

THE MINNESOTA CHIPPEWA TRIBE

ORDINANCE NO. 8

Chapter 1 – General.

Section 100 – **Authority.**

The Tribal Executive Committee, as the governing body of The Minnesota Chippewa Tribe, a federally recognized Indian Tribe organized under a Constitution ratified by the Tribe on June 20, 1936, and approved by the Secretary of the Interior on July 24, 1936, pursuant to Section 16 of the Act of June 18, 1934 (48 Stat. 984), as amended by the Act of June 15, 1935 (49 Stat. 3781) does hereby adopt the following Ordinance to be known as the Natural Resources Protection Ordinance.

Section 200 - **Definition.**

Section 201 - Tribe, MCT – means The Minnesota Chippewa Tribe, operating under its Constitution adopted pursuant to Sec. 16 of the Act of June 18, 1934 (48 Stat. 984), as amended.

Section 202 - Reservation – means the six member reservations of The Minnesota Chippewa Tribe (White Earth, Leech Lake, Fond du Lac, Bois Forte (Nett Lake), Grand Portage, and Mille Lacs) as established by the Constitution of The Minnesota Chippewa Tribe, Article III, Section 2.

Section 203 – Natural Resources – means all surface and ground waters and all aquatic life, terrestrial wildlife and vegetation, soils, sand, gravel, peat, minerals, natural gases and other sub-surface resources and the atmosphere.

Section 204 – Waters of MCT – means all streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, reservoirs, aquifer, irrigation systems, drainage systems and all other accumulations of water, surface or underground, natural or artificial, public or private, which are contained within, flow through, or border upon any other lands where MCT member's rights of hunting, fishing, trapping and ricing are reserved.

Section 205 – Person – means any municipality, governmental subdivision, public or private corporation, individual, partnership, or other entity, including but not limited to association, commission, or any interstate body, and includes any officer or governing or managing body of any municipality, governmental subdivision, or public or private corporation, or other entity.

Section 206 – Day – means a 24-hour period which shall be from 12:00:00 a.m. to 11:59:59 p.m. in the central time zone of the United States.

Section 207 – Standard – means water quality and quantity standards, air quality standards, and soil protection standards as outlined in this MCT Resource Protection Ordinance.

Section 208 – Clearcutting – means any timber harvesting and timber cutting on any and all tracts of land where the standing timber remaining after harvesting or cutting is less than 40 trees of 8 inches or greater dbh per acre.

Section 209 – Road – means any roadway, whether paved, graveled, or otherwise surfaced, which is maintained for public use of four-wheeled vehicles.

Section 210 – Lake – means any body or accumulation of water, whether natural or artificial, the majority of which is open water, which is in area 10 acres, or more, and in depth at least 15 feet at some point.

Section 211 – Pond – means any body or accumulation of water, whether natural or artificial, the majority of which is open water, which is in area less than 10 acres, whether or not seasonal.

Section 212 – Marsh, Wetland – means any body or accumulation of water, whether natural or artificial, whether or not seasonal, where a majority area of the surface water contains emergent vegetation.

Section 213 – Open Water – means a water surface absent of emergent vegetation.

Section 214 – River, Stream – means any waterway or watercourse, whether natural or artificial, whether or not seasonal, which follows a flow channel to any lake, pond, marsh, river or to any other accumulation or water.

Section 215 – Pollution, Water Pollution, Air Pollution - means the man-made or man-induced alteration of the chemical, physical, biological or radiological integrity of the waters or atmosphere of the MCT.

Section 216 – Point Source – means any discernable, confined, and discrete conveyance, including but not limited to any pipe, stack, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, or vessel or other floating craft, from which pollutants are or may be discharged.

Section 217 – Non-Point Source – means man-made or man-induced pollution from any and all sources not included in the point source definition.

#### Section 300 – MCT Policy

This Ordinance is enacted to provide uniform standards which are necessary to supplement each Reservation's Conservation Code, so that the hunting, fishing, trapping, wild rice, and all other natural resources of the reservations' and Tribe's may be preserved and protected. Where such reservation laws and standards do not exist, and are not promulgated, these laws and standards will apply.

The Minnesota Chippewa Tribal Executive Committee finds that water is the primary resource of the natural resource system. Thus, protecting the quality and quantity of the water resource is the primary objective of these laws and, further, the inter-relationships of water and other natural resources is such that the management of soil, timber, air and mineral resources has both direct and indirect effects upon the quality and quantity of the water, fish, wild rice, and wildlife resources. These and all other interactions of resources will be considered when planning and management activities are engaged. The laws and standards which are contained herein will be interpreted to meet the goals of the above stated policy.

#### Section 400 – Jurisdiction.

The jurisdiction of The Minnesota Chippewa Tribe under this Ordinance shall extend to:

- a) All lands within the exterior boundaries of the reservations of the six member Bands of The Minnesota Chippewa Tribe as created by treaty, Executive Order, or federal act, notwithstanding the issuance of any patent, and including rights-of-way running through the reservations.
- b) All dependent Minnesota Chippewa Tribe communities within the State of Minnesota.

- c) All Minnesota Chippewa Tribe Indian allotments, whether within or without the boundaries of member reservations, the Indian titles to which have not been extinguished, including rights-of-way running through the same.

Jurisdiction shall extend over all persons or corporations whether Indian or non-Indian.

#### **Section 500 – Enforcement.**

This Ordinance shall be enforced by Reservation Conservation Officers or any other duly appointed officers of The Minnesota Chippewa Tribe or its member Bands or any other persons as provided by the Ordinances of The Minnesota Chippewa Tribe or its member Bands.

#### **Section 600 – Violations and Penalties.**

Any violation of this Ordinance shall be considered a civil offense subject to the following penalties:

- a) Pay the cost of any necessary cleanup, restoration, or reclamation caused by the violation, as ordered by any court or jurisdiction or by any administrative body with jurisdiction.
- b) Pay any actual damages for injury to property, life, resources of any person, corporation, or public body or governmental agency.
- c) Pay as punitive damages a penalty of up to Five-Hundred Dollars (\$500.00) per day for each day of continuing violation.
- d) All violations of this Ordinance may be enjoined by order of any court with jurisdiction to prevent continuing violations. Any violation of said order shall be in addition to said above penalties and subject to punishment for contempt of court. Punishment for said contempt shall be at the discretion of the court, subject only to those limitations prescribed by law.

#### **Section 700 – Notice of Violation.**

The Minnesota Chippewa Tribe or its member Bands through their duly appointed officers shall give a written notice to any violator of this Ordinance. Said notice shall be served upon any violator by giving a copy of said notice to the violator if he/she can be located within the jurisdiction of The Minnesota Chippewa Tribe or its member Bands. Service of said notice may be given by serving a copy to said violator or leaving the notice at the residence or place of business of said violator with any person of suitable age and who resides in the residence or is employed at the business of the violator. In the event the person or business causing the violation is not within the jurisdiction of The Minnesota Chippewa Tribe or its member Bands, then a notice may be posted on the land where offense is occurring. It shall be posted in a conspicuous place. A copy shall also be mailed to the last known residence or business address of the violator. Said notice shall specify the nature of the violation, the location of the violation, and the Section of this Ordinance being violated. It shall set a date for a hearing before the Court or Administrative body as established by Tribal law. Said hearing shall be no sooner than five (5) days after service of said notice. In the event that no actual service can be made on a violator because he cannot be found, does not have a residence or place of business within the jurisdiction of The Minnesota Chippewa Tribe, then said notice of violation shall be published twice during two consecutive weeks in a newspaper in the county where said violation occurred. An affidavit of said publication shall be filed with the appropriate court or administrative body and shall constitute proof of service of said notice.

In the event a defendant fails to appear before the court or appropriate administrative body on the date set for a preliminary appearance, the court or administrative body may declare the defendant to be in default and award any appropriate relief to the complainant as provided by this Ordinance.

In the event a defendant does appear on the date set in the notice of violation, the court or administrative body hearing said matter shall set a date as soon as practicable for a full evidentiary hearing on the violation if the defendant denies the violation or responsibility for the violation.

#### **Section 800 – Permits.**

Permits shall be required for all of the following activities and applications for said permits shall be on forms supplied by The Minnesota Chippewa Tribe. Approval for said permits must be obtained from the Reservation Business Committee on the reservation where said activity will occur. Fees for said permits shall be the sum specified by the Tribal Executive Committee and so stated on the appropriate application form.

Section 801 – Construction of septic systems and drain fields, and any other type of individual or multi-family sewage disposal system, whether the construction is for a new system or form the up-grading of our old system.

Section 802 – Municipal, community, and village sewage treatment plant, and any other sewage disposal system.

Section 803 – Any and all excavations, mining, road building, draining, dredging, filling, and any other earth removal or disposition projects, with the exception of excavation necessary for single family housing units.

Section 804 – Any and all insecticide, herbicide, fungicide, algaecide, and any other pesticide use, no matter the application procedure, with the exception for household use of pesticides for public health measures.

Section 805 – Any and all industrial and commercial point source discharges into any MCT waters.

Section 806 – Any and all commercial and private non-point source discharges into any MCT waters.

Section 807 – Any and all air emissions relating to the production of goods, products or materials.

Section 808 – Any and all forestry clearcutting activities and cutting of timber by any method where the tract to be logged is adjacent to any lake, stream, pond or road.

Section 809 – Any and all developments and improvements of parks, landings, beaches, harbors and canals and other related facilities, whether public or private.

#### **Section 900 – Environmental Assessments and Impact Statements.**

The issuance of any and all permits will be preceded by an Environmental Assessment Worksheet. These assessments shall be completed by the MCT Research Laboratory, based upon work plans submitted by the permittee, site inspection, laboratory analysis and any other pertinent data. If in the findings of the assessment an Environmental Impact Statement is proposed, then a hearing to determine the necessity of the Environmental Impact Statement will be conducted before the appropriate Reservation Business Committee. If an Environmental Impact Statement is requested by the Reservation Business Committee, the MCT Research Laboratory will produce and present, within ninety (90) days of the date of request, and at the permittee's expense, an EIS for public hearing before

said Reservation Business Committee. The decision of the Reservation Business Committee for issuance or non-issuance of the permit based on the findings of the EIS shall be final.

**Section 1000 – Format for the Environmental Impact Statement.**

The components of all Environmental Impact Statements shall be as follows:

1. Environmental impacts, both beneficial and degrading.
2. Social impacts, both beneficial and degrading.
3. Economic impacts, both positive and negative.

**Section 2000 – Variances**

Any and all request for a variance from the provisions of the Ordinance shall be presented before, and subject to, the approval of the appropriate Reservation Business Committee in the manner they shall prescribe. The decision of the Reservation Business Committee shall be final.

**Chapter 2 – Water.**

**Section 100 – Policy and Goals.**

The waters of The Minnesota Chippewa Tribe will be protected from degradation. The quality of the water will be maintained or improved to guarantee the treaty rights of the members of The Minnesota Chippewa Tribe.

**Section 200 – Definitions.**

Section 201 – All standards will be interpreted to mean a maximum allowable limit unless otherwise stated.

Section 202 – Ambient means that concentration which exists without point source pollution as established by MCT Research lab.

Section 203 – LC50 means the concentration of toxicant that is lethal (fatal) to 50 percent of the sensitive resident specie organisms tested under the test conditions in a specified time.

Section 204 – Toxicant, Toxic Substance means those pollutants or combination of pollutants, including disease-causing agents, which after discharge and upon exposure, ingestion, inhalation, or assimilation into any organism, either directly from the environment or indirectly by ingestion through food chains, will, on the basis of information available to the MCT, cause death, disease, behavioral abnormalities, cancer, genetic mutations, physiological malfunctions, including malfunctions in reproduction, or physical deformation, in such organisms or their offspring.

**Section 300 – Standards.**

**Section 301 – Constituent**

**Concentration or Limits**

Alkalinity

20 mg/l or more as CaCO<sub>3</sub> for fresh water aquatic life except where natural concentration are less.

Ammonia	.02mg/1 as (un-ionized ammonia) for fresh water aquatic life.
Arsenic	50 ug/1 for domestic water supply
Barium	1 mg/1 for domestic water supply

(Cont) Constituent	Concentration or Limits
Beryllium	11 ug/1 for the protection of aquatic life in soft fresh water 1,100 ug/1 for the protection of aquatic life in hard fresh water
Boron	750 ug/1
Cadmium	10 ug/1 for domestic water supply Aquatic Life Soft water      Hard water 0.4 ug/1      1.2 ug/1
Chlorine	2.0 ug/1 for salmonid fish 10 ug/1 for other fresh water fish.
Chromium	50 ug/1 for domestic water supply 100 ug/1 for fresh water aquatic life
Fecal Coliform Bacteria	200 colonies/100 ml
Color	75 color units on platinum – cobalt scale for domestic water supplies.
Copper	1 mg/1 for domestic water supply 0.1 x 96 hours LC50 for fresh water aquatic life.
Cyanide	5.0 ug/1 for fresh aquatic life
Gases, total dissolved	110% of saturation at existing atmosphere and hydrostatic pressures.
Iron	0.3 mg/1 for domestic water supply 1.0 mg/1 for fresh water aquatic life
Lead	50 ug/1 for domestic water supply 0.1 x 96 hour LC50 for fresh water aquatic life.
Manganese	50 ug/1 for domestic water supply and fresh water aquatic life
Mercury	2.0 ug/1 for domestic water supply .05 ug/1 for fresh water aquatic life

(Cont) Constituent	Concentration or Limits								
Nickel	.01 x 96 hour LC50 for fresh water aquatic life.								
Nitrate, Nitrite	10 mg/1 nitrate nitrogen for domestic water supply, not to exceed ambient NO2 NO3 for all other water systems, as established by MCT Research Lab.								
Oil & Grease	Domestic water supplies virtually free from oil and grease .01x 96 hour LC50 for fresh water aquatic life.								
Dissolved Solids & Salinity	250 mg/1 for chlorides and sulfates in domestic water supply								
	<table border="1"> <thead> <tr> <th>Natural Salinity %</th> <th>%Variation Permitted</th> </tr> </thead> <tbody> <tr> <td>0 to 3.5</td> <td>1</td> </tr> <tr> <td>3.5 to 13.5</td> <td>2</td> </tr> <tr> <td>13.5 to 35</td> <td>4</td> </tr> </tbody> </table>	Natural Salinity %	%Variation Permitted	0 to 3.5	1	3.5 to 13.5	2	13.5 to 35	4
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Settleable & Suspended Solids & Turbidity	Fresh water fish and other aquatic life; settleable and suspended solids should not reduce the depth of the compensation point for photosynthetic activity.								
Sulfide	2 ug/ 1 undissociated H2S for fresh water aquatic life.								
Sulfate	Not to exceed ambient SO4 for all waters, as established by MCT Research Lab.								
Temperature	No thermal pollution shall be discharged into any waters of the reservations.								
Dissolved O <sub>2</sub>	5.0 mg/1 minimum for fresh water aquatic life.								
Pesticides	No measurable amounts of any pesticide or any other toxicant will occur in any surface or groundwater.								
pH	5 - 9 for domestic water supply 5.5 - 9.0 for fresh water aquatic life								
Phenol	1 ug /1 for all waters								
Phosphorus	Not to exceed ambient total phosphorus for all water systems as established by MCT Research Lab.								
Polychlorinated Biphenyls (PCB)	.001 ug/1 for all waters								

<b>(Cont) Constituent</b>	<b>Concentration or Limits</b>
Phthalate esters	.1 ug / 1 fresh water aquatic life
Selenium	10 ug /1 for domestic water supply .01 x 96 hour LC50 for fresh water aquatic life.
Silver	50 ug/1 for domestic water supply .01 x 96 hour LC50 for fresh water aquatic life
Zinc	5 mg/1 for domestic water supply .01 x 96 hour LC50 for fresh water aquatic life.
Water Quantity	any and all man made or man induced regulation of water flow on or through any reservation of the MCT shall be subject to the stipulations set forth in these MCT Natural Resources Protection Laws for the provision of adequate water quantities for the preservation and protection of natural resources.
Litter	No littering, refuse or garbage disposal will be permitted in any waters of the MCT.

### Chapter 3 – Air.

#### Section 100 – Policy and Goals.

The air quality within the reservations is affected by many pollutants and chemicals, which may travel through the atmosphere, from distant sources. These chemicals and pollutants are deposited on reservation lands and waters, the result being a direct threat to the natural resources of the reservation.

The standards which follow can protect the natural resources of the reservation. The attainability of this protection lies with the national application of state-of-the-art technology for air pollution control.

#### Section 200 – Definitions.

Section 201 – BACT, best available control technology, means that method of limiting emissions to the minimum amount possible.

#### Section 300 – Standards.

These standards will be those as set forth by 42USC Section 7474 and the Clean Air Act.

### Chapter 4 – Soils



## **Section 100 – Policy and Goals.**

The soils within The Minnesota Chippewa Tribe reservations are an integral part of the total natural resource spectrum. Fish, furbearers, wild rice, and other wildlife, are directly affected by the types of, and the maintenance of, vegetative cover upon the soils. The management of these soils will be within this context. In addition, alternatives to chemical usage upon the soils shall be considered the policy of the MCT.

## **Section 200 – Definitions.**

Section 201 – Soils – All soils, metals, minerals, gases, liquid, gravels, or other elemented or complexed materials in any physical state, which lie on or in the earth's surface to a depth of 15 feet.

## **Section 300 - Standards**

Section 301 - Natural erosion rectification measures, such as seeding, planting, or otherwise establishing vegetative cover, will be utilized by the landowner.

Section 302 – Permits will be required for any project or development other than farming which involves excavation, soil removal or disposition, and shall include provisions for the seeding or planting to establish vegetative cover.

Section 303 – Agricultural lands shall be protected from wind and water erosion through the use of sound agricultural principles, including but not limited to, terracing, tree breaks, grass waterways, and maintaining vegetative cover on tilled lands during the non-growing season.

## **Section 400 – Subsurface Resources.**

Section 401 – Groundwater – refer to Chapter 2.

Section 402 – All other subsurface resources will be managed at the discretion of the reservations. Management will include analysis of potential environmental effects for all exploration, mining, or extractions, which are or may be practiced on the reservations.

## **Chapter 5 – Forestry.**

### **Section 100 – Policy and Goals.**

The forestry resource on Indian lands of The Minnesota Chippewa Tribe will be managed to preserve and protect said lands in a perpetually productive state. This will be done by applying sound silvicultural practices to the harvesting of the timber, and by making provision for new forest growth as timber is removed. The guiding document shall be CFR 25, part 141, Forestry Manual 53 BIAM, dated June 12, 1978, and supplements. Any superceding documents pertaining to forestry management of Indian lands will be subject to the approval of the governing body of The Minnesota Chippewa Tribe.

### **Section 200 – Standards.**

Section 201 – No clearcutting of timber will be permitted within a 100 feet border of any lake, pond or river.

Section 202 – No clearcutting of timber will be permitted within 100 feet of any road.

Section 203 – Permits for logging will include stipulations for the re-seeding of logging equipment trails.

Section 204 – Users of insecticides, herbicides, or any other chemicals or pesticides for forestry management activities will be required to obtain a permit.

**Chapter 6 – State Civil Jurisdiction.**

**Section 100 – State Civil Jurisdiction.**

Any person damaged by a violation of this Ordinance may bring a civil cause of action in the appropriate state court seeking damages pursuant to the provisions of Title 18, United States Code, Section 1360: PL 83.280 which states:

Any Tribal ordinance or custom heretofore or hereafter adopted by an Indian tribe, band or community in the exercise of any authority which it may possess shall, if not inconsistent with any applicable civil law of the State, be given full force and effect in the determination of civil causes of action pursuant to this section.

Added Aug. 15, 1953, c 505 § 4, 67 Stat. 589, and amended Aug. 24, 1954, c 910 § 2, 68 Stat. 795; Aug. 8, 1958, Pub. L. 85-615, § 2, 72 Stat. 545.

This Ordinance shall be effective as of 12:01 A.M., November 23, 1980.

We do hereby certify that the foregoing Ordinance was duly presented and acted upon by a vote of 11 For, 0 Against, at a regular meeting of the Minnesota Chippewa Tribal Executive Committee, a quorum present, held on October 22 & 23, 1980, at Grand Portage, Minnesota.

Darrell Wadena, President  
THE MINNESOTA CHIPPEWA TRIBE

ATTEST: Daniel Morrison, Sr., Secretary  
THE MINNESOTA CHIPPEWA TRIBE

MINNESOTA CHIPPEWA TRIBE  
NATURAL RESOURCES PROTECTION ORDINANCE # 8  
AMENDMENT

The Minnesota Chippewa Tribe, by a motion duly made and seconded, did on April 28-29, 1981, at a regular meeting of the Tribal Executive Committee held at the Mille Lacs Reservation Community Center, Vineland, Minnesota, amend the Minnesota Chippewa Tribe's Natural Resources Protection Ordinance No. 8 to provide:

that the enforcement and implementation of said Natural Resources Protection Ordinance shall be delayed and the Ordinance shall not be in effect until further action and notice by the Tribal Executive Committee.

THE MINNESOTA CHIPPEWA TRIBE

Darrell Wadena, President

ATTEST: Daniel Morrison, Sr., Secretary