B. Authorization to Operate and Maintain. The customer shall give the Sokaogon Chippewa Tribe exclusive authorization to operate and maintain the on-site system. The tribe shall have the right to enter the property, operate, and maintain the on-site systems.

C. Management Services. Operation and maintenance services provided by the Utility Department shall include, but not be limited to, the following routine and preventative maintenance services:

- (1) Removal of accumulated solids or byproducts from the septic tanks and temporary holding tanks, as needed.
- (2) Performance monitoring of the tank components and soil absorption component at least once every three (3) years.
- (3) Periodic inspection and maintenance of the treatment and distribution tanks, including electrical/mechanical components.
- (4) Metering, sampling, and monitoring of flow volumes and/or wastewater qualities, if needed.
- (5) Development of load and rest schedules for the dispersal systems, if needed.
- (6) Start up and shutdown of on-site systems, as needed.
- (7) Replacement of on-site system, as needed.
- (8) Abandonment of subsurface tanks or pits which are no longer in use.

D. Recordkeeping. The Utility Department shall keep records relating to the inspection, maintenance, and servicing of all on-site wastewater treatment systems.

4.12.9 Recognized Methods and Technologies. Acceptable Methods and Technologies. The Wisconsin Department of Commerce's Component Manuals, Comm 83.61 of Subchapter VI Wisconsin Administrative Code, entitled "Acceptable Methods and Technologies" are hereby accepted for design and installation of on-site systems.

4.13 SOLID WASTE MANAGEMENT

4.13.1 General Provisions.

- A. Authority. This ordinance is adopted pursuant to the inherent authority of the Mole Lake Band of Lake Superior Chippewa Tribe through its governing body, the Sokaogon Chippewa Tribal Council, a duly recognized tribal government in accordance with the Indian Reorganization Act of 1934 (P.L. 93 -63 8), who may promulgate such regulations as are necessary to promote the health, safety, and welfare of the Mole Lake Band and to protect the environment and natural resources of the Sokaogon Chippewa Community Reservation.
- B. Findings and Purposes. The Sokaogon Chippewa Tribal Council recognizes that unsanitary, inefficient and inappropriate methods of disposing of solid waste have an adverse impact upon the environment and the natural resources of the Sokaogon Chippewa Community Reservation and its residents, and that the promulgation of

standards for solid waste disposal and recycling are in the best interest of the Mole Lake Band and all residents of the Sokaogon Chippewa Community Reservation. Accordingly, the purpose of this Ordinance is to promote the health, safety, and welfare of the Mole Lake Band and the residents of (and visitors to), the Sokaogon Chippewa Community Reservation through the establishment of standards necessary to manage the sanitary and environmentally sound disposal of solid waste.

- C. **Applicability.** This ordinance applies to activities on the Sokaogon Chippewa Community Indian Reservation of members and non-members of the Band, and resident and non-residents of the Sokaogon Chippewa Community Indian Reservation.

4.13.2 Definitions. The following definitions shall apply to this ordinance unless a different meaning is specifically indicated:

- A. “Bi-metal container” means a container for carbonated or malt beverages which are made primarily of a combination of steel and aluminum.
- B. “Collection site” means any place where solid wastes are presented.
- C. “Collector” means any natural or legal person, that person’s employees or agents, who gather from another entity that entity’s solid waste.
- D. “Continuing violation” may include: solid waste which causes or poses ongoing or periodic environmental, health, or safety consequences.
- E. “Eligible person” means any person, as defined under “entity,” infra (F), who has permission from the tribe to participate in the Sokaogon Chippewa Community Solid Waste Management Plan.
- F. “Entity” means any person, tribal member, non-tribal member, resident or non-resident of the Sokaogon Chippewa Community Reservation, employee or agent of any federal, state, local, tribal government, or employee or agent of any business located on the Sokaogon Chippewa Community Reservation who generates solid waste on or off the reservation.
- G. “Foam polystyrene packaging” means packaging made primarily from foam polystyrene that satisfies one of the following criteria:
 - (1) Is designed for serving food or beverages;
 - (2) Consists of loose particles intended to fill space and cushion the packaged article in a shipping container; or
 - (3) Consists of rigid materials shaped to hold and cushion the packaged article in a shipping container.
- H. “Hazardous waste” means any solid waste defined as hazardous waste under the Resource Conservation and Recovery Act, 42 U.S.C § 6901 et. seq., as amended.

- I. “HDPE” means high-density polyethylene labeled by the SPI code #2.
- J. “LDPE” means low-density polyethylene labeled by the SPI code #4.
- K. “Magazines” means magazines and other materials printed on similar paper.
- L. “Major appliance” means a residential or commercial air conditioner, clothes dryer, clothes washer, dishwasher, freezer, microwave oven, oven, refrigerator, furnace, boiler, dehumidifier, water heater or stove.
- M. “Multiple-family dwelling” means a property containing five (5) or more residential units, including those that are occupied seasonally.
- N. “Newspaper” means a newspaper and other materials printed on newsprint.
- O. “Non-residential facilities and properties” means commercial, retail, industrial, institutional and governmental facilities and properties. This term does not include multiple family dwellings.
- P. “Non-recyclable waste” means all solid waste not listed in subsection (DD) of this section, excluding solid waste.
- Q. “Non-resident” means any person who does not have a permanent place of abode on the Sokaogon Chippewa Community Reservation, except as hereafter provided. Non-resident includes any temporal or seasonal resident, for purposes of solid waste generated at the temporal or seasonal residence, and any place of business, for purposes of solid waste generated at the business.
- R. “Office paper” means high-grade printing and writing papers from in non-residential facilities and properties. Printed white ledger and computer printout are examples of office paper generally accepted as high grade. This term does not include industrial process waste.
- S. “Other resins or multiple resins” means plastic resins labeled by the SPI code #7.
- T. “Person” includes any individual, corporation, partnership, association, local governmental unit, as defined in Wis. Stat. § 66.299(1)(a), state agency or authority, or federal agency.
- U. “PETE” means polyethylene terephthalate, labeled by the SPI code #1.
- V. “Plastic container” means an individual, separate, rigid plastic bottle, can, jar or carton, except for a blister pack, that is originally used to contain a product that is the subject of a retail sale.
- W. “Post-consumer waste” means solid waste other than solid waste generated in the production of goods, hazardous waste, as defined in Wis. Stat. §, 144.61(5), waste from

construction and demolition of structures, scrap automobiles, or high-volume industrial waste, as defined in Wis. Stat. 144.44(7)(a)l.

- X. “PP” means polypropylene, labeled by the SPI code #5.
- Y. “PS” means polystyrene, labeled by the SPI code #6.
- Z. “PVC” means polyvinyl chloride, labeled by the SPI code #3.
- AA. “Recyclable materials” includes lead acid batteries; major appliances; waste oil; yard waste; aluminum containers; corrugated paper or other container board; foam polystyrene packaging; glass containers; magazines; newspaper; office paper; rigid plastic containers; including those made of PETE, HDPE, PVC, LDPE, PP, PS, and other resins or multiple resins; steel containers; waste tires, and bi-metal containers.
- BB. “Recyclable waste” means glass containers, metal cans, newspaper, cardboard, plastics (HDPE(1) and PET(2) only), aluminum cans and motor oil.
- CC. “Reservation” means the Sokaogon Chippewa Community Reservation.
- DD. “Solid waste” means all waste, garbage, rubbish, offal, trash and other discarded solid waste material, resulting from residential, commercial, agricultural, industrial, community, and other human activities, including liquid waste contained within solid waste, including hazardous waste, but does not include sewage and human waste. See Wis. Stat. § 144-01(15).
- EE. “Solid waste facility” has the meaning specified in Wis. Stat. § 144.43(5).
- FF. “Solid waste treatment” means any method, technique or process that is designed to change the physical, chemical or biological character or composition of solid waste. “Treatment” includes incineration.
- GG. “Solid waste operator” means the Tribal Council employee or appointee responsible for the operation and maintenance of the solid waste collection and disposal sites on the Sokaogon Chippewa Community Indian Reservation.
- HH. “Transfer station” means any approved solid waste collection site designated by the Sokaogon Chippewa Tribal Council for the purpose of collecting and transporting solid waste to an approved facility.
- II. “Tribal Council” means the governing body of the Mole Lake Band of Lake Superior Chippewa, Sokaogon Chippewa Community.
- JJ. “Waste tire” means a tire that is no longer suitable for its original purpose because of wear, damage, or defect.

KK. “Yard waste” means leaves, grass clippings, yard and garden debris and brush, including clean woody vegetative material no greater than six (6) inches in diameter. This term does not include stumps, roots, or shrubs with intact root balls.

4.14 SOLID WASTE DISPOSAL AND RECYCLING

4.14.1 Solid Waste Storage. The following provisions shall apply to all solid waste storage within the Sokaogon Chippewa Community Reservation:

- A. Solid waste within the Reservation boundaries shall be handled, stored, collected, transported, transferred, processed and disposed of in accordance with the provisions of this ordinance.
- B. The owner or occupant of any premises, business establishment, or industry shall be responsible for the sanitary storage of all solid waste accumulated at the premises, business establishment or industry.
- C. Solid waste shall be stored in durable, rust resistant, non-absorbent, water tight, rodent proof, and easily cleanable containers with a close fitting, insect-tight cover, or other types of containers acceptable to the local governing body and conforming to the intent of this section.
- D. Unless otherwise provided for in a written rental agreement or lease the tenant of any single unit detached residence and the landlord of any multi-unit residence shall be responsible for the provision and maintenance of containers as specified in paragraph (C), above.
- E. Solid waste shall be transferred to an approved disposal site or transfer station by the responsible party in a timely manner, to prevent noxious odors and other public nuisance conditions.

4.14.2 Solid Waste Disposal. The following provisions shall apply to all solid waste disposal within the Sokaogon Chippewa Community Reservation.

- A. No eligible person shall leave, deposit, or dump solid waste anywhere within the reservation boundaries except at a designated disposal or collection site. No eligible person shall dispose of any solid waste generated, outside the boundaries of the Sokaogon Chippewa Community Reservation on any lands or location within the boundaries of the Sokaogon Chippewa Community Reservation unless such disposal is done so with the approval of the Sokaogon Chippewa Tribal Council. No eligible person or entity shall dispose of solid waste within or outside the reservation boundaries or manage existing solid waste disposal outside the reservation boundary, in a manner which is not sanitary, a nuisance, or otherwise damages the natural resources of the Sokaogon Chippewa Community Sokaogon Chippewa Community Reservation residents.
- B. No person shall dispose of solid waste on any private or public, residential property, where disposal of such wastes will cause a public nuisance or health hazard, by causing noxious odors to escape or by infestation of insects, rodents, birds, or furbearers.

- C. No person shall deposit solid waste from any stopped or moving vehicle onto state, township, county, or tribal highways, roads, or right of a ways, within the Reservation.
- D. No person shall dispose of any hazardous waste within the Reservation.
- E. No eligible person shall dispose of solid waste at a collection or disposal site on the Reservation except in a manner approved by the Solid Waste Operator as established by the Sokaogon Chippewa Tribal Council.
- F. No eligible person shall deposit stumps, logs, brush or leaves onto the ditches or roadway of any state, county, town or tribal highway, road, or right of way.
- G. No person shall dispose of solid waste in a manner that is not aesthetically pleasing (i.e. generates complaints by neighbors, the Sokaogon Chippewa Tribal Council, or the Solid Waste Operator).

4.14.3 Separation of Recyclable Materials.

- A. Occupants of single family and 2 to 4 unit residences, multiple-family dwellings, and non-residential facilities and properties shall separate the following materials from post-consumer waste:
 - (1) Lead acid batteries;
 - (2) Major appliances;
 - (3) Waste oil;
 - (4) Yard waste;
 - (5) Aluminum containers;
 - (6) Bi-metal containers;
 - (7) Corrugated paper or other container board;
 - (8) Foam polystyrene packaging;
 - (9) Glass containers;
 - (10) Magazines;
 - (11) Newspaper;
 - (12) Office paper;
 - (13) Rigid plastic containers made of PETE, PE, PVC, LDPE, PP, PS, and other resins or multiple resins;

(14) Steel containers; and

(15) Waste tires.

B. Care of Separated Recyclable Materials. To the greatest extent practicable, the recyclable materials separated in accordance with this section (S.C.C.C. § 9.2.3) shall be clean and kept free of contaminants such as food or product residue, oil or grease, or other non-recyclable materials, including but not limited to household hazardous waste, medical waste, and agricultural chemical containers. Recyclable materials shall be stored in a manner that protects them from wind, rain, and other inclement weather conditions.

C. Management of Lead Acid Batteries, Major Appliances, Waste Oil and Yard Waste. Occupants of single family and two (2) to four (4) unit residences, multiple-family dwellings and non-residential facilities and properties shall manage lead acid batteries, major appliances, waste oil, and yard waste as follows:

(1) Lead acid batteries shall be conveyed to a local battery dealer, or to a local lead acid battery recycler.

(2) Major appliances shall be transported to a local major appliance recycler.

(3) Waste oil shall be sealed tightly in a clean plastic jug and placed in/with the recyclable component of the waste stream.

(4) Yard waste shall be composted at the site of generation or at a location designated for composting yard waste, by the Tribal Council.

D. Preparation and Collection of Recyclable Materials. Except as otherwise directed by Sokaogon Chippewa Community Tribal Council, occupants of single family two (2) to four (4) unit residences shall do the following for the preparation and collection of the separated materials specified under S.C.C.C. § 9.2.3(A)((5)-(15)).

(1) Aluminum containers shall be placed in the recyclable component of the waste stream;

(2) Bi-metal containers shall be rinsed and placed in the recyclable component of the waste stream;

(3) Corrugated paper or other container board shall be bundled and placed in/with the recyclable component of the waste stream;

(4) Foam polystyrene packaging shall be rinsed and placed in the recyclable waste stream;

(5) Glass containers shall be rinsed and placed in the recyclable waste stream;

(6) Magazines shall be shall be bundled and placed in the recyclable waste stream;

- (7) Newspaper shall be bundled and placed in the recyclable waste stream;
- (8) Office paper shall be bundled and placed in the recyclable waste stream;
- (9) Rigid plastic containers shall be prepared and collected as follows:
 - (a) Plastic containers made of PETE shall be rinsed and placed in the recyclable component of the waste stream;
 - (b) Plastic containers made of HDPE shall be rinsed and placed in the recyclable component of the waste stream;
 - (c) Plastic containers made of PVC shall be rinsed and placed in the recyclable component of the waste stream;
 - (d) Plastic containers made of LDPE shall be rinsed and bundled separately in/with the recyclable component of the waste stream;
 - (e) Plastic containers made of PP shall be rinsed and bundled separately in/with the recyclable component of the waste stream;
 - (f) Plastic containers made of PS shall be rinsed and bundled and separately in/with the recyclable component of the waste stream;
 - (g) Plastic containers made of other resins or multiple resins shall be rinsed and bundled separately in/with the recyclable component of the waste stream.
- (10) Steel containers shall be rinsed and placed in the recyclable component of the waste stream; and
- (11) Waste tires shall be transported to a local recycler of waste tires.

4.14.4 Solid Waste Recycling.

- A. Recyclable solid wastes shall be transported to a designated solid waste collection site and be sorted and disposed of according to the posted designations at the site.
- B. The solid waste operator shall oversee the disposal of solid and recyclable solid wastes at the designated collection site. The solid waste operator may provide written warning to any collector, resident person, or entity if solid and recyclable solid waste is presented in a manner other than the posted designations at the site.
- C. The solid waste operator may refuse to allow disposal of solid and recyclable solid wastes at the site if the resident, person, or entity presents said wastes in a manner other than the posted designations at the site, or issue a citation for violations of any provisions of this ordinance.

4.14.5 Solid Waste Collection and Transport.

- A. Any solid waste transported on the Reservation shall be collected and transported in a manner that prevents the waste from leaking, blowing off or falling from the transport vehicle.
- B. Commercial vehicles or containers used for collection and transportation of garbage and other putrescible wastes, or solid waste containing such materials, shall be covered, leak-proof, durable, and of easily cleanable construction. These shall be cleaned to prevent nuisances, pollution, or insect breeding and shall be maintained in good repair.
- C. No commercial collector or transporter of solid waste shall operate or conduct business on the Reservation without the expressed, written consent of the Tribal Council.
- D. No commercial collector shall leave or deposit solid waste at a designated collection site.
- E. Commercial collectors shall immediately notify the solid waste operator of any problems, nuisances, or unsanitary conditions at the designated sites.

4.15 ENFORCEMENT AND ADMINISTRATION

4.15.1 Enforcement.

- A. All Reservation conservation, security, and environmental personnel shall be empowered to enforce the provisions of this ordinance.
- B. For the purpose of ascertaining compliance with provisions to this ordinance, an authorized officer, employee, or representative may inspect recyclable materials separated for recycling, post-consumer waste intended for disposal, recycling collection sites and facilities collection vehicles, relating to recycling activities, which shall be kept confidential when necessary to protect proprietary information. No person may refuse access to any authorized officer, employee, or authorized representative who requests access for purposes of inspection, and who presents appropriate credentials. No person may obstruct, hamper, or interfere with such an inspection.
- C. Actions for violations of this ordinance shall be brought in Sokaogon Chippewa Community Tribal Court and shall be commenced by citation or by summons and complaint through the Sokaogon Chippewa Community Environmental Department.
- D. Violation of any provision of this Ordinance may be punished or remedied by a civil penalty not to exceed \$5,000. Each day of any continuing violation may be charged as separate violation, and a separate penalty may be imposed.
- E. In addition to a civil penalty, no personal property that has been used in connection with a violation of this Ordinance, including vehicles and other equipment, may be seized by authorized personnel, and the property may be forfeited in satisfaction of any judgment entered pursuant to this Ordinance.

- F. Nothing herein shall prevent the Sokaogon Chippewa Tribal Council, or an eligible person from bringing suit against any violator of this ordinance for money damages, or for injunctive relief, for harm to any Band resource caused by the violation.
- G. Any person may bring suit in Sokaogon Chippewa Community Tribal Court to enjoin a violation of this ordinance.

4.15.2 Administration.

- A. The Sokaogon Chippewa Community Tribal Council, or its designate, shall be responsible for the administration of this Ordinance and any of solid waste collection facilities or systems operated by the Sokaogon Chippewa Community.
- B. This Ordinance shall become effective January 1, 1995.

4.15.3 Severability and Non-liability. If any section, provision, or portion of this Ordinance is adjudged unconstitutional or invalid by a court of competent Jurisdiction, the remainder of this Ordinance will not be affected thereby. The Sokaogon Chippewa Tribal Council declares there is no liability on the part of the Mole Lake Band of Lake Superior Chippewa Tribe, its agencies, or employees for damages that may occur as a result of reliance upon or conformance with this Ordinance. The Sokaogon Chippewa Tribal Council, by adoption of this Ordinance, does not waive the sovereign immunity of the Mole Lake Band of Lake Superior Chippewa Tribe in any respect.

History:

Enacted - unknown.

7/20/11 adopted, ratified and codified by Resolution # 720A2011 and as amended by Resolution # 825A2011 on August 25, 2011.