

TRIBAL CODE

CHAPTER 92:

UTILITY AUTHORITY ORDINANCE

CONTENTS:

92.101 Name 92-2
92.102 Purpose..... 92-2
92.103 Relation to Tribe 92-2
92.104 Definitions 92-2
92.105 Composition of Authority 92-3
92.106 Operation of Authority..... 92-3
92.107 Perpetual Succession..... 92-4
92.108 Ability to Sue and be Sued 92-4
92.109 Powers..... 92-4
92.110 Annual Report..... 92-5
92.111 Bond..... 92-5

HISTORY NOTE:

Current Ordinance:

Resolution 96-21, adopted February 6, 1996, enacts Chapter 92: Utility Authority Ordinance, effective immediately and rescinds all earlier Utility Board Ordinances.

Prior Ordinances:

The Tribe's first Utility Organization established as Tribal Ordinance #2 was adopted by Resolution 3-21-84B on March 21, 1984.

TRIBAL CODE

CHAPTER 92:

UTILITY AUTHORITY ORDINANCE

92.101 Name.

This organization shall be known as the Sault Ste. Marie Tribe Utility Authority, herein called the Authority. This Chapter shall be known as the Utility Authority Charter.

92.102 Purpose.

The purpose of the Authority shall be to provide for sanitary community water and sewage systems, to operate, repair, and maintain the systems and equipment to keep the systems in good operating condition, and to establish service charges sufficient to sustain the proper operation, maintenance and repair of the systems and to collect such charges.

92.103 Relation to Tribe.

(1) The Authority is a subordinate organization of the Board of Directors of the Tribe established pursuant to Article VII, Section 1(n) of the Tribal Constitution. The Authority is a public corporation of the Tribe and has the autonomous existence of a public corporation.

(2) For the purposes of taxation, civil jurisdiction and regulatory, the Authority shall be deemed a subordinate arm of the Tribe and shall be entitled to all of the privileges and immunities of the Tribe.

(3) This Charter is patterned after the Tribal Code Chapter 90: Housing Authority Ordinance, and the entity created is intended to be similar to the Housing Authority established by that ordinance. Precedent addressing Indian housing authorities shall be applied to consideration of the nature of the entity created by this Charter.

92.104 Definitions.

(1) For the purpose of this Charter, certain terms are defined in the subsections which follow. When not inconsistent with the context, words used in the present tense include the future, words in the singular include the plural, words in the plural include the singular, and words in one gender include the other gender. The word shall is always mandatory and not merely directory.

(2) "Authority" when capitalized, means the Sault Ste. Marie Tribe of Chippewa Indians Utility Authority created by this Charter.

(3) "Board of Directors" means the Sault Ste. Marie Tribe of Chippewa Indians Board of Directors, the governing body of the Tribe.

(4) "Tribe" means the Sault Ste. Marie Tribe of Chippewa Indians.

92.105 Composition of the Authority.

(1) The affairs of the Authority shall be managed by a Board of Commissioners composed of seven tribal members at large appointed by the Board of Directors.

(2) The term of office shall be four years and staggered. Each member shall serve at the pleasure of the Board of Directors. In the case of an appointment to fill a vacancy, the appointment shall only be for the length of the unexpired term. Unless removed by the Board of Directors, each member shall hold office until a successor has been appointed.

(3) No member of the Authority shall be liable to any creditor of the Authority by reason of his status as a member, or by reason of acts done in the course of his official duties.

92.106 Operation of Authority.

(1) The Authority shall conduct business pursuant to this Charter and any bylaws established consistent with the Charter adopted by the Authority and approved by the Board of Directors.

(2) The Authority shall name one of its members as chairperson. The Authority may have such other officers as deemed necessary.

(3) The Authority shall meet as often as necessary to conduct its business, but no less frequently than quarterly. A majority of the members of the Authority shall constitute a quorum for the transaction of business, but no Authority shall be taken by a vote of less than a majority of Authority members. The Authority shall keep complete and accurate records of all meetings and actions taken.

(4) The Authority shall keep full and accurate financial records, make periodic reports to the Board of Directors, and submit a complete annual report, in written form, to the Board of Directors as required by §92.110.

92.107 Perpetual Succession.

The Authority shall have perpetual succession in its corporate name.

92.108 Ability to Sue and be Sued.

The Board of Directors hereby gives its irrevocable consent to allowing the Authority to sue and be sued in its corporate name, upon any contract, claim or obligations arising out of its activities under this Charter and hereby authorize to agree by contract to waive any immunity from suit which it might otherwise have; but the Tribe shall not be liable for the debts or obligations of the Authority. This action does not constitute a waiver of any immunity of the Tribe or a delegation to the Authority of the power to make such a waiver.

92.109 Powers.

The Authority shall have the following powers which it may exercise consistent with the purposes for which it is established:

- (1) to adopt and use a corporate seal;
- (2) to enter into agreements, contracts, and understandings which any governmental agency, federal, state or local (including the Tribe) or with any person, partnership or corporation;
- (3) to borrow money, to issue evidence of indebtedness, and to repay the same;
- (4) to establish and maintain such bank accounts as may be necessary and convenient provided such accounts shall be fully covered by F.D.I.C.;
- (5) to establish water and sewer service charges;
- (6) to collect payment for sewer and water service from each individual, concern, or establishment served by the community water and sewage system, and to maintain records of the income, disbursements, and expense of the operation of the systems;
- (7) to employ personnel to operate the systems, to establish the duties and compensation of employees, and to pay this compensation as an operating expense of the community water and sewage system;
- (8) to disburse monies in payment of existing and future operation and maintenance expenses;
- (9) to prepare public notice of charge for water and sewer service to set the date for such

charges to begin, and to send this notice to each individual, concern, or establishment served by the water and sewer systems;

(10) to establish a connection fee for water and sewer service connections to all persons, businesses using water according to the size of water service;

(11) to establish a water service deposit according to the size and intended use of the water service in advance of usage. This deposit will be refunded to the customer upon termination of service; provided all payments are current;

(12) to establish any rules and regulations pertaining to the use of water or sewer facilities on tribal lands.

92.110 Annual Report.

The Authority shall submit an annual report, signed by its chairperson, to the Board of Directors showing:

- (1) a summary of the year's activities;
- (2) the financial condition of the Authority;
- (3) the condition of the projects;
- (4) any significant problems and accomplishments;
- (5) plans for the future, and;
- (6) such other information as the Authority or the Board of Directors deem pertinent.

92.111 Bond.

The Authority shall obtain or provide for the obtaining of adequate fidelity bond coverage of its officers, agents or employees handling cash or authorized to sign checks or certify vouchers.